

Contesting rights to forest land in China

by **Elisabeth Grinspoon**

University of California at Berkeley

SUMMARY

Grinspoon examines a conflict in rural China that took place as the government implemented new policies of decentralization and privatization. Local leaders leased the logging rights to a community forest without the knowledge of their constituents. After the lease was discovered, many community members sought to have it cancelled by appealing to authorities at various administrative levels. The aggrieved community members had limited success until they found officials with whom they had better *guanxi* – personal relations or connections which are central to success in all facets of life, including conflict management, in China.



GUIDING QUESTIONS**KEY ISSUES**

- What roles do personal relationships among community members play in this conflict and its resolution process?
- What happens when those who are responsible for upholding the laws do not support them?

CONTEXT

- What were the goals of decentralization and privatization?
- What risks were unanticipated by policy-makers?

CONFLICT BACKGROUND OR HISTORY

- Why did the team leader ignore the interests of the majority of the team members?
- How did the team members find out about the situation?

CONFLICT MANAGEMENT AND RESOLUTION PROCESSES

- What options were available for conflict management?
- What were the advantages and disadvantages of relying on the forestry police?

CONFLICT MANAGEMENT AND RESOLUTION OUTCOMES

- What was the basis for the decision by the forestry police?
- How did knowledge of officials and official procedures influence the action of Wu and other team members?

LESSONS LEARNED

- When can a conflict be considered as resolved?
- What is the role of social capital in conflict resolution?

KEY ISSUES

This case study examines a conflict in rural China in which local leaders leased the logging rights to a community forest without the knowledge of community members. After the lease was discovered, community members sought to have it cancelled by appealing to authorities at various levels. The authorities initially contacted, however, were more interested in preserving their own access to income from logging activities and frustrated these efforts. Finally, the community members found a level of authority to which they had better *guanxi* – personal relations or connections which are central to success in all facets of life in China, including conflict management. These authorities forced the local leader who negotiated the lease to leave his post and denied the entrepreneur use of the forest he had leased.

This conflict arose from local implementation of state decentralization and privatization policies. Legalization of land leases underscores a fundamental shift in the Chinese Government's vision of property. Prior to the initiation of economic reforms (1978) in communist China, land was owned either by collective organizations or by the state, which did not attach a monetary value to land, and there were few land transactions. Over the past decade, however, state and local Chinese officials have promoted land leases on the premise that these will stimulate economic growth. In rural China, the problem is that the rights to non-agricultural land, including forests, are unclear, and attempts to privatize the rights through leases often revive old, unresolved conflicts or generate new ones. The case study also illustrates conflicts that arise when officials try to manipulate implementation of such policy shifts to their own personal advantage.

This case study demonstrates how and why several stakeholder groups used different strategies at various points in time as they sought resolution to a conflict. It aims to raise awareness of the ways in which powerful elites attempt to control the conflict management process in a situation where access to political fora and dispute resolution is unequal. It also shows how communities can prevail in difficult situations by successfully exploiting their personal and political connections. While the situation described here is in many respects peculiarly Chinese, similar situations do exist elsewhere, with sometimes overlapping levels of authority extending over natural resources. Through perseverance and political expertise, communities can, in such instances, sometimes find a solution to their grievances when this seems unlikely.



Key questions raised in this case study

1. What happens when those who are responsible for upholding the laws do not support them?
2. How do stakeholder groups address conflicts in a social and political atmosphere of favouritism?

CONTEXT

This case study focuses on a poor, rural township called White Rock¹ lying along a major tributary to the Yangtze River in Sichuan Province to the north of the Sichuan basin. The region is officially classified as the “Micang Mountain deciduous broadleaf forest with evergreen oaks”. The case study’s particular focus is a hamlet located within White Rock Township called Team Number One (see Box), one of five hamlets that make up Red Lion Village.

BOX UNITS OF ORGANIZATION IN CHINA	
The term “team” is left over from an earlier period of communist rule (1958–1978) when communes were the primary unit of organization in China. Communes were made up of brigades, and brigades were made up of production teams. After 1978, the state initiated economic reforms that changed the communes to townships and the brigades to villages. Although the production teams officially became work groups, locals continued to use the term team to describe them. Teams and villages are local institutions; the lowest units of the official state government in rural China are the townships.	
1958–1978	1978 to present
Commune (Gongshe)	Township (Xiang)
Brigade (Dadui)	Village (Cun)
Production team (Shengchandu)	Work Group (Zu)

1. Because the conflict is a politicized issue, the author has used pseudonyms for the names of the people and places in this case study.

