

Civil Society Network Action Towards Community Ownership of Forest, Land & REDD+: A Pilot Customary Law Based Programmatic Approach to Forest Land Allocation



MECO-ECOTRA¹

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¹ MECO-ECOTRA: Mekong Community Networking for Ecological Trading.

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Civil Society Network Action

Towards Community Ownership of Forest, Land & REDD+:

A Pilot Customary Law Based Programmatic Approach to Forest Land Allocation

under Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT Dated Jan 29, 2011²
and Directive 1019/TTg-ĐMDN Dated June 24, 2011³

Statement

Cultural Identity, Biodiversity, Environment and Climate as well as CO₂ Emission are without borders. However, national politics & economics engage together to create many challenges and problems for environmental protection and Indigenous Minority Populations in the Mekong region including Vietnam. This pilot Customary Law Based Programmatic Approach towards "Community Ownership of Forest, Land & REDD+" is aimed at re-structuring and de-centralizing the centralized top down approach towards forest and land allocation to consolidate stronger local traditional governance in natural resource management under Article 29 of the Forest Protection and Development Law/2004 QH-11; Decree 200/2004/ND-CP articles No.3 & 4; Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT articles No 1, 2, 7 & 8 and Directive 1019/TTg-ĐMDN point 1.

Part I. Mekong Context



Mekong Problem Analysis

The Mekong Region is recognized as an area rich in diverse mosaics of natural and cultural heritage. The Mekong watershed, shared by six countries is the home to around 70 millions of indigenous people and other marginalized groups. Natural endemic ecosystems offer treasures in biodiversity that form the basis of traditional livelihoods. Traditional civil society supports these livelihoods and is the self-maintained living heritage of these communities inherently accepted and respected by the local people.

Unfortunately too often the vision of local and centralized governments is too narrow to see the inherent organizational and practical strengths of traditional civil society. Spurred on by the drive of globalization and glimmering dreams

² Access to the Vietnamese version of the Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT Dated Jan 29, 2011:
http://vanban.chinhphu.vn/portal/page?_pageid=578,33345598&_dad=portal&_schema=PORTAL&docid=99421

³ Access to the Vietnamese version of the Directive 1019/TTg-ĐMDN Dated June 24, 2011:
http://vanban.chinhphu.vn/portal/page?_pageid=517,34682326&_dad=portal&_schema=PORTAL&piref517_34682358_517_34682326_34682326.docid=101329&piref517_34682358_517_34682326_34682326.detail=1

of becoming more developed governments systematically and forcibly undermine traditional civil society in the Mekong. The more intelligent and insightful way to approach development that has been ignored is to support the strengths of traditional civil society while providing the resources, information and skills required for its flourishing within the context of current world challenges. Given the crisis state of the environment and dwindling reserves of energy and resources, traditional civil society has something to offer for our future long term development context. Traditional civil society may provide us with the practical and time tested solutions to meet the requirement to shift to lower energy and resource-dependent economies in the context of increased ethical concern and respect for the environment.

Mekong countries are becoming increasingly interconnected to the global market and are inevitably being affected by the processes of globalization, industrialization and international flows of capital, technology and people. Natural resource exploitation and new development programs that drive the process of globalization frequently devastate areas rich in biodiversity and cultural heritage. With new development schemes there has been a failure from governments in the region to address the *actual needs and concerns of local people*. Most development schemes fail to improve the quality of life for marginalized people; there is often the *lack of community consultation and participation* they create *disparity in the social structure*. This goes together with an immature view from governments who don't understand the value that traditional civil society and local knowledge has to offer.

Examples of forced development schemes that have failed and are causing problems for local people include resettlement programs, introduction of cash crops, unsustainable forestry operations, promotion of industrial agriculture and timber plantations, establishment of 'new rural areas', privatization and exploitation of natural resources. Not only do these projects ignore the reality and needs of marginalized people they also are inconsistent with solutions that offer a bright future in the context of current world environmental challenges such as global warming and an unstable global economy based on the supply of dwindling energy reserves and resources.

Mekong Challenges

Minority people are in threat of the dissolution of traditional practices, land ownership, livelihood, culture and community spirit, their *values* and spiritual belief. This contributes to a loss of identity and is a consequence of (1) loss of land and forest rich in biodiversity, the degradation of fertile land and erosion of soil; (2) globalization and the promotion of a demanding consumer society based on exploitation natural resource by extractive industry; (3) 'development' schemes brought in by 'outsiders' such as multi-national companies; (4) resettlement programs and displacement⁴. Inherent in all of these processes is the top-down control and insensitive approaches from centralized governments that have contrasting values and vision to minority people.

⁴ Resettlement programs – refers to the displacement of people from their traditional lands, the merging of communities into larger centers that are easier for centralized governments to control and the relocation of people due to extractive operations, such as mining and hydro-power.

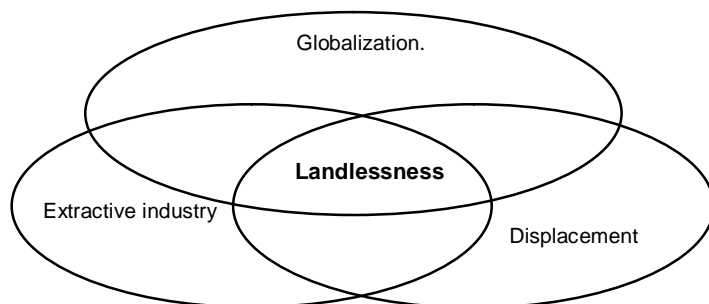


Figure 1: Loss of land can occur from a combination of different key challenges in the Mekong, including globalization, the welcoming of extractive industries and Displacement from resettlement programs.

The loss of land is related to the loss of traditional values through three key factors (figure 2): 1) *Dependency upon on world markets* – a change in values to those of a capital based society that seeks to maximize input into a global economy and measures wealth in term of GDP instead of wellbeing drives a search for foreign capital and access to non-local markets when independence was previously achieved through self-sufficiency or self-reliance; 2) *High technology and monocultures* – the search for increase production and profits leads a turn to high yielding crops and technological solutions by authorities, one that ignores the appropriateness of adapted local solutions in the belief that modern technology is always somehow better. This is an assumption that is rarely questioned, even in event of total failure of various programs that really on these solutions. With reliance on technology go the pursuit of monoculture, industrial agriculture on a large scale and a homogenization of society in general; 3) *Social disparity* – these values and approaches are currently accepted as the way forward by the majority. The values that reflect these approaches are in stark contrast to those of minority people and a situation of social disparity between these two groups' results.

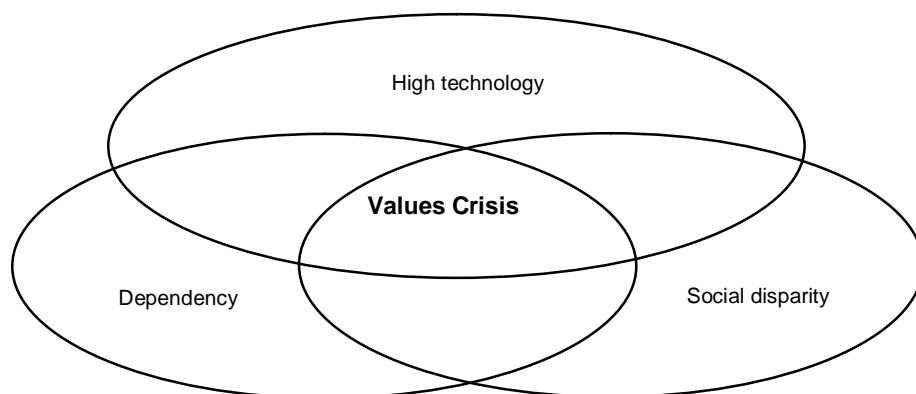


Figure 2: The value crisis facing indigenous communities, a combination of three major issues; market dependency, high technology and social disparity (SPERI, 2009)

SPERI's understanding of the challenges that face the Mekong is rooted in a long history of development work. SPERI has worked with the key concepts of **Structural Poverty** and **Values Crises** throughout this time. These basic ideas continue to underlie the approach of current work that is in continuous evolution.

