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Demand Analysis of Forest Law in China based on Forestry Workers' Perspective

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Abstract: It is widely acknowledged that the current Forest Law has not been able to adapt to the construction of ecological civilization and the sustainable development of forestry and amendments are required due to the fundamental transformation of the strategy for forestry development in the current situation. In order to understand the awareness and perceptions of the different stakeholders on China's Forest Law and the need for forest legislation during the forestry production and development, field work in Sanming City, Fujian Province has to be done in the forms of questionnaire and interview. Based on the results and analysis of 93 in-depth interviews, this study finding that (1) Forest law does not match with the forestry operation and management, forest felling system and forest land usufruct system should be perfected, (2) Compensation system for forestry of ecological benefit and protection mechanism of the ownership of the forestry law should be improved and (3) Proper forest ownership pattern should be established by the future new forestry law system.

Key words: Forest law, forestry workers, demand, China

INTRODUCTION

Forest, as an important national resource, plays a very important role in promoting both national economic construction and ecological environment as well as protecting people's health. After the founding of the People's Republic of China, in order to systematically develop forestry, the central government and local government have successively formulated and released a series of instructions, regulations and notifications on afforestation, forest protection and forest management.

Based on the legislations and the domestic and foreign experience of developing forestry, the sixth session of the seventh National People's Congress Standing Committee Conference passed the formal Forestry Law of the People's Republic of China on September 20, 1984. On April 29, 1998, the ninth session of the National People's Congress Standing Committee Conference approved the revised Forestry Law of the People's Republic of China (hereinafter referred to as the Forestry Law). The newly revised Forestry Law, based on the traditional forestry theory, still put great emphasis on protecting and promoting timber production, so as to better achieve the economic benefits of the forests.

However, during the last decade, the guiding thoughts towards forestry and forestry development in China have witnessed fundamental change that is, the thought of only focusing on timber production had been transformed into giving consideration into economic, social and ecological benefits and with ecological benefit

being the priority. Formerly oriented towards full exploitation of forestry economic value, the Forestry Law of the People's Republic of China has not been able to adapt to the construction of ecological civilization and the sustainable development of forestry and amendments are required due to the fundamental transformation of the strategy for forestry development in the current situation. It is widely acknowledged by scholars that the current Forest Law has problems such as the non-equivalency between the rights and obligations of the administrative subjects (Wang and Jiao, 2009), a lack of operability in certain systems of the act (Zhou, 2004), the absence of connection with the international practices (Jiao, 2009), the consolidation of the publican participation (Cai, 2004) and the inadequacy of ecological benefits and social benefits (Li, 2008, 2009; Zhang and Wang, 2011).

METHODS AND MATERIALS

From June 1st to June 11th in 2012, the project team did some field work in Sanming City, Fujian Province in the forms of questionnaire and interview. They asked different stakeholders, including the staff of Forestry Bureau, employees of forestry enterprises, staff of state-owned forest farms and farmers. In order to understand the awareness and perceptions of the different stakeholders on China's Forest Law and the need for forest legislation during the forestry production and development.



Fig. 1: Map of study area

The Jiangle County and Taining County of Sanming City in Fujian Province were selected as samples. A total of 100 staff of the Forestry Bureau, state-owned forest and forestry enterprises in Jiangle County as well as the Forestry Bureau and forestry enterprises in Taining County were interviewed and a survey of 93 valid questionnaires was conducted. In this research, of the 93 valid questionnaires, a total of 57 staff of Forestry Bureau accounted for 61.29%; a total of 29 staff of state-owned forest farms accounted for 31.18% and a total of 7 employees of forestry enterprises accounted for 7.53%.