Team Number One, like most of the hamlets in the region, has almost no primary forest left. In 1957, the State Government sent workers to the region to harvest as many trees as possible for the production of charcoal to smelt iron and steel. During that era, hamlets were organized by officials into communes as a means of promoting agrarian development. From 1958 to 1963, the government instructed local commune members to clear large strips of forested hillsides for agricultural production to meet huge grain production targets. When the government discontinued these campaigns, the communes no longer had incentives to produce large quantities of grain for the state, so farmers abandoned the hillside fields. The soil was generally good, but the slopes were steep. The farmers stopped planting grain on them because they had little incentive to farm such steep land under the planned economic system without the government's high grain production quotas. Secondary forests containing ring-scale oaks, maple and deciduous oaks grew back naturally on the abandoned agricultural land. Farmers, local leaders and foresters called these secondary forests "waste mountains" (*huangshan*).

In 1978, the state disbanded the communes and implemented a "production responsibility" system, basically a return to family-based agricultural production. A similar production system was instituted for forestry. With the implementation of this system for forestry, township officials ordered local leaders to allocate the use rights to waste mountains – a category of forest land – to individual households. However, the teams as collective organizations still retained the ownership rights to the mountain land.

In 1984, the County Government, the next administrative level above the township, called for quickening the pace of economic reform, urging teams to lease their use rights to entrepreneurs. Although the leases involved maximum 50-year contract periods, not outright transfers of ownership, local leaders and farmers used the phrases "buy mountains" and "sell mountains" to describe them. Team leaders were required to hold a meeting at which the team members agreed to the sale, and the buyers were required to replant harvested areas. Policy-makers reasoned that entrepreneurs with the necessary capital would buy the rights to waste mountains and plant tree farms on them, stimulating the rural economy and conserving the soil.

The policy, however, created conflicts among team members, between team leaders and team members, and between entrepreneurs and team members. In some cases, the teams had already allocated the use rights to the waste mountain to individual households; when these same rights were later sold to entrepreneurs, conflict was inevitable. The different stakeholders in the following conflict included an entrepreneur, team members, team and village leaders, township government officials, and County Forestry Bureau officials.

CONFLICT BACKGROUND OR HISTORY

For several years in the 1990s, the leaders of Team Number One sought to sell the use rights to the waste mountain above River Dragon Cave for 7 000 yuan.² The 20-ha plot was covered with a 30-year-old oak forest that had regenerated naturally. Potential buyers believed that the asking price was too high for a forest located in a remote area with no road access.

Early in 1997, local Communist Party members met with the leader of Team Number One, named Tan, to discuss efforts to sell the team's forests in order to raise money for building a Communist Party members' activity room (a room that Party members might use for playing cards in, for instance). They set the selling price for the forests at 5 000 yuan for a buyer from the local village or 6 000 yuan for a buyer from another village. Consequently, a farmer named Gou from the local village bought the forests for 5 000 yuan – a low price by local standards, but not unreasonably so. The brief, handwritten contract signed by Gou, Team Leader Tan, and the Village Leader allowed Gou to log the forests until the end of 1999. Gou claimed that he paid the agreed upon 5 000 yuan and then resold the forests for 8 000 yuan to Wang, his brother-in-law, a relatively wealthy doctor from a nearby village. That winter, Wang hired two other relatives to dig four kilns on the mountainside for charcoal production.

Some team members only found out about the sale when they saw smoke rising from the kilns on the mountainside. Most did not learn about it until Team Leader Tan held a special meeting to announce that the team had sold the forest and that team members were no longer allowed to collect fuelwood and cultivate edible mushrooms on oak logs there. The local team leader was responsible for enforcing the sanction, which would have been a fine of several times the value of the wood collected.

The team members were furious. They said they were angry because Team Leader Tan had not discussed the sale with them beforehand, and because they thought that the sale price was too low. They also objected to the team and village leaders using the proceeds from the sale to build a Communist Party members' activity room.

The team members' grievances were also linked to an earlier conflict over rights to the same forests. In the early 1980s, township officials had told village and team leaders to allocate the responsibility for managing the forests to individual households. Because of the area's remoteness, the Team Leader decided that dividing the forests into 35 plots – one for each household – was not practical.