The value crisis is intimately linked to an imposed *structural poverty* based on three interrelated issues (figure 3): 1) *Isolation* – Minority people are often isolated from the decision making processes that effect their lives. They have little participation in preparation of development policy/programs or economic development schemes and as a group they exist on the margins of society in general; this leads to 2) *Un-confidence* – minority people often feel unconfident in the context of the formal system. According to this system their ways and traditions are seen as backward. New and 'exciting' development approaches are presented almost like propaganda, but in these new approaches minority people often lack the relevant knowledge and resources; they are made to feel unconfident in their vast wealth of traditional knowledge which is of limited use in the exploitive industries that are recommended to them; there follows 3) *No Ownership* – No ownership relates to the imposition of a formal system that does not recognize or value traditional ownership.

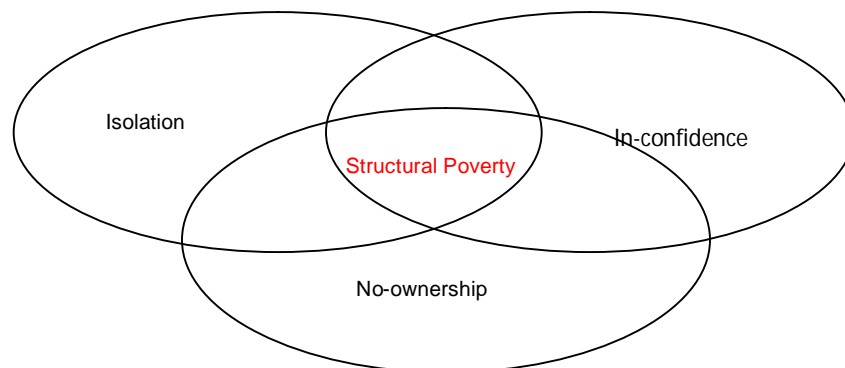


Figure 3: The combination of these three major issues create a vicious circle of structural poverty (SPERI definition of the Structural Poverty).

Mekong countries understandably have ambitions of becoming more developed nations. This development process is focused on industrialization schemes that are fueled to a large extent by the exploitation and export of natural resources. Current extractive industries are increasing in intensity and include mining, forestry, massive hydropower operations, industrial chemical agriculture and contracting of land for cash crops and plantations. To make way for further intensification of these development efforts the legal framework is being reworked to give favor to privatization and extraction of local resources. The presence of more firms and businesses in the areas of indigenous communities threatens the maintenance of community structure and traditional practices. Agricultural policies geared towards modernization with hybrid and high-yielding crops and use of chemical fertilizers and pesticides

threaten communities with the loss of local knowledge and know-how and the extinction of local species.

To fit a model of industrialization, education systems are being reworked to suit a high paced development approach. State vocational training curriculum has been revamped with an industrial focus. There is an emphasis on mechanical skills and a focus on shifting an agrarian population to more urban sectors such as tourism, entertainment, and other such services. For instance, the latest proposal from the Ministry of Labor, Invalids and Social Affairs in Vietnam targets to train 1 million farmers per year of which 700,000 will be trained in the non-agricultural sector; and 300,000 in mechanical and modernized agricultural skills.

Indigenous youth in the highlands are often not well accommodated for in the formal educational system. The shift towards industrial topics at vocational training schools represents a move away from the forms of knowledge and methods of teaching that suit these youth. Indigenous youth will continue to be marginalized in the new system and at the same time will lose future prospects of a traditional farming career with associated traditional forms of knowledge and community education lost forever.

Part II. Context in Vietnam

The opening up of the economy in Vietnam since 1986 has led to remarkable poverty reduction in Vietnam. The economy is currently growing at about 7 to 8 % per year. However the market economy brought also new challenges. Industrialisation has led to an increased demand for hydropower, and new hydropower constructions have resulted in the relocation of thousands of minorities out of their traditional land. Also emerging economic zones and industrial parks are encroaching on agricultural land leading to the resettlement of rural population and loss of their land. For the agricultural sector the focus on large-scale production and cash crops has left many small-scale farmers behind; especially in the mountainous areas where ethnic minorities live remain poor.

The overrepresentation of ethnic minorities in the poorest groups of society and the increasing economic distance between poor and non-poor are visible trends in Vietnam. Fifty-four (acknowledged) different ethnic groups live in Vietnam. Fourteen per cent of the population consists of diverse groups of ethnic minorities⁵. But despite constituting just 14 % of the total population, ethnic minorities make up 29% per cent of the poor in Vietnam in 1999⁶. It was estimated that by 2010, ethnic minorities constituting just 14 % of the total population will make up for around 37 % of those living in poverty, and that 49% of those living in hunger (with expenditures below the food poverty line⁷) could be ethnic minority people.

⁵ Ca. 11,7 million people.

⁶ Vietnam poverty working group, 1999 cited in: Economic growth, poverty and household welfare in Vietnam, 2004, p.274

⁷ The General Statistics Office defines a food basket with food spending being large enough to secure 2100 calories per day per person. Households are considered having insufficient food when their income or expenditure level is not high enough to afford this food basket.

The Vietnamese political context has a history of centralization and control. Still today concepts of decentralization and participation are only partly understood and practised. Influence of Vietnamese people to policy makers is limited, especially for people living in rural areas far away from the national decision making process. Ethnic minorities have even less political influence because of living in isolated areas, but more importantly because of their marginalization by society. The majority Kinh (Vietnamese) look down upon ethnic minorities and consider them to be backward and destroyers of natural resources by their use of shifting cultivation⁸.

Ethnic minority people depend for their livelihood mainly on natural resources and agriculture. Also their culture, customs and beliefs link closely to their natural environment. Land as seen by ethnic minorities is not only an economic resource, it encompasses also spiritual sites, ancestors, the natural environment, other resources like water, forest etc. Land is the basis for the indigenous peoples' social organization, economic system and cultural identity.

Centralized planning and the current influence of market economy, especially if minorities have no access to their land anymore, leads to a loss of ethnic identity and culture. Many ethnic minorities lose their self-confidence and are marginalized in society. They hardly benefit from the economic progress. These social groups face frequent crises and feel disbelief at the formal system.

Effective control over land by ethnic minorities and indigenous people in mountainous areas is important to their autonomy and capacity to develop a livelihood and to overcome poverty. As mentioned before, land is the basis for the indigenous peoples' social organization, economic system, spiritual beliefs and cultural identity. For ethnic minorities (indigenous peoples) it is therefore important to control their (ancestral) land. Thus land is closely linked to demands by ethnic minorities for self-determination.

Still ethnic minority groups remain as much as possible traditional communal structures with traditional customary law. The traditional social political structure of ethnic minority communities remains independent from the formal political structure; nevertheless the minorities do not have the genuine freedom and opportunity to preserve and practice their own traditions and values. It is therefore that TEW-CHESH-CIRD⁹ in the past and now SPERI positions itself as standing beside ethnic minorities and seeks way to facilitate a new institutional environment which will offer them freedom and opportunities to voice problems, promote strengths and nurture creativity while enhancing voluntarism. The granting of community land rights is an essential step in this process. The legal framework did not recognize community land rights for minority people until the land law of 2003, and

⁸ Due to population pressure, shifting cultivation has become unsustainable. However this population pressure can be also due to Kinh population moving into former ethnic minority areas. Besides, other factors play an important role in deforestation such as (ii) legal logging by state forest companies in deforestation, the need for agricultural land etc.

⁹ TEW – Towards Ethnic Women

CIRD – Center for Indigenous Knowledge Research and Development

CHESH – Center for Human Ecology Studies in the Highlands

since then, while communities have been identified as one of the forestland users, in practice very few ethnic minority communities have obtained land right title.

Historical Analysis of Forest Management and Land Allocation in Vietnam

Until the early 1990s, Vietnam's forests were directly controlled by the state, under the management of State Forest Enterprises (SFEs) and National Parks. During this time, due to heavy demand for timber production for economic development, and due to a capital shortage for reforestation, forest resources were seriously depleted. Between 1975 and 1985, forest cover declined by 300,000 ha, or 3 per cent, per year, and for the more than 20 million upland people who lived in areas covered by forest, their lives became increasingly vulnerable, experiencing increasing difficulty in producing adequate food or income from the declining resource.

Directive 90-CT Dated March 19th, 1992 and Decision 327/CT Dated September 15, 1992

In the early 1990s, action was taken to halt deforestation. In 1992, Directive 90/CP/1992 "closed the forest door" prohibiting timber exploitation by any individual or government agency. This, however, created a crisis for about 12 million indigenous minority people and nearly one million employees of SFEs whose livelihoods depended upon logging. To overcome the deforestation and livelihood crisis created by Directive 90/CP-1992, the government issues Decision 327/CT- 1992 initiating a large-scale program of reforestation in Vietnam. The program was also aimed at transforming SFEs from subsidized government agencies into self-financing state enterprises contracted to the Ministry of Forestry (later the Ministry of Agriculture and Rural Development (MARD)).

