



**Legal Analysis of**

**Communal Land and Communal Title**

**in the**

**Lao PDR**

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## **Legal Analysis of Communal Land and Communal Title in Lao PDR**

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## **1.0 Introduction**

### **1.1 Purpose of the Report**

The purpose of this brief report is to gather, review and analyze the current<sup>1</sup> legislation relevant to collective property, to make suggestions for modifications to the Rights-LINK Lao Project, and to identify legislation that may need to be amended and to make some recommendations for amendments. This brief report also provides a definition of collective property based on current legislation and identifies major legal issues regarding collective property.

### **1.2 Scope of Analysis**

The primary focus of this brief report is to provide Village Focus International (VFI) with information regarding the legal framework for collective property and to recommend changes to VFI's Rights-LINK Lao Project if necessary.

This analysis may be helpful to the Government of Lao PDR (GOL) and NGO projects that deal with land issues since this analysis aims to compile all of the current legislation relevant to collective property and to identify issues that may arise as collective property is developed and promulgated by future legislation.

The following are the main objectives of this report:

- To review and analyze the legislation relevant to collective property;
- To compile a definition of collective property;
- To identify major legal issues related to collective property;
- To suggest amendments to the Rights-LINK Lao Project;
- To suggest some methods for addressing some of the major legal issues related to collective property with specific focus on future legislation;
- To compile an Annex of the relevant legislation with the name of the document, the issuing body, the date of issuance, the relevant text of the document, and the relevance of the text within the scope of this analysis.

### **1.3 Methods and Sources of Information**

During two months in 2009, information for this report was gathered from 2 major sources:

- Current Laws, Decrees, Instructions from relevant issuing bodies;
- Interviews, discussions with GOL officials and foreign consultants.

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<sup>1</sup> This report was written in July of 2009. The authors of this report have learned that the National Assembly plans to review the Land Law of 2003 starting in late 2009. The authors of this report have also learned that the Ministry of Agriculture and Forestry and the National Land Management Authority plan to publish and disseminate a new land use planning manual: Participatory Land Use Planning (PLUP) Manual: Village and Village Cluster Levels. This new land use planning manual is expected to be published in Lao language and distributed in August, 2009. While the authors of this report have received a copy of the March, 2009 draft of the PLUP Manual, there may be discrepancies between this draft and the final published version.

## **2.0 Communal Land**

This section reviews the legislation in Lao PDR relevant to collective property as of June 2009.

### **2.1 Legislation Relevant to Communal Land**

The Constitution of the Lao People's Democratic Republic (Revised 2003), Land Law (2003), Property Law (1990), Law on Local Administration of the Lao People's Democratic Republic (2003), and Forestry Law (2007) provide the framework for collective land registration and the rights associated with collective land.

In 2004, the Prime Minister issued PM Decree 67 of the National Land Management Agency establishing the National Land Management Authority (NLMA). This decree granted the NLMA the authority to draft law for effective land use and land development<sup>2</sup> and to make and manage land records<sup>3</sup>. Pursuant to these functions, the NLMA issued Ministerial Instruction 564 on Adjudications Pertaining to Land Use and Occupation for Land Registration and Titling (2007). Instruction 564 states that it is pursuant to the Land Law (2003) and Property Law (1990). It also defines collective land and establishes the rights and limitations associated with collective land.<sup>4</sup>

Subsequently, PM Decree 88 on the Implementation of the Land Law (2008) was issued with a definition for collective land that cites to Article 59 of the Land Law (2003) as the source of collective property.<sup>5</sup>

### **2.2 Definition of Communal Land**

The most developed definitions of “collective land” can be found in Instruction 564 (2007) and the Property Law (1990). As Instruction 564 is the more recent legislation that defines the term, this analysis will construe in favor of the plain language of Instruction 564 (2007) to avoid conflicts between definitions.