RESULTS

Forestry workers’ basic awareness on the forest law: The Forest Law is the core law in the legal system of China’s forest resources. For forestry practitioners, the Forest Law is their fundamental legal basis for carrying out the forestry work. The research on the familiarity of the forestry practitioners on the “Forest Law: shows that among the 93 respondents, 11.83% are very familiar with the “Forest Law”; 44.09% others have some general knowledge about it; some 35.48% know little about it and the left 8.6% are not familiar with the Forest Law (Fig. 2). In addition, as for the issue of “whether the Forest Law

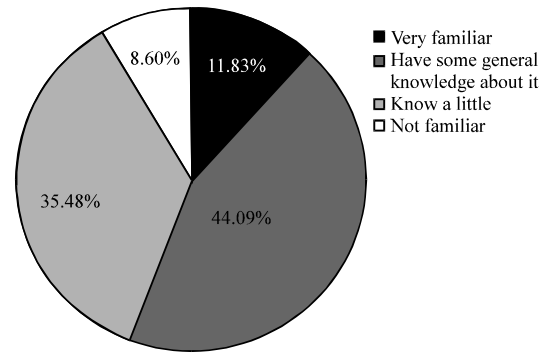


Fig. 2: Familiarity of forestry workers on forest law

plays a guiding role in your work”, 67.74% of the respondents think that the Forest Law plays a great role in guiding their work, 30.11% admit the Forest Law has some kind of guiding function in their work and 2.15% others see no guiding role of the Forest Law in their own work (Fig. 3).

Awareness and attitude of the forestry workers on forestry operation and management: First of all, it is found from the interviews that a lot of forestry workers think that the Forest Law does not match with the actual situation of the forest classification as well as the forestry

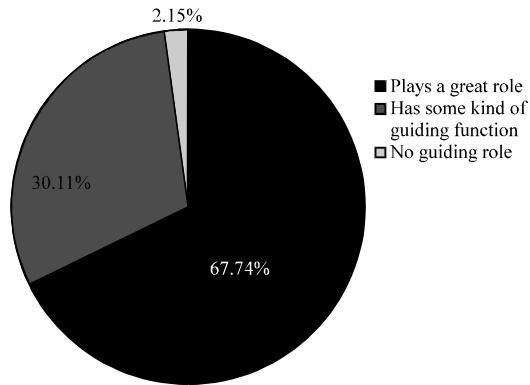


Fig. 3: Whether the forest law plays a guiding role

operation and management and appropriate adjustments concerning the ways of classification of the forests should be made from a legal perspective. The 64.52% of respondents believe that forests should be classified into ecological forest and commercial forest according to their functions and commercial forest can then be further classified into economic forest, firewood forest and firewood forest. On the other hand, the left 35.48% still think that forests should be classified into shelter forests, commercial forest, economic forest, firewood forest and forest for special purpose based on the provisions of the current forest law. In comparison, more forestry workers tend to agree with the classification of forests based on the different functions of it. They held that appropriate management measures should be implemented to different kinds of forests in order to maximize the benefits the multiple functions of forests so that it is in line with the basic ideas of forestry classification management in present China.

Second, it is found from the research that rights and responsibilities of the forestry authorities at all levels are not clear in the process of forest management. Based on the results of the survey, 81.72% of managers believe that the administrative authority and responsibility of the forestry authorities at all levels should be clearly defined from the legislative perspective to ensure the smooth and effective conduct of forestry work. The survey reflects a series of problems concerning the rights and responsibilities of the forestry management sectors, for example, the scope of the rights and subjects of responsibility of the forestry sectors at all levels should be further clarified and the management scope and rights of trading platform concerning the registration and circulation of forest rights should also be clearly defined during the process of the new round of reform of the collectively-owned forest right system.

Third, the research shows that forestry workers generally believe that China's current system of forest cutting quota has a range of problems, such as lack of standardization. These problems constrain the rational utilization of forest resources. Therefore, it is necessary to further clarify the corresponding provisions of legal legislation on harvesting and utilization of forests. The most severe problems of the system of forest cutting quota lie in the following two aspects: shortage of cutting index and unreasonable distribution of the cutting index. The respondents believe that the determination and distribution methods of the cutting index should be clearly classified from a legal perspective in order to make the use of forest resources according to scientific legal basis and to reduce the unfair distribution of the cutting index.