Decree 02/CP Dated January 15th, 1994

After two years of operation, weaknesses identified in Decision 327/CT -1992 led to Decree 02/CP -1994 which set out the procedure for decentralizing forest protection and reforestation work by allocating forestry land to individuals, households and organizations. The huge fund of 4-5 thousand billion VND (US\$50 million) from 327/CP – 1992 together with legal support of Decree 02/CP-1994 was aimed at reforestation and poverty alleviation by allocating two main types of forest land: 1) 'degraded lands' and 'barren hills' were to be allocated to organizations, households and individuals for reforestation, with potentially renewable rights lasting 50 years, but without official ('red book') land title. Households were contracted to SFEs to plant trees at 320,000 VND (US\$30) per ha per year, provided that monitoring by SFEs found that 85% of seedling had survived after one year; and 2) 'watershed' and 'special-use' forests with natural forest protected were contracted to households and individuals for protection with annual payment of 50,000 VND (US\$5) per ha/year.

Decree 01/CP Dated January 04, 1995

The following year Decree 01/CP/1995, "promulgating the regulation on the allotment of land by state-owned businesses for agricultural production, forestry and aquaculture" required State Forest Enterprises and State Agriculture Enterprises all over the country to re-draw the boundaries of the forest land they managed. *This was done, however, on the basis of office records only, and not on the basis of careful checking of land boundaries in the field. The boundaries, therefore, were often inaccurate and overlapping.* As the process of privatizing land was advanced (see Decree 163/1999/ND-CP Dated

November 16th, 1999 below), these arbitrarily drawn and often overlapping boundaries have been used as the basis for the granting ownership title. *The result has been, and will be, conflicting claims to land ownership: conflicts that can be expected to become increasingly serious as the process of consolidating land ownership titles is hastened* (see Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/TTg-ĐMDN 2011 below).

Assessment of program 327/CT -1992

In the meantime, in 1998, an assessment of the Program 327/CT-1992 found it to have been largely ineffective in terms of reforestation. Most of the money provided for the program had been spent on infrastructure developments and only 10% of forestland had been successfully allocated. Furthermore, much of the money for reforestation had been dissipated in 'administration fees' to initial contractor; i.e., well-off and well-connected farmers who were more able to acquire protection and reforestation contracts and who then subcontracted these, at a fee, to poorer, less well-connected farmers. The result was that those at the end of the contracting chain receiving little money for their services and therefore had little incentive to enthusiastically carry out their replanting or protection work. The negative assessment of Program 327/CT-1992 led to renewed efforts toward reforestation and privatization in 1998 and 1999.

Decision 661/QĐ – TTg Dated July 29th, 1998

In 1998, Decision 661/1998/TTg replaced Decision 327/CT – 1992 with a new program to plant 5 million hectares of new forest - the 5 Million Hectare Reforestation Program (5MHRP). The objective of this program was to increase forest cover in Vietnam to 43 per cent of total land area by 2010. Concomitant aims were to use barren land and hills to create jobs, eliminate hunger and alleviate poverty, sedentarize farming, and increase living standards in mountainous regions.

The evaluation of Program 327/CT – 1992 had indicated that the most important reason for its ineffectiveness had been the monopoly position of SFEs in terms of access to the programs funds. Program 661/1998/QĐ – TTg, therefore established a new set of state organizations to compete with SFEs for Program 661 money: Management Boards for Special-use Forests (MBSFs) and Management Boards for Protection Forests (MBPFs). These organizations have been established at district and provincial levels to take over the management of special-use and protection forests from SFEs. MBSFs can be established where 'special-use' forests measure more than 1000 hectares and MBPFs where 'protection' forests measured more than 5000 hectares. In districts where 'special' forests were less than 1000 hectares, management of them can be decentralized to Communal People's Committees or contracted to households; and where 'protection' forests are less than 5000 hectares their management can be contracted to households, communities and organizations. Under the program, 'production forest' can be allocated to households, communities, SFEs, private and social organizations (e.g. schools, cooperatives, and mass organizations), MBSFs, MBPFs, and People's Committees.

Decree 163/ 1999/ND-CP

In November 1999, the process of privatization of land was advanced by Decree 163/1999/ND which provided for land-use rights contracted under Decree 02/CP/1994 to be transformed to certificated ('Red Book') title with the rights to exchange, transfer, lease, inherit, and mortgage. One

effect of this Decree has been to create a class of large wealthy landlord/capitalists. As the allocation of land under Program 327/1992/CT had been administered through local people's committees, well connected local elites had been able assert control over the allocation process, leading to the concentration of lucrative forest contracts in their own hands at the expense of the poorer and less well-connected farmers¹⁰, and now with the transformation of these contracted land use rights into certificated (red book) title, they are available as 'capital' for investment in joint-venture projects with foreign owned and multi-national companies.

Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/2011/TTg-ĐMDN

In light of the above, a serious situation can now be envisaged as arising from the issuing of Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT dated January 29th 2011 and Directive 1019/2011/TTg-ĐMDN dated June 26, 2011. Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT promotes the process of transforming land-use rights allocated or contracted under programs 327/CT/1992 and 661/QD/1998 into ownership title, and Directive 1019/2011/TTg-ĐMDN calls for this process is to be completed by the end of 2011. *The problem is that (as discussed above) the boundaries of the lands allocated under Programs 327/1992/CT and 661/1998/QD were never accurately surveyed in the field, only drawn roughly on office maps. They therefore very often overlap, not only with each other, but also with land customarily own by local communities.* In some areas, in order to achieve the 1000 or 5000-hectare limit to justify their establishment, newly instituted Management Boards for 'special use' and 'protection' forests have claimed jurisdiction over forests customarily owned and preserved by local peoples. *This has created a serious threat of dispossession for local indigenous communities as in the hastened process of land title certification, SFEs and MBSF/PFs have a clear advantage over others:* while it would take a long time for local communities to complete the filing of their claims for a grant of title certificate, SFEs and MBSF/PFs already have theirs filed from previous programs.

The fear is that the accelerated process of granting certificated title (demanded by Directive 1019/2011/TTg-ĐMDN) will result in innumerable bitter and intractable conflicts as different 'owners' fight for title over the same areas of land - especially as the decree provides for ownership titles to be granted before legal boundaries are fixed! The fear is also that when local people see areas of forests which they have traditionally claim as their own pass into the hands of other people, they will no longer have any incentive to preserve them, and will exploit them ruthlessly to get whatever material gain they can out of them while they can. The result will not only be widespread conflict but also increase forest destruction.

¹⁰ (Sowerwine, J. 2004, Territorialization and the Politics of Highland landscapes in Vietnam, *Conservation & Society*, 2 (1): 112; Tran Duc Vien, n.d. "Forestland Management Policies in Vietnam": 8-9)

Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/TTg-DMDN and REDD+

In this situation, attention needs to be given as to whether the move signaled by Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/2011TTg-DMDN to hastily complete the granting of ownership titles by the end of 2011 is related to the benefits that will accrue to forest owners from the carbon credit and carbon trading schemes proposed under the up-coming Reducing Emissions from Deforestation and Forest Degradation (REDD) program. This program is intended to provide large cash payments to forest owners in return for forest preservation and upgrading. *If this scheme is intended to preserve forests and to benefit indigenous peoples as the customary owners of those forests, then that outcome has been threatened by Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/2011/TTg-DMDN, the effects of which will be to hurriedly transfer forest ownership into the hands of the government organizations, private companies, and a few wealthy households.*

Analysis, Problems and Solution

The incomplete and inequitable distribution of forest land to households can be traced back to Decree 02/CP/1994 according to which the allocation of land to households was to be based on the financial ability and the “willingness” of the household to afforest the land and to manage it according to state regulations. The consequence was that in many cases only rich households have been allowed to claim forestry land.

Under the SFE dominated land allocation process, it has been calculated that only 10 per cent of forestland has been allocated to households and communities: The rest has been allocated to state organizations (e.g. People’s Committees and SFEs). In 2005, according to the Ministry of Agriculture and Rural development (MARD), 362 SFEs still controlled 40 per cent of forestry land. SFEs not only constitute the largest recipient of forested land, but because most land allocated to households is barren land, SFEs have also retained control over most of the land with forest cover¹¹.