Instead, the Team Leader divided the mountain into five plots for five small groups (*xiaozu*), each made up of seven or eight households. Three of the five

2. The yuan's value has fluctuated over the past two decades between US\$0.66 and US\$0.12.

groups harvested the timber on their plots, dividing the profits among themselves, but not sharing with the other two groups. The two groups that did not harvest timber complained to the Team Leader that every household in Team Number One should receive a portion of the proceeds from the forests, but they never got it.

In the early 1990s, the Township Forestry Stationmaster told the Team Leader to retract all five groups' management rights to forests so that the township could conduct an experimental reforestation project there. The Team Leader did so, but the reforestation project was never implemented. Several years later, Team Leader Tan sold what forests remained to Gou. The chronology of events is set out in the Box.

BOX	CHRONOLOGY OF EVENTS
January 1997	Team Leader Tan and Gou sign contract for forest lease
February to March 1997	Wang produces charcoal on the mountain Team members discover the sale Team members complain first to local leaders and then to higher-level authorities
June to July 1997	County Forestry Bureau police conduct interviews as part of an investigation
February to May 1998	Team Leader Tan loses his position as team leader Former Team Leader Tan writes self-criticism Gou agrees to pay fine
June 1998	Wu sends letter of complaint to County Committee
July 1998	County Forestry Bureau police conduct another set of interviews
August 1998	Letter from County Forestry Bureau to County Government
January 1999	Team holds a meeting at which they cancel the lease

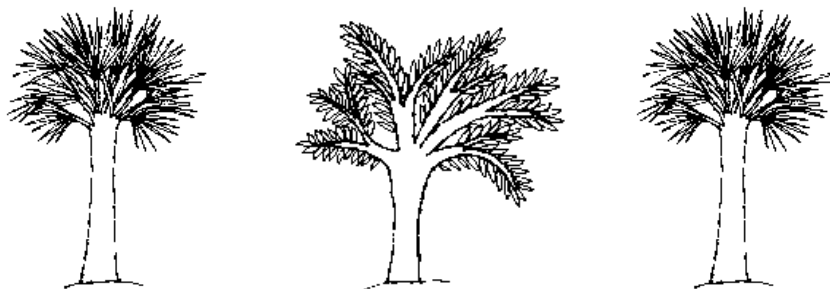
CONFLICT MANAGEMENT AND RESOLUTION PROCESSES

Team Leader Tan's announcement of the sale of the forests to Gou stirred the old grievances of the two groups of households that had never received monetary benefits from the forests above River Dragon Cave. One team member grumbled that the unfair part about the sale is that "the 14 households did not use the land and the other households did".

Several angry team members from the two groups of households began to check the Team Leader's explanation of the sale. The information that they uncovered led them to believe that the local leaders had actually sold the forests directly to Wang for 8 000 yuan, and that the three signatories to the contract – Gou, Team Leader Tan and the Village Leader – had an extra 3 000 yuan to split among themselves as kickbacks.

The information about the kickbacks was shared with the members of the other groups. Most of the team members were furious when they heard that Team Leader Tan had hidden some of the proceeds from them. The households that had logged and those that had not were united in their objections to the sale. One man explained that he understood that it was standard practice for leaders to take kickbacks for their roles in facilitating private business deals, but that it was unfair in this case because the deal involved collectively owned property, from which the team members should receive all of the profits.

As is customary in rural China, the team members first voiced objections to their Team Leader about the sale. Team leaders are usually responsible for resolving conflicts among team members. If they are unsatisfied with their team leader's decision, team members may appeal to the village leader. Both team and village leaders resolve conflicts using an informal process of "mediation" (*tiaojie*). The mediation process, however, is usually similar to an arbitration in which the leader acts as the judge and the jury.



After a fight between two team members, for example, they may go to the team leader's house together or separately to argue their case. The team leader listens to the case and then makes a decision, which he may enforce by refusing to apply the team's official stamp to a household's applications for quotas, such as those required for legally giving birth to a child or felling trees to build a new house. For disputes involving violations of state law, village leaders may report the crime, such as felling trees without a permit, to the township or county police for adjudication. A village leader's decision to file a report often depends on his personal relationship with the villager.

In this case, Team Leader Tan ignored the protests of the members of his team. According to a man from a household that had not logged, named Wu, Tan ignored the protests because he had received a kickback as part of the forest deal. Wu told Team Leader Tan that he would sue the person responsible for the forest sale. In order to file suit, Wu would have needed to take the dispute to a law firm in the township about 15 km from Red Lion Village. The law firm, like most in China, is actually an arm of the government administered by the county judicial system. Wu never did file the suit, probably because suing is prohibitively expensive for most rural farmers. Not only is the plaintiff responsible for paying all the court fees if he loses the case, but customs require bribing and giving banquets for lawyers and judges.