Fourth, as for the issue of farmers in forestry production and management, 77.42% of the forestry workers believe that enthusiasm of farmers in forestry production and management has not been fully mobilized; only 22.58% believe that farmers are relatively active in rural forestry production and management activities. Under such a circumstances, 76.34% of respondents think that we should add incentives contents-"to encourage forest farmers to do forestry production and management" to the Forest Law. In addition, forestry workers generally believe that after a new round of the reform of forest rights system, the Forest Law should include the contents concerning adaptation to the new forestry production and management environment, such as forest ownership, forest insurance, forest rights transfer and the Forest Right Mortgage loans, etc.

Fifth, as for the protection for forest resources, forestry staff believes that current conservation efforts should focus on two major aspects: forest fire prevention and pest control. According to the survey, 90.32% of the respondents believe that, at present, the legal system of forest fire prevention and control needs to be adjusted and perfected; 83.87% of the respondents hold that, nowadays, the legal system of forest pest control needs to be adjusted and improved. Therefore, it can be seen that, currently, the law for the protection of forest resources is strong demanded. Specifically, as for the issue of forest fire prevention and pest control in the future, forestry workers think that specific responsibilities of forest resource owners and operators of forest harvesting should be defined from a legal perspective; the sources and channels of funds on forest fire prevention and pest control (such as the proportion of input on prevention and treatment of central government, local governments and individual operators) should be clarified and the organization and management of fire and pest control should be strengthened.

Table 1: Awareness and attitude of forestry works

| | Agree | | Not agree | | Unknown | |
|--|-------|-------|-----------|-------|---------|-------|
| | N | (%) | N | (%) | N | (%) |
| Ecological compensation mechanism plays an effective role in promoting the forest farmers to be involved in forestry management. | 80 | 86.02 | 10 | 10.75 | 3 | 3.23 |
| Forest ecological compensation should be legally defined | 69 | 74.19 | 15 | 16.13 | 15 | 16.13 |

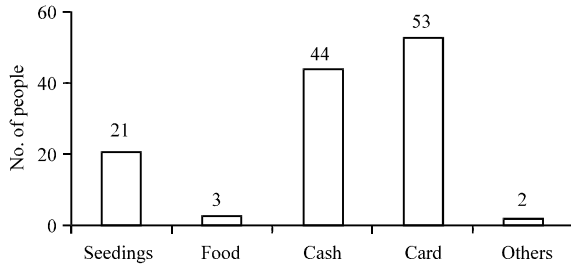


Fig. 4: Views of forestry workers on the ecological compensation fund release form

Awareness and attitude of the forestry workers on forest ecological compensation: Ecological compensation is an important incentive mechanism in the process of China’s forestry development and ecological construction. The survey shows that 74.19% of the forestry workers argue that the ecological compensation mechanism plays an effective role in promoting the forest farmers to be involved in forestry management. Meanwhile, 86.02% of respondents believe that the forest ecological compensation should be legally defined in aspects of the sources of the compensation funds, the scope of compensation, compensation standards and the forms of compensation.

As for compensation for ecological forest, the sources of the compensation funds mainly come from the central government and local governments at all levels. Although governments at all levels have introduced a compensation fund management approach to key ecological forest, ecological compensation is still not up to the legal level. The sources and scopes of compensation need to be clarified in law to ensure the effect of the implementation of ecological compensation mechanism and to provide corresponding protections for China’s forestry development and ecological protection. As for issue of the form of compensation funds, the survey shows that the majority of respondents prefer the form of “Card” and cash, but some others are more willing to accept the payment of seedlings. The respondents that choose the form of “Card” generally think that the direct transfer of the compensation funds to the farmers’ bank accounts can reduce the intermediate processes of disbursing funds which can save human resources, ensure farmers’ compensation funds to be in place in time.