By contrast, SPERI, through the Forest Allocation Program of TEW, CHESH, and CIRD from 1998 to 2003 funded by ICCO¹², which targeting the allocation of Forestland Use Rights for ethnic minority households in six remote provinces, has successfully allocated 37,738 hectares to 6,276 households. They also ensured inclusion in the titles the names of both husband *and wife* - meaning that 6,276 women gained as equal right to access, use, and manage the land as their husbands. *A significant outcome of this achievement was the successful lobbying by SPERI for the inclusion in the 2003 Land Law of Article 48, Section 3c recognizing the inclusion of women’s names in the land use rights certificates. In addition to this, and even more important, was the achieving of the granting of different ‘red books’ for each of the different plots of land in different ecological zones (especially spirit forest areas) that each household in indigenous communities in mountainous regions holds, at the Article 48, Section 3b. This*

¹¹ (McElwee, P., in press, Payments for environmental services as neoliberal market-based forest conservation in Vietnam: panacea or problem?, *Geoforum* (2011) doi:10.1016/j.geoforum.2011.04.010: 8-9).

¹² ICCO = International Church for Development and Cooperation.

was to guard against the loss of all plots of land when only one plot was sold, which would be the case if there was only one 'red book' for all the plots.

The long-term aim behind this innovation was to guarantee the retention by law of those forest spaces essential for the practice of spiritual beliefs. This aim was achieved with the passing of the Forest Protection and Development Law 29/2004/QH11 dated December 3rd 2004 article 29.1 a) and b) allowing for the allocation of forests to communities, and will be fulfilled under Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/2011/TTg-ĐMDN (as addressed in the Long Term Objective of this proposal at Part IV below).

The Forestland Allocation Program of TEW/CHESH/CIRD from 1998 to 2003 targeted the allocation of Forestland Use Rights for ethnic minority households and traditional associations (e.g. herbal healers, women weaver groups, clans, and youth groups) in six remote provinces.

Districts/Provinces	Ethnic minorities	Total areas of forestland allocation
Bac Ha, Muong Khuong, Than Uyen districts of Lao Cai province	H'mong	2,376.8 ha
Son La province	H'mong, Xinh Mun	3,697.5 ha
Que Phong district, Nghe An province	Thai	3,300.0 ha
Huong Son district, Ha Tinh province	Kinh	3,613.7 ha
Tuyen Hoa, Minh Hoa, Bo Trach districts of Quang Binh province	Ma Lieng, Sach, and Kinh	16,304.8 ha
Luang Prabang district of Luang Prabang province, Laos PDR	H'mong	8,439.2 ha
Total		37,732.0 ha

The program has allocated 37,732 hectares of forestland to 6,276 households.

Forestland allocated to community organizations in SPERI's project sites since 1995

No.	Organizations	Area (Ha)	Note
I	Ke village, Lam Hoa commune, Tuyen Hoa district, Quang Binh province – Vietnam	64	Ma Lieng minority
1	Women Union	26	

2	Youth Union	38	
II	Hanh Dich commune, Que Phong district, Nghe An province – Vietnam	274	Black Thai minority
1	Youth Union in Chieng village	20	
2	Women Union in Chieng village	18	
3	Farmer's Association in Chieng village	15	
4	Veterans Association in Chieng village	17	
5	Traditional herbal medicine group in Pa Kim village	7	
6	Women Union in Pa Kim village	21	
7	Farmer's Association in Pa Kim village	19	
8	Women Union in Chan village	9	
9	Farmers' Association in Chan village	11	
10	Women Union in Pa Co village	17	
11	Farmer's Union in Pa Co village	13	
12	Traditional herbal medicine group in Pom Om	19	
13	Women Union in Pom Om village	22	
14	Farmers' Association in Pom Om village	19	
15	Women Union in Khom village	14	
16	Traditional herbal medicine group in Cham Put village	13	
18	Women Union in Cham Put village	16	
19	Women Union in Mut village	6	
20	Women Union in Cong village	9	
21	Women Union in Na Xai village	8	
22	Border Army 519	20	
III	Si Ma Cai district, Lao Cai province	9	H'mong

			minority
1	Long Lan community	8,234	
2	Traditional herbal medicine group in Sin Cheng commune	4	
3	Traditional herbal medicine group in Can Ho commune	5	
IV	Luang Prabang province, Laos	116	
1	Traditional herbal medicine group in Long Long Lan village, Luang Prabang district	47	H'mong minority
2	Traditional herba medicine group in Xieng Da village, Nam Bac district	59	Lao Lum
3	Traditional herbal medicine group in Nam Kha village, Nam Bac district	10	Kho Mu minority
	Total	8,736	

Community forest ownership, however, remains particularly limited. When the government decided to allocate forestland to the people under Decree 02/CP/1994, communities were not included in the list of potential legal recipients. They were only formally recognized as legal forest and land users in 2003 in the revised Land Law, and then in 2004 in the revised Forest Law. *But in practice, the allocation to communities has been very limited*, often restricted to pilot studies supported by donors and NGOs¹³.

Finally, some insight into the likely outcome of REDD+ for indigenous communities can be gained from a recent (as yet unpublished) review of Payments for Environmental Services (PES) in Vietnam¹⁴. This review states that, to date, most private land tenure certificates have been allocated for land that has no forest cover, *and most of the good quality forest land continues to be state-managed by SFEs, MBSP/PFs, or National Parks and Reserves*¹⁵. Nationwide only one quarter of the total forest estate is in the hands of households, with the vast majority of households having very small plots which are not sufficient for them to receive more than US\$100 per year in PES payments¹⁶. It needs to be asked, therefore, who will really benefit from REDD+ in Vietnam, and what can be done to avoid the ecological and social damage threatened by the rush to ownership signaled by Directive 1019/TTg-ĐMDN 2011.

¹³ (Clement, F. 2008, A multi-level analysis of forest policies in northern Vietnam, PhD thesis, Newcastle University, UK: 85)

¹⁴ (McElwee in press).

¹⁵ (Ibid:5)

¹⁶ (Ibid: 10-11).

Without rechecking of forest land boundaries by proper field surveys it is likely that all forest land and their REDD benefits will pass into the hands of the wealthy few and into the hands state-owned and private companies. This will leave behind millions of people without land but dependent upon it for their livelihood. Conflict between landless people and wealthy landlords will be the result, and possibly violent. The REDD agreement will collapse and forests will be destroyed. The win-win solution will become lose-lose. The only genuine win-win solution will come from the step-by-step processes of carefully considered community forest land allocation such as that which SPERI has initiated in Simacai district, Lao Cai province and Que Phong district, Nghe An province.

Part III: Policy analysis of REDD

What is REDD/REDD+ and what they are aiming?

In 1992, the countries of the world agreed that temperatures and weather patterns were changing at an unusually fast rate. By 1997, most scientists had concluded that temperatures around the world were rising much faster than usual and that the main reason for this was increasing levels of Greenhouse Gases in the atmosphere. These gases trap heat from the sun and stop it from escaping back into space, acting like a greenhouse.

Deforestation and forest degradation, through agricultural expansion, conversion to pastureland, infrastructure development, destructive logging, fires etc., account for nearly 20% of global greenhouse gas emissions, more than the entire global transportation sector and second only to the energy sector. It is now clear that in order to constrain the impacts of climate change within limits that society will reasonably be able to tolerate, the global average temperatures must be stabilized within two degrees Celsius. This will be practically impossible to achieve without reducing emissions from the forest sector, in addition to other mitigation actions.

There is growing recognition in the international community that if forests are to be incorporated into a global climate change solution, developing countries must be rewarded for reducing deforestation (when forests are cleared for other land uses) and forest degradation (when forest resources are damaged). After all, forested land can be valuable – for timber, and for its potential to be converted into commercial plantations or to agriculture to feed a growing population. Financial rewards are necessary to ensure forested land is most valuable as a forest.

Reducing Emissions from Deforestation and Forest Degradation (REDD) is an effort to create a financial value for the carbon stored in forests, offering incentives for developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development. “REDD+” goes beyond deforestation and forest degradation, and includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks. Further, to achieve the multiple benefits, REDD+ requires the full engagement and respect for the rights of Indigenous Peoples and other forest-dependent communities.

In summary: REDD provides financial rewards for avoided deforestation and forest degradation. In doing so, it also provides incentive to manage forests sustainably and equitably for people who live in and around forested areas.