Communal land is land that the State grants to a group or collective.<sup>6</sup> The group or collective has the right to protect and to use the land.<sup>7</sup> However, the group does not have the right to sell, transfer, lease, or use the land as collateral.<sup>8</sup> The land must not be owned by an individual.<sup>9</sup> The group or collective must consider the land communal land that each member of the group or

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<sup>2</sup> PM Decree 67 of the National Land Management Authority, Article 2.2 (18 May 2004).

<sup>3</sup> Id., Article 2.6.

<sup>4</sup> NLMA Instruction 564 on Adjudications Pertaining to Land Use and Occupation for Land Registration and Titling, Article 4.11 (6 August 2007).

<sup>5</sup> PM Decree 88 on the Implementation of the Land Law, Article 3 (3 June 2008).

<sup>6</sup> NLMA Instruction 564, Article 4.11.

<sup>7</sup> Land Law, Article 59 (2003).

<sup>8</sup> NLMA Instruction 564, Article 4.11.

<sup>9</sup> Id.

collective may use.<sup>10</sup> The land must be zoned as a type of land that is approved for communal land.<sup>11</sup>

**Table 1 - Comparison of Individual Land and Communal Land**

	Individual Land	Communal Land
Who Qualifies	Individual Lao Citizens. Joint ownership is possible.	Villages.
What Types of Land	Forests designated as degraded or barren forest land. Private agricultural or grazing land.	Forests designated as village use forest land. Land with cultural, religious, or community importance. Communal agricultural and grazing land.
What Rights are Associated	Rights to protect, use, usufruct, transfer the land, and inherit the land.	Rights to protect and use only.

### 2.2.1 Who Qualifies for Ownership of Communal Land?

The Property Law (1990) defines two types of collectives: cooperatives and collective organizations.<sup>12</sup> Instruction 564 (2007) goes further and encompasses cooperatives, collective organizations, communities, groups of persons, and ethnic groups to its definition of a collective.<sup>13</sup> The scope of each of these definitions allows for a very broad interpretation of what type of groups qualify as a collective.

However, the most recent legislation, Decree 88 (2008), defines a collective more narrowly. Decree 88 states that collectives are villages, organizations and state organizations, “as specified in Article 59 of the Land Law.”<sup>14</sup> While this suggests that the organizations that are eligible for the right to collectively use collective land do not have to be state organizations, the organizations must comply with Article 59 of the Land Law (2003).

Article 59 of the Land Law (2003) grants the right to protect and use land to the following collectives: “State organisations, political organisations, the Lao National Front for National

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Property Law, Article 2 (1990).

<sup>13</sup> NLMA Instruction 564, Article 4.11.

<sup>14</sup> PM Decree 88, Article 3.

Construction, mass organisations, and economic organisations of the State that have a right to use land...”<sup>15</sup>

While many of the organizations specified in Article 59 of the Land Law (2003) are not well defined, it is clear from the language of Decree 88, that a village is a group that qualifies for collective land. This is supported by the concept that the village is not just a community of individuals who live in a common area, but it is also an administrative organization that forms the smallest local level of government administration.<sup>16</sup> Since the village is treated as an administrative body in various aspects of the law, it is oftentimes viewed as more of a State organization than as a private organization of individuals.

While it is clear that a village may acquire collective land, it is not clear whether a private collective of individuals, without the qualities of a village, may form an organization that qualifies for collective land. Furthermore, it is unclear whether village clusters, or Kumbans, qualify to acquire collective land in the name of the village cluster.

Of the groups listed in Article 59 of the Land Law (2003), the group that can be interpreted most broadly is “economic organisations of the State that have a right to use land.” This group might be interpreted to include associations that are formed by a group of farmers as an economic organization.<sup>17</sup> However, this interpretation is tenuous because these associations may not be considered “of the State” as indicated in Article 59 of the Land Law (2003).

