



Ethnic minority rights and World Heritage in Vietnam: the case of Phong Nha Ke Bang

Phong Nha Ke Bang is known for its spectacular landscapes and caves. Whereas tourism in recent years has boosted the provincial economy, poverty and the neglect of rights of the very people living in the heart of the World Heritage site remain important challenges. Land, resource and property rights remain a significant concern. World Heritage processes have encouraged park expansion into and restrictions on customary use areas and livelihoods of highly vulnerable groups, yet also led to significant new “heritage” resource rights given to third parties. While ethnic minorities are requested protect sites and facilitate tourism, they have yet to equitably involved in governance and benefit-sharing arrangements. Given the strong provincial emphasis on securing equitable development, a comprehensive rights-based approach in line with the Vietnamese constitution is urgently needed.

Phong Nha Ke Bang is known for its spectacular landscapes and caves. What is less understood concerns the vulnerabilities and rights of the ethnic minorities in the area. Whereas tourism in recent years has boosted the provincial economy, poverty and the neglect of rights among the very people living in the heart of the World Heritage site remain important challenges.

Land, resource and property rights

Allocation processes within the national park and its buffer zone have been slow and face major limitations. World Heritage zone only covers some 0.16 % of the whole park and is limited to the main agricultural

designation has intensified processes of park expansion into and restrictions on customary use areas of highly vulnerable groups, yet also led to significant new “heritage” resource rights given to third parties. A case in point concerns the Arem, one of Vietnam’s smallest ethnic minority communities in numerical terms, currently confined to a small resettlement area in the Southern most part of the park. As hunter-gatherers indigenous to the area, their customary lands extend over large parts of the core zone. For a long time rights were neglected and park authorities sought to work around the issues through lands in the resettlement area and many old fallow lands now “belong to the park”.

POLICY MESSAGE

The neglect of customary rights in World Heritage site of Phong Nha Ke Bang are undermining the customary livelihoods, tenure security and cultural survival of some of the most vulnerable ethnic minority communities in Vietnam. Land and resource rights appear biased towards statutory property rights and a run to develop new business rights vs. a human rights approach that would take into account the specific vulnerability and customary resource rights of ethnic minorities. There is an urgent need to recognize customary resource, livelihood and benefit-sharing rights as a fundamental governance approach for building equitable development in the area.

informal acceptance and subsidy schemes. A recently delineated “inner bufferzone” (2015) represents a first step to recognize community rights of the Arem within the park, yet does not reflect local needs and customary rights. Covering some 200 ha, forest land is limited to 41 ha for the whole community, whereas shifting cultivation amounts to 186 ha (PNKB Management Board 2015). The inner buffer

Core customary use areas involve a much larger and extensive area of the cave systems, fallows and forest areas, which are yet to be adequately mapped out and age complex, where customary forest use areas important for gathering forest products, intangible cultural values and other purposes remain unrecognized. Of particular concern, are the customary forest areas of the Ruc, Sach and MaCoong. Whereas project support has led to community forest land allocation outside the park, recognized areas are relatively small, closed off for use and correspond to less than 10 % of the park area rather than creating a viable forest space for sustainable use. In contrast, World Heritage has led to an explosion of both state-run and private tourism initiatives granted access and exploitation rights to the very caves and forest areas increasingly closed off for customary use. Land and resource rights appear biased towards statutory property rights and a run to develop and new business rights vs. a human rights approach that would take into account the specific vulnerability and customary resource rights.

Given the strong provincial emphasis on securing equitable development practice benefiting local communities, there is an urgent need to revisit how customary land and resource use rights can be recognized in the Phong Nha Ke Bang area.