Global mechanism of financing and implementing REDD+

The UN-REDD Program is collaborated by three UN Agencies – UNEP, UNDP and the FAO, which established a multi-donor trust fund (MDTF) that allows donors to pool resources and provide funding for implementing REDD in developing countries. The UNDP has been appointed as the Administrative Agent for the UN-REDD Program MDTF.

The UN-REDD Program is aimed at tipping the economic balance in favor of sustainable management of forests so that their formidable economic, environmental and social goods and services benefit countries, communities and forest users while also contributing to important reductions in greenhouse gas emissions. The aim is to generate the requisite transfer flow of resources to reduce global emissions significantly from deforestation and forest degradation. The immediate goal is to assess whether carefully structured payment structures and capacity support can create the incentives to ensure lasting, reliable and measurable emission reductions while maintaining and improving the other ecosystem services forests provide.

Until May 2011, there are five donors has been pledged a total of USD 150.84 millions (of which USD 97.28 million has been deposited) for REDD program. As presented in the table bellow,

No	Donor countries	Pledges (USD mn)	Deposits (USD mn)
1	Norway	124.41	84.41
2	Denmark	8.07	8.07
4	Japan	3.05	3.05
3	Spain	1.31	1.31
5	European Commission	14.00	0
	Gross deposits	150.84	97.67

Source: UN-REDD

Conditions for a country to implement REDD

The success of REDD is dependent on a country's capacity to implement it. Many questions about forest tenure and inventory design need to be answered before REDD projects can start. For example, if it is unclear who owns the forest, who will receive the revenues generated through REDD? REDD is not yet part of the global climate change agreement, so, over the next few years, there is time for countries to build their capacity to implement REDD. Steps to Readiness of REDD are including:

1. **Reference scenario and inventory:** Countries must measure their existing forest resources through accurate national inventories, and then estimate the amount of carbon contained in these forests. They must also make predictions of how this national forest carbon stock will

change in the future, based on the best-available evidence, including, for example, historical trends of deforestation and future demand for forest resources and agricultural land. This prediction, or **reference scenario**, will be used to assess a country's success in achieving REDD targets. This is a difficult job. It is impossible to know for certain what will happen to forests in the future, so predictions cannot be treated as fact. Each country's reference scenario will have to be carefully verified by independent experts. Some countries will inevitably have a more unpredictable future than others, and this level of risk will affect the potential of the country to generate revenue from REDD.

2. **National monitoring system:** Changes in forest carbon stocks must be monitored over time, so countries will be able to make official claims of emissions reduction. A national accounting system for forest carbon stocks must be developed, which will combine the records from all projects within the country that are working with REDD.
3. **National REDD strategy:** A National REDD working group must be formed, involving the public and private sector and civil society, which will consult with all forest sector stakeholders in order to develop a REDD strategy that is truly national.

Preparation and implementation of REDD+ in Vietnam

The UNFCCC conference in Bali recognized Viet Nam as one of the top five most affected countries in the world as a result of climate change. Since the beginning of Global process, Vietnam has made clear its position on REDD+ through a submission to the UNFCCC Secretariat in February 2008 and become one of nine countries identified for implementing country under UN-REDD Program. In September 2009, Vietnamese Government signed MOU with UN organization to implement first phase of the *"UN-REDD Vietnam program"* that implementing during 20 months with total budget of USD 4,504,756 (of which the UN-REDD MDTF funds USD 4,384,756. The objective of the program is *"to assist the Government of Viet Nam in developing an effective REDD regime in Viet Nam and to contribute to reduction of regional displacement of emissions"*. This will contribute to the broader goal of ensuring that *"by the end of 2012 Viet Nam is REDD-ready and able to contribute to reducing emissions from deforestation and forest degradation nationally and regionally"*.

Given the broad scope of REDD+, which overlaps the mandate of numerous governmental and non-governmental organizations, there is a clear need to coordinate activities in building REDD+ readiness. In response to the current situation and need for coordination, the Ministry of Agriculture and Rural development (MARD) has established a National REDD+ Network and a REDD+ Working Group which are divided into REDD+ Sub-technical Working Groups on (i) REDD+ Governance; (ii) Measurement, Reporting and Verification (MRV); (iii) REDD+ Financing and Benefit Distribution; (iv) Local Implementation of REDD+; and (v) Private Sector Engagement. The mandate of the REDD+ working group will be to provide guidance and coordination on all activities building capacity for REDD+.

Currently, Vietnam has almost finished the first phase and is preparing for the second phase of implementing REDD+. One of the most important activities during this time is building the National

strategy for REDD+, consulting stakeholders on the strategy before submitting to Prime Minister for approval.

Problem on forest management and benefit from implementing REDD+ in Vietnam

Many of the poorest people in Viet Nam live in and around forested areas and the poor are often blamed for deforestation and forest degradation. Until the early 1990's, a system of State Forest Enterprises (SFE) managed Viet Nam's forest resources. By the end of the 1990's there were about 400 SFEs. A number of problems had occurred in this type of forest management, including conflicts between local people and SFEs over control of forest resources and land, a lack of investment funds, and limited capacity to innovate.

Viet Nam has experienced some difficulties in successfully engaging local communities in forest dependent poverty alleviation activities. Some of the problems have been due to a lack of communication with the local groups on new laws and programs, the division of responsibilities between local government departments and cultural differences and interpretation of activities. All of these factors have led to recognition of the need for forestry sector reform in Vietnam.

The key reform policy is including Decree 200 on re-arrangement and renovation for State owned forestry companies. The aim of this policy is to boost the effectiveness of the State's management on forest. It regulates that *"...the State just directly invests, manages special use forest, the very important and important protective forest areas, forest areas which are far from and cannot be allocated to the people, natural forest of big reserve. The remaining natural forest areas are allocated to organizations, households and individuals to invest, do business on their own (restore) and benefit from the forest production and business..."* For the area of production forest which is poor forest, protective forest, dispersal and small special use forest; area of uncultivated land and other land, ineffective use land of forestry companies, the local authorities reclaim to allocate, lease over the objects as regulated by law on land and law on forest protection and development...

Implementing Decree 200, during 2004-2005 Prime Minister has issued different decisions for re-arrangement of the SFEs in every province that has SFEs. This decree regulates that (1) innovating organization and activities of the SFEs by changing them to either Management Boards for Protection Forests (MBPFs - if the forest that they are managed is classified as protective forest) or to Forestry Service Companies (FSCs) if the forest that they are managed is productive forest; (2) to evaluate the effectiveness of land and forest management of SFEs and if they don't manage land efficiently, local authorities will reclaim back and allocate those land for other stakeholders (including households).

However, up to now these government policies has not been implemented in the reality, accept changing the name of the SFEs into MBPFs and FSCs. Many lands of those companies are still poorly managed and conflict over land and forest management between companies and local people have still not been solved yet. In that context, in January 2011, the Ministry of Agriculture and Rural Development (MARD) together with Ministry of Environment and Natural Resources Management (MonRe) have

issued Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT on “allocating and leasing forest together with allocating and leasing land” for companies, communities and households. This brought about both opportunities and risk in forest management for local people, because in case where land and forest boundary are clearly indicate between State Forest Enterprises, then local people will have opportunities to allocate land and forest. However, if the current situation is to continue, where most of the land and forest is managed by State Forest Enterprises, then people will not be able to benefit from forest as well as from the REDD+, which Vietnam is deeply engaged in now.

Part IV. Programmatic Strategic Objectives

Theoretical Framework

Our approach to community development takes account of global forces, structural conditions and human actions. At the community level, global forces are experienced as outside interventions emanating from changes in national policy. Such forces can have the effect of reducing local autonomy and undermining indigenous forms of cooperation. However, because national policies are implemented through local social structures, space exists for local actors to resist unwelcome interventions and negotiate more favourable terms for their acceptance.

At the heart of this possibility lies a trust in the ability of local people to observe and reflect upon their social circumstances and to define and solve problems in accordance with their own cultural values. To be effective however local actors need to become engaged in organised activities, in networks, coalitions and alliances at local, national and regional levels. We work to facilitate the development of organizations and institutions through which the actions of local people and their communities can be made more effective.

Approach and Strategy

During the two-year action (2012 – 2013), the programme aims at re-structuring and decentralizing the centralized top down approach towards forest and land allocation by promoting **MECO-ECOTRA's** thematic network action through: 1) Customary Law based mapping and classifying of traditional community spirit forest for animist religious practices and bio-diversity preservation, traditional Clan Forest for Ancestral worshipping, traditional watershed forest for water security, community forest for daily harvesting, community herbal forest for community health care and healing spirit, and community forestland and clan's forestland for farming system.