Village clusters, on the other hand, have an element of being a State organization, and might be eligible as an “economic organisation of the State.” However, unlike the village level, the village cluster level is not an officially recognized administrative level in government. At this point, the legislation is not clear whether a village cluster will be able to gain collective title over land that is shared between multiple villages.

The only clear group or organization that qualifies for collective land under the current legislation is the village. Additional legislation is required to clarify whether and which other groups qualify for collective land.

### **2.2.2 What Types of Land are Eligible to Become Communal Land?**

Instruction 564 (2007) states that collective land is “land that the population had allocated to households for use for agricultural production during the season with nobody being the owner of the use right of the land, the forest for use, the production forest, cemeteries, sacred forests. Land where rituals are held, land set for cattle raising and other lands that have the characteristics to be collectively used of the village.”<sup>18</sup>

“Land that the population had allocated to households for use for agricultural production during the season with nobody being the owner of the use right of the land” is agricultural land that the community considers communal agricultural land and is not owned by a specific individual. The

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<sup>15</sup> Land Law, Article 59.

<sup>16</sup> Law on Local Administration, Article 2 (2003).

<sup>17</sup> PM Decree 115 on Associations, (29 April 2009).

<sup>18</sup> NLMA Instruction 564, Article 4.11.

community believes that the community owns the agricultural land collectively. An individual household may be assigned a plot within the agricultural land for the growing season, but the individual household as well as the community understand that at the end of the growing season, the land belongs to the community and the land may be used by another household during the following growing season. The decisions regarding which household will have the right to use the agricultural land for a given season is determined by the management authority within the village. This could be comprised of several people, or it could be a single person such as the village chief.

While the concept of collective land exists in every village, the concept of collective *agricultural* land does not necessarily exist in every village. Many communities have distributed their agricultural land to individual households. In most provinces, agricultural land has been separated into individual plots with individuals holding a Temporary Land Use Certificate (TLUC) or Land Title. In villages where the Land Use Planning and Land Allocation (LUP-LA) has already been implemented, it is unclear whether the individual TLUC holder may choose to relinquish their individual claim to the plots in order to combine their agricultural plot into a larger collective plot of agricultural land. The Rights-LINK Lao Project team, through their experiences in the villages, do not believe that individuals will choose to relinquish the possibility for individual title to establish collective title.

“The forest for use, the production forest” can be interpreted two ways. The first interpretation is that collective land only applies to forests that are designated as Production Forests and are zoned as village use forest. The second interpretation is that collective land applies to any forests that are zoned as village use forest (including Protection and Conservation Forests) and to any forests that are designated Production Forest.

The first interpretation is partially supported by Article 7 of Decree 88, which states:

“Local administrative authorities and authorities who possess concerned mandates are not allowed to issue any certificate for granting the land use rights or land utilization rights to individuals or organizations for the following categories of land:

1. Protected forest, preserved forest and un-exploited forest land;...”

This article indicates that “individuals or organizations” can not receive a grant for the land use rights or land utilization rights for the types of lands listed. If villages are included in the definition of “individuals or organizations,” then this article of Decree 88 indicates that a village may not gain land use rights or land utilization rights to Protection or Conservation forest land.

However, in the previous section of this study, it was determined that a village, as an administrative body, might be considered a separate category of State organization that might not be included in the definition of “individuals or organizations.” If a village is not included in the definition of “individuals and organizations,” then Article 7 of Decree 88 does not prevent villages from gaining land utilization rights to Protection and Conservation Forests because the scope of the Article 7 prohibition does not extend to the village.

Most likely, the government intends to follow the first interpretation and intends to prevent villages from acquiring collective title to Protection and Conservation Forest lands. In the March, 2009 draft of the Participatory Land Use Planning Manual: Village and Village Cluster Levels,

the planning manual indicates that Conservation and Protection Forest Zones will remain as State land and will not be eligible as communal land.<sup>19</sup> These forest zones will be within the village boundaries, but the village will not have land utilization rights to these forest zones. However, this planning manual also indicates that there are Spirit or Sacred Forest Zones which may later qualify for registration as village communal lands. However, this type of zone does not currently appear as a forest zone within the Forestry Law (2007). This discrepancy should be addressed in the final draft of the Participatory Land Use Planning Manual.