When Wu threatened Team Leader Tan with a lawsuit, he allegedly replied: "I sold the mountain, if you are not satisfied then sue me. I am not afraid... If I hear that someone has sued me, I will kill him. That person will be responsible for the results of his own actions." Team Leader Tan's threat failed to intimidate Wu. He and some other team members voiced their disapproval to the County Forestry Bureau. As in many developing countries, China's forestry bureaus possess their own judicial mechanisms. In June 1997, the County Forestry Bureau police launched an investigation interviewing dozens of team members, local leaders and township officials.

The Village Leader testified that the deal had been negotiated in the village where Wang lived, which is several hours' walk from Red Lion Village. Gou and Team Leader Tan had gone there for two days of meetings about the forest sale. Wang's first cousin said that there they negotiated a deal in which Wang paid 8 000 yuan for the forests. Other area residents added that Wang also bribed the White Rock Assistant Township Leader, who was in charge of forestry in the locality, to facilitate the approval of Wang's application for felling permits. The bribe brought Wang's total expenses to 10 000 yuan.

In her interview, Wang's first cousin told the forestry police that the main reasons that the team members were so angry was because the selling price of 5 000 yuan reported by the Team Leader was too low and that there was no clause in the con-

tract requiring the buyer to replant the forests on the mountain. She said that Wang told her twice that he bought the mountain for 8 000 yuan. Even if the mountain had been sold for 5 000 yuan, she said, the money should be divided among the 14 households, including her own. She then proposed solving the conflict by buying the forests back from Wang. If all of the 14 households were willing to pay 300 yuan, she would pay 300 yuan immediately to buy the forests back.

A crucial point in the investigation was finding out whether or not the team leaders had held a mass meeting (*qunzhong dahui*) to discuss the sale before making the deal, a required step in the process of selling the use rights to mountains. The team and the village leaders testified in signed statements (marked with their fingerprints) that they did not hold the mass meeting before the sale. According to the Village Leader, the Team Leader only asked for the instruction of the Village Committee, which is a local organization made up of a village's Party leaders. The Team Leader also ignored two other important steps in the procedures for leasing forest land: he did not require the entrepreneur to replant the logged area, nor did he have a notary sign the contract.

CONFLICT MANAGEMENT AND RESOLUTION OUTCOMES

At the end of July 1998, the County Forestry Bureau finished its investigation, but did not resolve the case. Members of Team Number One continued to complain to township officials, who eventually removed Team Leader Tan from his elected post, replacing him without even going through the motions of an election. The township officials' action was illegal, but township officials are far more powerful than village and team leaders and often use their power to exert control over local politics. Team Leader Tan's removal probably pleased some angry team members; however, it did not satisfy the team members' desire to get back their forests and the team leader's replacement without an election also weakened the legitimacy of the new team leader in the eyes of others.

Team members not only persisted in their complaints to township officials, but also in their protests to county officials. In February 1998, the County Forestry Bureau police punished Gou and the now former Team Leader Tan. They imposed a heavy fine on Gou for logging and producing charcoal on the mountain without a felling permit from the bureau. Even though it was Gou's brother-in-law, Wang, who did the logging, the bureau fined Gou a total of 2 750 yuan: 750 yuan for the value of the charcoal, plus 2 000 yuan, equal to three times the value of the timber cut on the mountain.

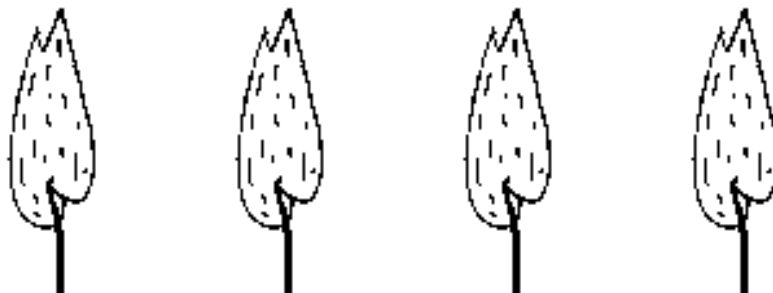
The bureau ordered Tan to write a self-criticism, which is a form of punishment that the Chinese Communist Party has used since the 1940s, but especially as a form of harassment during the Cultural Revolution (1966–1976). In his self-criticism, addressed to the Policy and Laws Section of the County Forestry Bureau, Tan admitted that he had failed to apply for bureau approval of the sale. He pleaded that his failures were a result of his ignorance of forestry law, and said that he regretted not stopping the buyer from logging without a permit.