Livelihood rights and right to development

Despite growing incomes from more than 3 million tourists coming to Quang Binh in 2014 (estimated to increase by 25 %), poverty levels among the ethnic minorities living in or near the World Heritage remain alarmingly high. Restrictive special use forest regulations have put significant limitations to customary livelihoods, a process intensified, yet overlooked, by World Heritage recommendations. Poorly adapted development projects and subsidy schemes have not compensated for undermined livelihood security and rights to development. Customary livelihoods are perceived as unsustainable, hindering more culturally sensitive and ecologically relevant approaches. There is an urgent

recognized. Similar infringements have taken place in relation to other ethnic minority communities of the World Herit

need to recognize customary livelihood rights as a fundamental strength for building sustainable development in line with the Vietnamese constitution to counter discrimination and promote mutual development. The issue of benefit-sharing has become a burning issue as business operations around World Heritage status have increased. A common narrative suggests the “trickling down” of benefits. Our research found a systematic neglect of hiring local ethnic minorities in tourism operations, while on the other hand, promoting ethnic minority villages as a tourism attraction. Whereas guides and companies aim generally offer gifts and left-overs to communities encountered, this cannot be considered an equitable approach to benefit-sharing. While ethnic minorities are being requested to take further part in protecting sites and facilitating tourism access, they have yet to equitably involved in tourism governance and benefit-sharing arrangements other than as exotic attractions on the trail.

Indigenous, ethnic minority and cultural rights

Cultural diversity is receiving growing attention from the management board and provincial authorities. Still, there is a lack of a systematic approach to cultural diversity and the specific vulnerabilities of ethnic minorities under immediate threat. The cultural significance of the World Heritage property in terms of sacred sites, historical sites and customary use areas is not being recognized beyond a narrow set of settlement areas. There is today a stark contrast between the tourism economy and the cave discovery boom and the customary use of caves by ethnic minorities, whose customary rights to use these are being neglected. The strictly protected zones are limited to eco-tourism activities, cave discovery etc. completely ignoring the cultural use of the area and the rights of traditional stewards in taking part in decision-making process about their current use and development. The cultural diversity is

DEFINITIONS and KEY INFORMATION

This case study forms part of an international research project on understanding human rights dynamics in the World Heritage system funded by the Swiss Network of International Studies (www.snis.ch). It involves research in four different countries in the Asia-Pacific region combining field studies, legal reviews and national dialogues. Project web-site: <http://projects.snis.ch/rights-world-heritage-system/>

In Vietnam, project activities included a legal review, qualitative research and pilot studies into cultural mapping with Quang Binh University as well as brief field visits in other World Heritage sites. Team members include Nguyen Linh Giang, Nguyen Duy Luong, Nghiem Thi Kim Hoa, Tran The Hung, Cao Thi Thanh Thuy and Phan Thanh Quyet.

There are eight World Heritage sites in Vietnam of which five are cultural, two are natural and one site is considered “mixed”.

The Phong Nha Ke Bang National Park and World Heritage site is considered a natural site listed under three criteria [(viii)(ix)(x)]. It is located in Quang Binh province in Central Vietnam (<http://phongnhakebang.vn/en>). Covering some 123,362 ha, it is the largest protected area in Viet Nam harbouring important geological, biodiversity as well as cultural features. Its buffer zone covers some 220.000 ha with an estimated population of more than 50.000 people living in 13 communes in the districts of 13 communes in three districts of Bo Trach, Quang Ninh and Minh Hoa. Phong Nha Ke Bang was initially recognized for its outstanding geological values in 2003. It was renominated and listed in 2015 for its biodiversity values.

Bordering Laos and the Hin Namno Nature Reserve, the park forms part of a larger transboundary limestone and tropical forest complex characterized by a large number of caves and underground rivers.

The cases and map of with ethnic minority communities included her only cover a few examples of the social and cultural complexity of the Phong Nha Ke Bang area. The map was produced in collaboration with Quang Binh university in a complementary activity to pilot cultural mapping in the area. A number of other cases require immediate attention from management authorities. These include the situation of the Van Kieu in the Ban Doong community. While they equally live within the core zone and the same commune as the Arem, their rights remain unsettled. Further attention also needs to be drawn to the customary use rights of the Ma Coong in Thuong Trach commune (Bo Trach district), as well as the customary relationships of the Ruc, May, Khua and Sach in Minh Hoa district.