Regardless of whether a village is considered an “individual or organization” under the Article 7 prohibition in Decree 88, an economic organizations (as discussed in the above section) would likely qualify as an “organization” within the context of this prohibition. This means that an economic organization would not be able to gain land use rights or land utilization rights to Protection and Conservation Forests as well as unexploited forest lands.

The Forestry Law (2007) indicates that each of the three types of forests, Protection, Conservation, and Production Forest, “has areas of dense forest, degraded forest, bare Forestland and village use forest according to each zoning plan.”<sup>20</sup> Under the Forestry Law (2007), Protection forests and Conservation forests can be further classified as Village Use Protection forest and Village Use Conservation forests. If Article 7 of Decree 88 prohibits the village from gaining collective title to forest land designated as village use forest land, it seems to conflict with the Forestry Law.

Instruction 564 (2007) is still unclear regarding whether zones of degraded or barren forest within Protection and Conservation Forests can become collective forest land where a village has land utilization rights.

“Land set for cattle raising” is grazing land that the community considers communal grazing land. This means that no individual claims the grazing land as their individual property. This is a parallel to the collective agricultural land.

In both the agricultural and grazing land contexts, it is possible for a village to have both individual plots of agricultural or grazing land as well as communal plots. When this situation occurs, the collective agricultural or grazing land does not affect the quantity of agricultural or grazing land that the individuals within the collective own. Thus, the collective land does not get counted towards the household maximums prescribed by Article 17 of the Land Law (2003).

“And other lands that have the characteristics to be collectively used of the village” can be interpreted broadly. This could refer to schools, hospitals, markets, temples, and other structures that have a collective use. This could also refer to bodies of water, including lakes or rivers that provide a source of food or income for the community.

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<sup>19</sup> Technical Advisory Group/Technical Working Team, Draft of Participatory Land Use Planning Manual Village and Village Cluster Levels, pg. 52-54 (March 2009).

<sup>20</sup> Forestry Law, Article 13 (2007).



However, this may also be prohibited by Article 7 of Decree 88 (2008).<sup>21</sup> As discussed above regarding whether the village is considered an “individual or organization,” this determination will not only affect whether a village can acquire collective title to Village Use Protection Forests and Village Use Conservation Forests, but will also determine whether a village can acquire collective title to land areas surrounding water resources.

### **2.2.3 Rights Associated with Communal Land**

There are two documents that enumerate the rights associated with collective land. The Property Law (1990) and Instruction 564 (2007) identify the rights associated with ownership of collective land. These two documents differ slightly regarding the rights of collective land owners. However, there is no conflict and the two documents are consistent with one another.

Article 10 of the Property Law (1990) indicates that collective property owners have the right of possession, use, usufruct and disposition of assets belonging to them “as provided for by the laws and shall exercise such rights in accordance with its statutes.”

Article 4.11 of Instruction 564 (2007) indicates that collective land may not be sold, transferred, used as security, leased or given for concession. Under Instruction 564 (2007), the collective land owners have the right to protect and to use the collective land.

The language of Article 10 of the Property Law (1990) indicates the maximum scope of the rights associated with collective property, but provides that subsequent legislation may associate a more narrow set of rights with collective property. Since the Property Law defines the maximum rights and accepts a narrower set of rights, the Property Law (1990) adopts the rights that Instruction 564 defines for collective property,

Under the current legislation, the rights associated with collective land are clear and unambiguous. The rights associated with collective land are land utilization rights: the right to protect and to use the land. Additionally, collective land may not be sold, transferred, used as security, leased or given for concession.