The bureau punished Gou and Tan only for their failure to undertake those procedures that the bureau uses to control the forestry sector: for failing to pay fees to the County Forestry Bureau (and, perhaps, bribes to bureau officers). The bureau did not punish Tan for his failure to hold the required mass meeting prior to the sale, however, nor did it cancel the forest sale. The punishments did not satisfy the members of Team Number One because they still wanted their forests back.

In June 1998, team member Wu wrote to the County Congress. While many farmers probably would not know about this means of filing a complaint, Wu was more educated than most, being a representative to the county branch of the People's Consultative Congress. His letter to the Congress stated the team members' grievances regarding the sale of the mountainside, and had a title that officials could not ignore: "Support the execution of the anti-corruption struggle, then the public revenues will increase". With this title, Wu raised two issues at the forefront of government policy during the past two decades of China's economic reform – reducing corruption and increasing income.

In his letter, Wu wrote:

I represent the opinion of the people of [the] Township, the anti-corruption struggle should continue. In Team Number One... a gang including the Team Leader, Gou and the Village Leader, sold several hundred hectares of collectively owned forest worth tens of thousands of yuan. They did not go through any formalities, did not pay taxes, and did not inform the masses. They sold the mountain for a price of 8 000 yuan. Only after several months did they tell the masses that the mountain had been sold. They said that it was sold for 5 000 yuan.



Wu ended his letter saying: "In the past few years, there have been serious problems with respect to forestry in [the] Township. Of course, these problems are related to forestry officials." Because Wu made an objection to the sale of forests, the County Government turned the matter over to the County Forestry Bureau.

In August of 1998, the County Forestry Bureau responded by conducting a few more interviews and then by sending a report on the case to the County People's Consultative Congress. Although forestry police had uncovered ample evidence demonstrating that Team Leader Tan had failed to comply with forestry procedures in selling forests to Gou, their report to the Congress, dated August 1998, stated that the sale *was* legal. This is a key point, which is explored in more detail below.

The report, written by one of the county forestry police officers who participated in the investigation, refuted all of the charges Wu made in his letter to the Congress. The bureau's reply stated that: "Through investigation and verification, we have come to believe that the problem present in [Wu's] letter does not square with the facts." The letter maintained that the community members had agreed to transfer the mountain forests. It said that the forests were only 13 ha in size and worth several thousand yuan. According to the police officer's letter, the Team Leader's lease of the forest land was permitted by forestry policy, and Gou's resale of the forests, and his profit, were legal. The only problem was the Team Leader's failure to carry out the procedures for selling the forests in the proper order, but this did not constitute an illegality; the Team Leader and the entrepreneur just needed to complete the procedures.

The County Forestry Bureau denied all of Wu's allegations because admitting foul play in the sale would have opened the bureau to Wu's serious charges of corruption within its ranks. In order to avoid these charges and give a positive account of forestry activities to the Congress, the County Forestry Bureau officer reported that the sale was legal. Once again, community objections were blocked.

Wu's letter failed to achieve its goal, but angry community members still persisted in their efforts to get their mountain back. Wu and some other members of Team Number One used personal connections to apply pressure to the township officials to refuse to give Wang the felling permits he needed to log the forests legally. Wang never resumed his charcoal production on the mountain; he claimed that he lost a total of 10 000 yuan in the deal.

In January 1999, the new Team Leader held a meeting at his house, attended by all of the team's household heads, who are mostly men, to discuss the problem of the forest lease. The men, led by Wu, convinced the new Team Leader to cancel the lease and to return a portion of the 5 000-yuan fee noted in the contract. Before returning the money, the new Team Leader subtracted more than 1 000 yuan for the 18 m³ of wet (green) oak that Wang had logged for production of about 700 kg of charcoal. Finally, the team members got their mountain back.

LESSONS LEARNED

- ◆ Failure to involve local communities in forest management may lead to conflicts and to destruction of forest resources.
- ◆ Privatization may revive latent conflicts over forest land.
- ◆ Even in the absence of ideal institutional mechanisms, determined and inventive communities can have their grievances addressed.
- ◆ Personal connections are key to moving the political processes, including the management and resolution of conflicts.