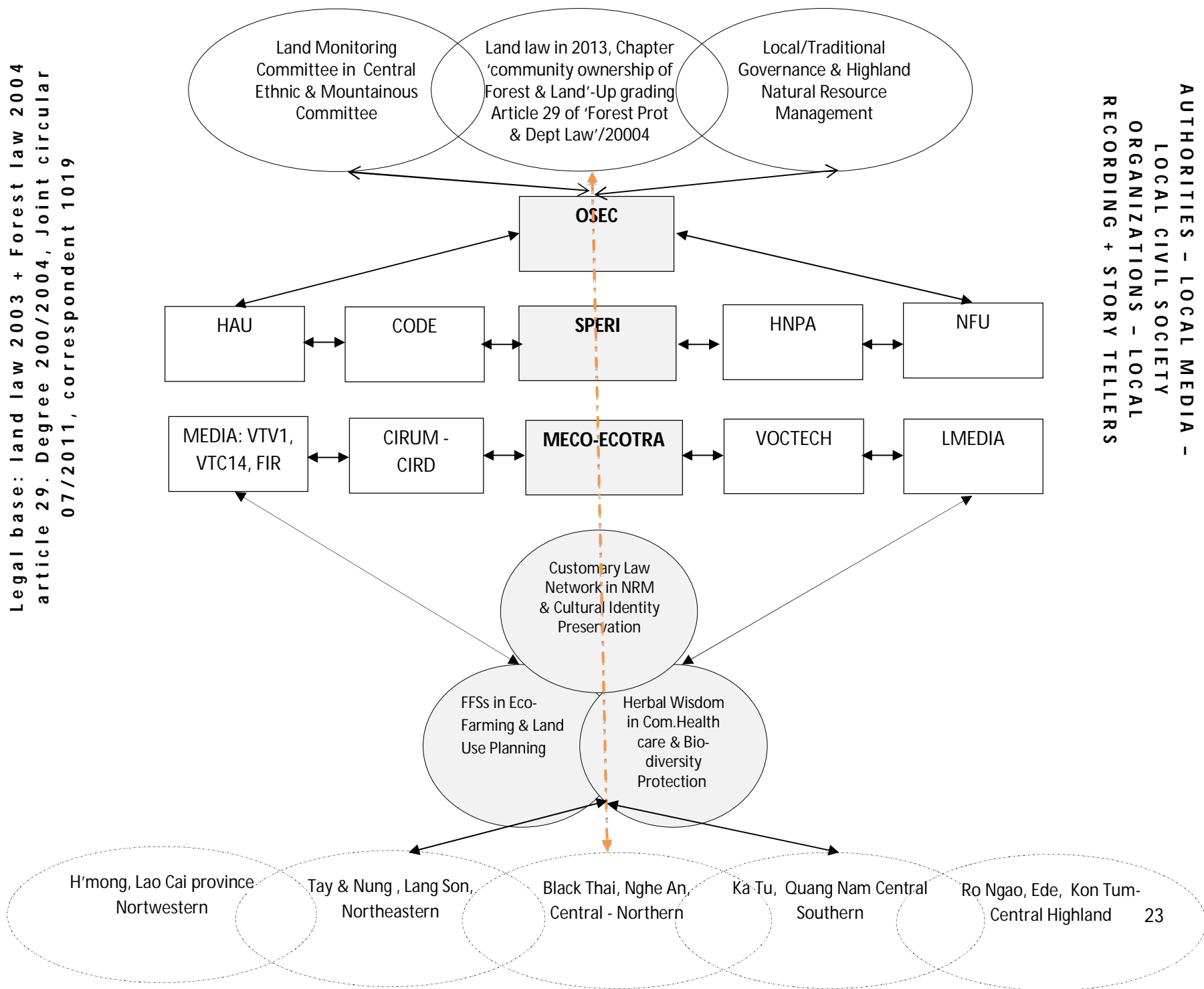
To achieve this approach, the elders, Key Farmers of different themes, and YIELDS from Farmer Field School will be involved in the field work; 2) Finding out the boundary overlapping caused by the top down bureaucratic mapping without field checking from the government over the last 20 years since 1992 under the program 327/QĐ/ 1992, 02/CP/1994, 01/CP/1995, 661/QĐ/1998 and Decree 163/ND/ 1999 as described above in **Part III Historical analysis of forest management and land allocation in Vietnam.**

To achieve this strategy, the different local provincial, district and communal authorities and official specialists will work together applying the methodology of SPERI, CIRUM and CODE; 3) Re-

mapping overlapping boundaries using community and customary laws and local concepts of boundaries integrated with technical tools. To achieve this, the inter-actor teamwork from 1) and 2) will work closely together in order to develop common regulations for monitoring and interaction; 4) Re-allocating the forest and forestland for communities and completing the land title procedure for communities. Each step will involve training workshops, conferences, and study tours in order to strengthen capacities, raise awareness, and publicize the issues.

The goal of all above approaches is strengthening and consolidating local traditional Organizational and Institutional Development (**OD & ID**) in sustainable natural resource management under Decree 200/2004/ND-CP, Articles 3 & 4; the Forest Protection and Development Law, Article 29; Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT; Articles No 1, 2, 7 & 8 and Directive 1019/TTg-ĐMDN point 1. **See Diagram 1: For bottom up participatory action framework for Organizational and Institutional Development (OD and ID) toward re-structuring and decentralizing forestland management [next page].**

Legal base: land law 2003 + Forest law 2004
 article 29. Degree 200/2004, Joint circular
 07/2011, correspondent 1019



Framework of Organizational and Institutional Development for Community Ownership of Forestland

The framework of organizational and institutional development for community ownership of Forestland has its foundation in 1) the animist beliefs of indigenous communities; and 2) the legislation of the Vietnamese state.

The Community Foundation

Indigenous communities have at their core animist beliefs in nature. These beliefs provide the foundation for customary laws of voluntary actions toward biodiversity preservation upon which their livelihood and cultural identity is dependent.

The Legislative Foundation

The importance of spiritual beliefs to indigenous people is officially recognized in the Forest Protection and Development Law 2004 article 29, but this important recognition is not included in the Land Law of 2003.

The Objectives

The objective is to have included in the forthcoming Land Law 2013 recognition of community ownership of forestlands, so that animist beliefs can be nurtured. This would allow for the continuation of voluntary actions in natural diversity preservation, thereby saving the government money. It will also ensure the preservation of traditional cultural identity, and support local livelihood independence.

The Institutional Framework for achieving objectives

The mechanism for achieving these objectives is the establishment of a series of interconnected institutions for facilitating bottom-up policy development. The mechanism consists of four levels:

Level 1 – Traditional Civil Society Institutions

MECO-ECOTRA¹⁷/YIELDS¹⁸ through FFS¹⁹ network – these provide practical experience in 1) Customary in Natural Resource Management for cultural identity preservation; 2) Ecological farming in Land Use Planning for Sustainable Livelihood; 3) Herbal Wisdom and Community Health care for Biodiversity protection.

¹⁷ MECO-ECOTRA=Mekong Community Networking for Ecological Trading

¹⁸ YIELDS = Young Indigenous Ethnic Leadership Development Strategy

¹⁹ FFS = Farmer Field School

Level 2 – Research, Educational and Media Institutions

CIRUM²⁰ and CIRD²¹ – Collect and compile information on customary NRM and traditional farming practices, and make these available to educational and media organization and level 3 institution for analysis

Local Authority and Vocational Technical School (VOTECH) – apply traditional knowledge on NRM and traditional farming practices in practical education curriculum.

Local Media – disseminate information customary NRM and eco-farming practices to the public locally

National Television (Channels 1, 5, 14) – disseminate information on the above to the public nationally

Level 3 – Information and Policy Analysis and Advice Institutions

HNP²²/SPERI²³/CODE²⁴ – information and policy analysis; advice OSEC²⁵ (level 4), HAU and NFU

incorporate information and policy analysis in curriculum development

Level 4 –National Forum and Lobby Institutions

OSEC – organize national forum for government, business and civil society on Land Law 2013 to discuss and debate the need for community ownership of forestland.