KEY QUESTIONS

Primary forest or cultural landscapes?

The figure of 84 % primary forest cover in PNKB is being continuously reproduced in official documents, yet is hardly realistic given the significance of historical and contemporary use of the forest landscape. The negative effect of this myth of pristine forest cover, however, has been the systematic neglect of significant transformations across the PNKB landscape and the right of communities to take part in decision-making.

From discovery to recognition

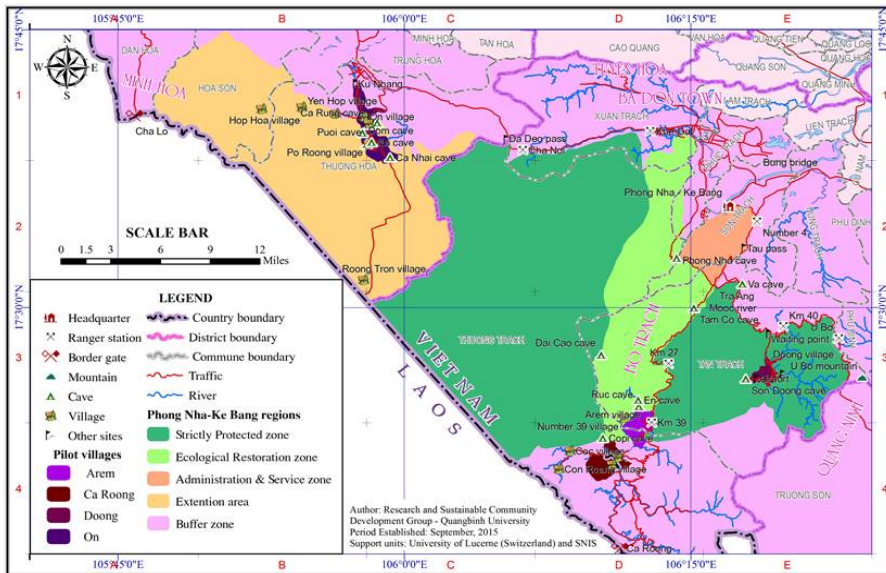
Recent histories of cave “discovery” and intensive tourism development have systematically neglected and ignored the long-standing cultural use, significance and customary stewardship by ethnic minorities in the area. The effects have been immediate in terms of closed access, no influence over use and the control of tourism by outside agencies [whether public or private]. There is an urgent need for provincial authorities to recognize customary use and stewardship and explore alternative management and benefit-sharing models.

Indigenous ethnic minorities

There is a strong local concept of indigenes in terms of Quang Binh ethnic minorities having i) ancestral presence ii) distinct cultures and livelihood practices and therefore iii) entitled to particular rights. Ethnic minorities are repeatedly described as indigenous to the area, and there is a clear sense of recognizing longstanding use, knowledge, settlement areas and practices. Forest guard stations and management have implemented informal responses often recognizing the importance of customary livelihoods. Future steps could involve a systematic approach to recognize and support ethnic minorities in the area building on lessons learned from the implementation of ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples in terms of recognizing customary rights.

only supported under the World Heritage convention, but is being actively encouraged in the new Sustainable Development policy, which encourages “equitable governance arrangements, collaborative management systems and, when appropriate, redress mechanisms;” Given the role, discussed above, in terms of World Heritage-triggered processes, exploring new co-management arrangements could be a way forward.

MINORITY VILLAGES IN PHONG NHA - KE BANG ZONE MAP



Map of ethnic minority communities taking part in pilot cultural mapping activity undertaken with Quang Binh University [Source: GIS Unit, QBU]

at risk due to immediate threats of language loss, negative effects of development projects and misguided tourism expansion. The transformation of settlement areas, among the Arem and Ruc, into tourism sites presents an immediate threat of turning communities into a living museum unless sensitive approaches. A rights-based approach to culture is now critical to secure long-term sustainable solutions that build on indigenous knowledge systems and practices.