Thus, this increases the transparency of the ecological compensation for disbursing funds and also fully reflects justice.

DISCUSSION AND CONCLUSION

Proper forest ownership pattern established: In China, the forest ownership is initially assigned to the state and the collective, apart from this, also included a portion of private ownership and the content of rights including the ownership and the usufruct. For the fact that the portion of private forest tenure is quite limited, so that fewer problems have been found in practice. Contradictions are mainly concentrated in the state-owned forest tenure and the collective forest tenure. The new Forestry Law should have a special chapter on the forest tenure and this chapter should not only specify the contents of the forest tenure, but also reduce the restrictions on the transfer of forest tenure, in order to fully play the economic value of forests and effectively protect the forests.

Improving the protection mechanism of the ownership of the forestry law and reducing administrative management contents: The existing Forestry Law is with strong industrial management traces and its core guiding principles are how to “manage” and “harvest”. Forests not only have strong ecological functions, but also contain huge economic benefits, but the existing Forestry Law cannot fully exert the economic benefits of forests and it is difficult to achieve unification between the rights of business managers and profits. In order to achieve profits, after acquired rights, business managers wantonly felling forest and deforestation in order to make a compensation for input, they never considered the long-term forest management strategy and resulted in a serious shortage of follow-up funding for forest management and eventually led to the degradation of forests. To control this kind of things from happening, the state take a more stringent control measures to forests which happens to coincide with the point of view of welfare economics, Pigou has elaborated such view of point in the “Welfare Economics” and the “Wealth and Welfare” like: When found flawed economic system, the method of correction is through some form of government behavior. But the hysteresis of administrative intervention and the frequent failure of their specific operation led directly to further

aggravate the forest resources to be constrained and thus bred a series of negative performance like corruption and local protectionism. This mode of government administration is not conducive to attracting social capital and labor to involve in forestry and its construction, let alone to promote the development of China's forestry. The newly amended Forestry Law should reduce the administrative management contents and replace these information with a perfect ownership protection mechanism, in order to reduce the "State" nature of the Forestry Law and correctly position the Forestry Law.

Establishing and improving the compensation system for forestry of ecological benefit:

The Forestry Law should secure the compensation system for forestry of ecological benefit from a legal perspective and ensure the full function of forestry's ecological benefit. Forestry resources can get effective protection, management and self-adjustment by the way of compensation. Through this kind of mechanism, the government will burden a certain amount of compensation for the economic interest of runners of non-commercial forestry to ensure citizens' rights of existence and development. The compensation system for forestry of ecological benefit should be established and improved, including the establishment of the expenses for growing sapling in forestry centers, the Compensation Fund for Forestry Ecological Benefit and the system of using forestry to absorb carbon dioxide. In the mean time, the compensation system for forestry of ecological benefit should be stipulated and in the whole society to disentangle the distribution relationship between forestry resources and ecological interest.

Perfecting the forest management system in forest law:

The existing Forestry Law was made according to the conditions of previously state-owned forests and collective forests, so that after forests began the contract management, the law should properly lose the restrictions on timber fells under the premise that contract households properly managed their forests and woods, only in this way, can contract households' better short-term interests be guaranteed, otherwise, forest farmers' interests will be nothing. Meanwhile, there are no specific rules for the transfer process, how to register, how to evaluate, the form of transfer contract etc., such general provisions cannot adapt to the practical needs of the transfer of forest tenure. In order to give forest farmers enough legal right of disposal, the relevant provisions in the Forestry Law should be revised accordingly.

In summary, the issue concerning the adjustment of the forest classification is a leading demand in the forest legislation. In the future management of forest resources, the rights of forest resource owners and operators of forest harvesting should be further classified from the legal perspective; a flexible system of cutting index should be determined based on the forest management plan; the regulations on the updating of the cut-over areas should be clarified and clear punitive measures should be listed for those not timely updated ones.

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