MARD/MONRE²⁶ – receive feedback from national forum for Land Law drafting group

Target for Lobbying

1. MARD/MONRE (**Drafting Group on Land Law**) – to include an article on ‘**community ownership of Forestland in the Land Law 2013**’
2. National Assembly – to pass the article on “community ownership” and set up Land Monitoring Committee in the Ethnic Minority Council
3. Ministry of Ethnic Minority and Mountainous – to set up policy supporting Local Traditional Governance in Natural Resource Management.

²⁰ CIRUM = Cultural Identity and Rource Use Management

²¹ CIRD = Centre for Indigenous Knowledge Research and Development

²² HNP = Ho Chi Minh National Political Academy

²³ SPERI = Social Policy Ecology Research Institutue

²⁴ CODE = Consultant on Development

²⁵ OSEC = Office of Social Evaluation and Consultancy

²⁶ MARD = Ministry of Agriculture and Rural Development

MONRE = Ministry of Natural Resource Management and Environment Protection

Short-term objective

Re-mapping forest and land to clear out overlapping between stakeholders e.g. State Forest enterprises, Management Boards for Protection Forests (**MBPFs**), private companies, communal people's committee, communities and households via traditional knowledge, local notion of boundaries and landscape, customary law and customary based institutions under Directive 1019/TTg-ĐMDN 2011 (point. No. 1)

Mid-term objective

Re-distributing forest and land which are being managed by public centralized (state owned) and private powers (companies) to local indigenous communities via bottom-up participation and interface among different stakeholders i.e. local community representatives (elders, key farmers, prestigious persons and youths), local authorities, NGOs /civil society, media, researchers and policy under Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT (articles No. 1,2,7 & 8).

Long-term objective

Community right over forestland will be legalized by amended Land Law 2013 and coming amended Constitution via evidences and achievements from successful land/forest (re)allocation programs in case studies in North West, Central North and Central Highland in Vietnam under the Article 29 of Forest Development and Protection Law 29/2004/QH 11 Date December 3rd, 2004 at the Articles 29. 1. a & b; 2.a,b & c; and the Decree 200/CP at Articles No. 3, 4 & 7 and Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/TTg-ĐMDN 2011.

Table 1: Expected Strategic Outcomes for Short – Mid and Long-term objectives

Strategic Challenge	Expected outcomes	Organizational development (OD)	Institutional Development (ID)	Product To be produced	Beneficiaries (in-direct)	Instructions & Guidance for dissemination
1. Overlapping boundary / conflicts between local communities and state owned and private companies in Pilot cases will be solved.	Re-Clarifying & re- Mapping in 5 case studies will be produced	Inter – acting team from different agencies (state, private, community, household) will work together in order to re-check and re-clarify the overlapping boundaries under a common regulation towards the Forest Development & Protection Law 29/QH11 -2004, Decree 200/2004 and Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT	A common agreement & regulation between State Agencies, private companies, communities and households will be initiated for overlap and conflict resolution in 5 case studies.	A new relevant method of Mapping Forest Land will be produced.	State Agencies, villagers, Companies, Communities,	Documentation and video of Community Based & Inter – Participatory Approaches between stakeholders in overlap and conflict resolution will be published.
2. Re- negotiation and re - allocation of Forest & Land after re- mapping and conflict resolution amongst stakeholders	Community Ownership of Land & Forest will be given in pilot cases via the Joint Circular 07/2011/TTLT-BNNPTNT-BTNMT and Directive 1019/TTg-ĐMDN.	Inter – Network, Coalition and Alliances for bottom up participation between actors will be organized amongst case studies via local – regional and national forums	Co- sharing responsibility agreement will be initiated between inter – network, coalition and alliances in case studies via local, regional and national forums	Website of Land Use Policy Analysis and Poverty Alleviation (LUPAPA) will be built for learning	State Agencies, villagers, Companies, Communities, individual and forest and land will be happy with the result of ways of re-allocating	Pilots' curriculums of method, approach, and solution to be documented for all different local, regional and national forums for public awareness raising.
3. Community Ownership of Forest, Land & REDD+ in long term	Land Policy analysis to continue at Article 29 – Forest Development and Protection Law 2004 in Land Law 2013 'community ownership of Land, forest and REDD+'	Re-structuring and open up for bottom up participation in Forest, Land and REDD+ policy dialogue.	Develop various motions for community ownership of land, forest and REDD+ in coming period.	Grouping, categorizing and clarifying thematic coalition, network and alliance in order to ensure Community ownership of land, forest and REDD+ according to local traditional values.	Biodiversity, cultural identity, local livelihood, environmental and natural resource will be voluntarily managed by local communities. State will not need to spend money and effort for forest protection any more.	Argumentation for Forest & Land Policy Analysis by Local Traditional Governance and Natural Resource Management in Vietnam will be published.

Part V. Challenges Analysis of the 5 case studies

Case 1. Hmong Identity in Lung Sui and Nan Sin Communes (border to Yunnan - China), Simacai district, Lao Cai province, Northwestern Vietnam

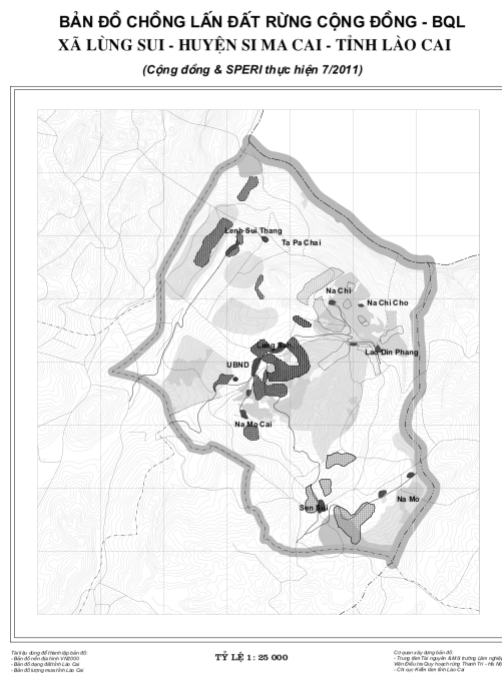


Figure 1: Map of overlapping on forestland in Lung Sui commune, Simacai district, Lao Cai province

implementation of the Joint Circular No.07/2011/TTLT-BTNMT&BNNPTNT. Overlapping between community-based/clan-based ownership over forestland and State centrally imposed forestland management could bring about social-civil political conflicts. Consequently, there would be a loss of spaces for continuing the practices of cultural identities of the H'mong i.e. 'Nao Long', 'Thu Ti' cultural rituals and consequently clan-based traditional community governance via customary norms might be gone.

Lung Sui and Nan Sin communes are home of 765 clan-based families of H'mong indigenous minority. Livelihoods of families are mainly based on cultivating wet rice and corn on very slopping land on terrace fields. Like many mountainous indigenous dwellings, H'mong people believe in natural spirits such as the 'Ti' as the Land Spirit, the 'Long' as the Water Spirit, and the 'Xenh' as the Big Tree Spirit. These three spiritual figures acting as the key pillar norms are the foundation for H'mong to establish and evolve customary systems like 'Nao Long', 'Thu Ti' and other customary-based practices for managing community forestland over the time.

Lung Sui and Nan Sin communes share the same problems with other many indigenous minority groups in Vietnam, that is, the traditional community-based and clan-based

ownership over forestland are not yet officially recognized. Additionally, these forestlands are challenged by overtaking by the Management Board of Watershed Forest under the

Case 2. Tay & Nung Identities in Hoa Son community, Huu Lung district, Lang Son province, Northeastern Vietnam

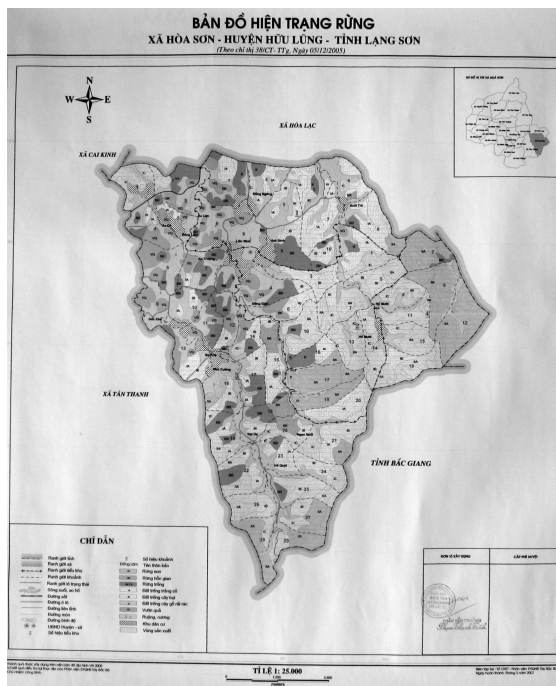


Figure 2: Map of overlapping on forestland in the Khuon Pinh community watershed area in Hoa Son commune, Huu Lung district, Lang Son province.