Rights to participation, consultation and consent

Phong Nha Ke Bang is illustrative of several planning processes employing some level of “participation” in design and implementation of activities including provincial experiments with implementing Free Prior and Informed Consent (FPIC). Still, many approaches in practice, have been limited to organized information sessions after decisions have been made. In particular, the World Heritage designation process, park expansion and renomination process cannot be said to qualify as a transparent and equitable consent-based process. While FPIC was sought applied in Quang Binh through GIZ-supported activities, it ended up being implemented as a kind of planning instrument for already allocated community forestry land rather than reflecting a rights-based approach as such.

Overall, research also revealed a top-down approach to regulation building and significant levels of “disinformed” consent about the role and importance of community forests. World Heritage processes have led to considerable growth of management institutions and human resources. Whereas there has been some basic data gathering on socio-economic indicators, critical vulnerability and rights dimensions have been overlooked. Furthermore, opportunities to test new community-driven approaches are yet to be sought implemented at an appropriate scale.

There is a common emphasis on co-management understood as cooperation between government agencies rather than creating space for engagement with communities. Participation in management is limited to temporary forest protection contracts and an overall call for people to take part in forest protection. Important opportunities include community zoning, management and consultation mechanisms under the umbrella framework of World Heritage management. There is an urgent need to institutionalize consultation and participation mechanisms in planning, management and implementation modalities. This being said, there has over the years been a wide interest among PNKB management authorities to explore alternative zoning and management arrangements. This is not

POLICY IMPLICATIONS RESEARCH

The neglect of customary rights in World Heritage processes are undermining customary livelihood and tenure security of some of the most vulnerable ethnic minority communities in Vietnam. Reaping few of the new heritage-derived benefits and business opportunities, management authorities are increasingly facing the challenge of reversing trends of cultural loss, marginalization and deepening inequalities.

Concrete steps towards a rights-based approach are needed for planning, management and remedial measures. Whereas some rights issues experienced predate UNESCO listing, it is clear that World Heritage processes have deepened the social deficit. Ethnic minorities, particularly those indigenous to the Phong Nha Ke Bang area, have born the costs of protected area expansion and stricter conservation measures without reaping any of the new benefits emerging from World Heritage designation. Over the years, provincial and park authorities have sought in various ways to reach out through subsidy mechanisms, infrastructure development and awareness raising. It is now particularly important and urgent to reach out to the most vulnerable groups, recognize their customary rights and apply concrete measures to mitigate the rights deficit ranging from land, resource and livelihood rights issues towards more equitable participation and governance mechanisms. This is particularly true for small ethnic minority groups like the Ruc and the Arem, whose very cultural survival is under severe threat. Unless immediate action is undertaken to create adequate conditions to protect their customary lands and livelihoods, support culturally sensitive development policy and practice, the living cultural heritage constituting the pride of Quang Binh and ethnic diversity of Vietnam may be lost. The growing understanding in UNESCO and at the national policy level offers provincial authorities an unprecedented window of opportunity spearhead reconciliatory efforts in this respect. It is therefore equally critical that national authorities create the necessary conditions and support mechanisms that can allow for building more equitable governance approaches. This would include specific provisions on rights-based approaches and pilot mechanisms within special use forest policy framework as well as national guidance on equitable cost and benefit-sharing in World Heritage operations.

Further Reading

Larsen, Peter Bille (2015), "World Heritage and Rights: Some preliminary issues and lessons from Phong Nha Ke Bang, Vietnam", Draft report presented at National Workshop, December, 2015

UNESCO Phong Nha Ke Bang World Heritage site: <http://whc.unesco.org/en/list/951>

World Heritage Outlook: <http://www.worldheritageoutlook.iucn.org/search-sites/-/wdpaid/en/900883>

Phong Nha Ke Bang World Heritage web-site: <http://phongnhakebang.vn/vi>

Project web-site for updates: <http://projects.snis.ch/rights-world-heritage-system/>

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