Failure to involve local communities in forest management may lead to conflicts and to destruction of forest resources. A broad lesson presented in this case study is the importance of involving local communities in forest management decisions. In Team Number One, failure to involve the community members in the decision to lease the forest land generated a widespread and protracted conflict, costing the Team Leader his position and leading to the destruction of more than 18 m³ of oak forests, about five truckloads of logs. Had the Team Leader held a meeting to discuss the lease beforehand, the villagers would have been spared the time and effort of seeking redress, and the damage to the forests might have been avoided.

Privatization may revive latent conflicts over forest land. Chinese officials have promoted land leases on a premise similar to that underlying Western capitalism: that individualized property rights create incentives that produce economic growth. The land-use certificates that government institutions are required to issue along with the leases supposedly strengthen tenure security by creating clear and secure individual rights. These “secure” individualized rights are aimed at encouraging long-term investments in land.

The findings presented in this case study, however, are in striking contrast to this idealized view of individualized property rights as providing secure and uncontested title to resources. The attempt to implement privatization in this case did not take fully into account pre-existing group claims to, and conflicts over, forest resources. The study demonstrates the ways in which privatization revives unresolved conflicts rather than settles them, and fails even to strengthen tenure secu-



rity. Neither the private nor the common property systems *per se* cause the conflicts; rather, the source of these conflicts is the unclear property rights that lie in between the two systems, together with the lack of a participatory and transparent process for negotiating the transition between the two.

Even in the absence of ideal institutional mechanisms, determined and inventive communities can have their grievances addressed. On the one hand, China is unlike many other developing nations in that much of its forest land is collectively owned and the collective's rights are written into the nation's legal framework. On the other hand, the Chinese legal system is similar to systems in many other countries because, in practice, it favours the interests of political and economic elites over forest-dependent communities.

Despite the favouritism in the Chinese legal system, the case of Team Number One illustrates how community members in conflict situations can persevere through multiple setbacks and probe the institutional structure until they discover a point of contact favourable to the pursuit of their interests. Here community members employed such personal connections as were available – sufficient, in this case, to produce the desired result. The lesson here is that small openings can be exploited to produce justice from the perspective of the vast number of community members. However, the larger lesson is that transparent institutional reforms are needed to make the openings available even to those without personal connections. China needs to develop clear and transparent procedures for addressing conflicts as important first steps in remedying this problem.

Personal connections are key to moving the political processes, including the management and resolution of conflicts. The members of Team Number One have better connections to White Rock Township than the members of other teams in the area. The team is somewhat unique in the region. From imperial times, it has been a market town – a place where farmers from hamlets scattered in the hillsides went to trade and exchange information. For the first four decades of communist rule, Team Number One was also the administrative seat of what was then called Red Lion Township, and many of its local officials came from Team Number One.

In the 1990s, as part of China's decentralization programme, Red Lion merged with White Rock Township. What had been the Red Lion market and township seat moved to White Rock. Many of the former Red Lion Township officials went to White Rock to serve the government. Thus, Team Number One established strong personal connections to White Rock Township. Without these strong connections to the township government and knowledge of the government's inner workings, members of Team Number One may not have been able to negotiate a settlement to the conflict.

Not all farmers and communities, however, have the same access to options for resolving conflicts. For example, farmers from Parting Rivers Village, who live next door to Red Lion but have no personal connections with White Rock Township, have been writing letters of complaint to the township for years about several forest leases made without the consent of the team members. Despite the letters filled with excellent evidence documenting their numerous cases, the County Government has never formally investigated the cases, nor adjudicated them.

The importance of personal connections is not peculiar to China. However, other factors make the phenomenon comparatively important there: unclear property rights resulting from policy shifts promoting privatization, the rudimentary legal systems and pervasive corruption.

REFERENCES

FAO. 1998. *Analysis of E-Conference Discussion*. Proceedings of an Electronic Conference on Addressing Natural Resource Conflicts through Community Forestry, January–May 1996, pp. 46–52. Forests, Trees and People Programme (FTPP), Community Forestry Unit, Forestry Department. Rome.

FAO. 1998. *Integrating Conflict Management Considerations into National Policy Framework*. Proceedings of a Satellite Meeting to the XI World Forestry Congress, 10–13 October 1997, Antalya, Turkey. Forests, Trees and People Programme (FTPP), Community Forestry Unit, Forestry Department. Rome.