Hoa Son commune is home to Tay and Nung indigenous minorities. Livelihoods of families in this commune are heavily depending on wet rice cultivation and collecting non-timber forest products. Cultural practices and traditional social structure are therefore closely attached with natural resources. 'Khuon Pinh' community watershed forest has been in Hoa Son commune for a long history of customary institution and local voluntary initiative in maintaining the forest to preserve the water for irrigating over 100 ha of rice-field to feed many generations.

However, the 'Khuon Pinh' community watershed area with 725 ha of natural forest has been seriously faced with crosscutting conflicts. Firstly, there are overlapping claims involving (a) inherited lands via self-claim, (b)

red/green titles, (c) free transferring land titles, and (d) contracts with communal people's committee amongst 150 households within the 'Khuon Pinh'. Secondly, as to be promoted by the market, many families in Hoa Son

have cleared forest for commercial plantations including eucalyptus and cassava. This has caused serious land degradation and soil erosion and also damage to natural bio-diversity. Thirdly, the Thinh Loc Company by hiding their name illegally bought about 300 ha of 'Khuon Pinh' community watershed forest to develop projects on plantations.

Such above problems have upraised conflicts among different stakeholders, especially between local residents and private companies over forestland resources in Hoa Son commune. Consequently, community atmosphere, forestland embedded cultural practices and customary system could be broken.

Case 3. Black Thai Identity in Hanh Dich community (border to Laos), Que Phong district, Nghe An province, Northern-Central Vietnam

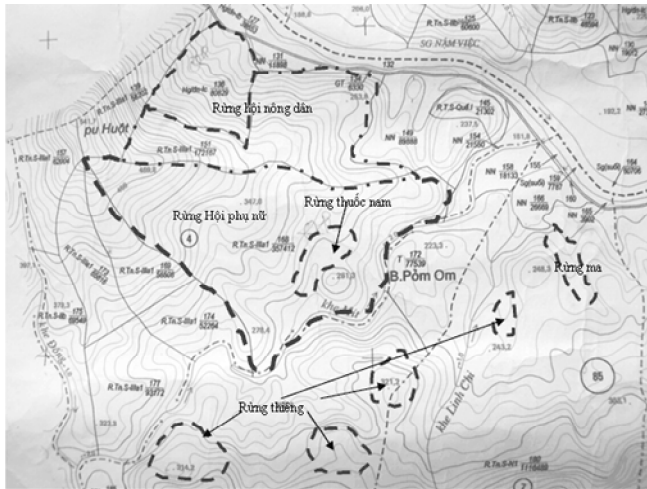


Figure 3: Map of overlapping on forestland in Pom Om village, Hanh Dich commune, Que Phong district, Nghe An province.

Hanh Dich commune is located in the West of Nghe An province and near the border to Laos. Hanh Dich is home to 691 households (3,294 people) of Black Thai ethnic minority. Livelihoods of villagers are mainly based on cultivating wet and dry rice and collecting non-timber forest products. Black Thai people believe in natural spirits via traditional ritual practices towards agricultural land, forest, water and mountain spirits. Such beliefs have underpinned the foundation and ways in which the Black Thai have established, practiced, and evolved customary norms and customary based institutions. An example is the 'Phuong Hoi' customary institution of which regulates the

management of community watershed and spiritual forests areas. There are other kinds of Phuong Hoi now assisting in the Black Thai society.

Total land area is about 18,026 ha, mainly forestland, accounting for 89.8% (16,188 ha), of which over 85% of total forestland has been managed by the State entities such as Management Board for Protection Forests, Youth Volunteers (Union) and Hanh Dich people's committee.

Black Thai in Hanh Dich are facing several challenges. Firstly, the poverty rate is 75% which is recorded as highest compared to other communes in Que Phong district. Secondly, because of inequality in forestland distribution and lack of effective and participatory management modes, forest are seriously accessed and destroyed by outsiders. Even though in 2003 Hanh Dich has, under Degree No.163/199/ND-CP, allocated forestland titles for 40% of the total families, almost 85% of forestland is managed by state entities, i.e. Management Board for Protection Forests, Youth Volunteers Union and Communal People's Committee. Thirdly, the traditional community forests, i.e. spiritual and watershed forest, and herbal medicine forest are not yet officially recognized. These could bring about an erosion of traditional practices including norms of worshiping nature spirits, community structure of governance, customary law and local knowledge in farming as well as forest management. Finally business companies such as Tan Hong Corp and Innov-Green - Hong Kong Corp have increasingly grabbed forestland of local communities for plantations, mining and hydro-power dams. This could create environmental challenges, but also conflicts between local communities and the companies in the coming years.

Case 4. Katu Identity in Maccoih community, Đồng Giang district, Quang Nam province – Southern-Central Vietnam

Màcoih commune - Ca Tu identity, Dong Giang district, Quang Nam province. Màcoih commune is home to two identities including Co Tu and Kinh. Total population is 2,122 people in which Co Tu accounts for 90 % (1,910 people). Total land area is 17,818 ha, in which forestland accounts for 15,008 ha (13,582 ha of watershed forest and 1,426 ha of production land).

These forestland areas are currently managed by Management Board for Protection Forests (7,000 ha) and Communal People's Committee. Additionally, A Vuong Company has taken some areas of land for building a hydropower dam.

Case 5. Ro Ngao and Gia Rai Identities in Ho Moong community (border to Cambodia), Sa Thay district, Kon Tum province, Central Highland of Vietnam

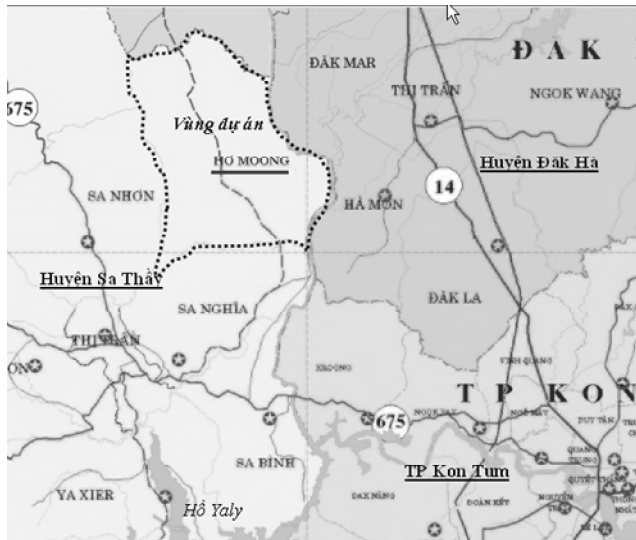


Figure 4: Map of Ho Moong commune.

1,700 ha and the fresh water surface of Plei Krong Lake / reservoir made by hydropower dam is 500 ha. The rest is occupied by the South Paper Company and Coffee Company.

Ho Moong is one of the poorest communes in Kon Tum province, the poverty rate accounts for 81%. The commune is composed of 1,050 households (5,850 people) of three main ethnic identities such as Ro Ngao, Gia Rai and Kinh. Of which there are 4,800 Ro Ngao people, 600 Gia Rai people and 450 Kinh. Livelihoods of these groups are traditionally based on cultivation of dry and wet rice and crops.

Total land area of the commune is 6,270 ha, in which agricultural land accounts for 2,200, mainly for coffee and rubber plantations and some small areas for wet rice. Forestland is

Households in Ho Moong commune are faced with several challenges. Firstly, their livelihoods are threatened by the negative impacts of the resettlement due to the presence of Plei-krong hydropower dam. Households lack agricultural land for cultivation, so that food shortage is a critical issue. Secondly, families of the resettled communities haven't yet received titles over forestland. Over 2,000 ha of forestland, which is managed by the communal people's committee, are almost gone due to lack of effectual systems of management. Thirdly, several companies such as the South Paper Company, Rubber Company, and Coffee Company compete with the resettled communities for the above forestland. Conflicts over land between local communities and companies are predicted as a burning issue in the coming years. Last but not least, cultural identities, especially customary norms, traditional structure, agricultural spirits and local knowledge in farming of the Ro Ngao and Gia Lai ethnic minorities are quickly eroded.