## **2.3 Major Legal Issues**

Under the current framework for collective land, several major legal issues exist. Some can be resolved using the current framework, while others are not as clear and will require further legislation to develop clear answers or solutions to the questions or problems.

### **2.3.1 Are village clusters eligible for Communal Land?**

Villages may acquire land utilization rights to collective land. However, there are situations where land is shared between multiple villages across village boundaries.<sup>22</sup> These village clusters, or Kumbans, may wish to seek a grant of land utilization rights to the communal

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<sup>21</sup> PM Decree 88, Article 7 (prohibiting “individuals and organizations” from obtaining land use rights and land utilization rights to “land at the area of natural water reservoir,” “land in the upstream area, land in the river source area, land along the pond, natural marsh and land preserved by the state.”)

<sup>22</sup> See *Id.* at pg. 11.

Kumban grazing lands. Under the current legal framework, are Kumbans eligible for collective land?

Kumbans are not yet recognized as an administrative body. However, under the definition provided in Decree 88, with reference to the organizations as specified in Article 59 of the Land Law (2003), Kumbans may qualify as either an economic organization of the State or a mass organization. However, neither of these types of organizations is clearly defined and the Kumban is not explicitly included in either type of organization. Additional legislation can be implemented to clarify whether a Kumban is one of these types of organizations, or whether a Kumban is an administrative body. Using either approach, Kumbans would become eligible to acquire land utilization rights to collective land without any additional legislation.

Even without additional legislation, it is possible for the individual villages to seek collective title over their individual portions of the Kumban collective land. Each village could acquire collective title to their portion and could agree to allow the rest of the villages in the Kumban to use the land. However, this may lead to a stronger sense of individual village ownership that may lead to disputes regarding the use of each village's portion of the communal land.

The best solution would be to pass new legislation indicating that the Kumban is either recognized as an administrative body or as an organization that qualifies for collective title.

### **2.3.2 Can individuals with Land Title or TLUCs combine their land into collective land?**

Under the old LUP-LA process, many villages may have been mapped, zoned, and planned. During this process, individual villagers may have received Land Title or a TLUC for individual plots of land within the village. These documents have primarily focused on the privatization of agricultural and grazing lands. Under the current legal framework, can villagers with Land Title or TLUCs combine their title and TLUCs to claim collective title as a village?

The Rights-LINK Lao Project team, through their experiences in the villages, do not believe that individuals will choose to relinquish the possibility for individual title to establish collective title. However, if the villagers consider this the best option and the best way to protect their village, then the main legal obstacle is the language contained in Article 4.11 of Instruction 564.

Article 4.11 of Instruction 564 indicates that collective agricultural land is allocated to an individual during the growing season “with nobody being the owner of the use right of the land.” This language is unclear as to whether it is referring to the “Land Use Right” or the “Right to Use the Land” as defined in Articles 1.2.3 and 1.2.4 of Instruction 564. If a villager has received Land Title, then she has received “Land Use Rights” which encompasses the “Right to Use the Land.” In cases where Land Title have been issued, it is clear that these plots of land are no longer eligible for collective title under Article 4.11 of Instruction 564.

If a villager has received a TLUC under LUP-LA, this document does not grant her the right to sell the land, transfer the land, collect usufruct, lease the land or use the land as collateral.<sup>23</sup>

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<sup>23</sup> Sigaty, Todd. Legal Framework of Forestry Sector for Forestry Strategy of the Year 2020 in Lao PDR, pgs. 17 and 42 (July 2003) (citing Articles 48 and 56 of the Land Law (1997)).

Although TLUCs associate an individual villager to a specific plot of land, it does not grant the document holder the entire rights associated with the “Right to Use the Land” as defined in Article 1.2.4 of Instruction 564 because it does not grant the right to usufruct. It can be argued that TLUC holders do not have permanent use right of the land. If this is accepted, then land that has been allocated to individuals through TLUCs is land that is still eligible to become collective land under Article 4.11 of Instruction 564.

### **2.3.3 How does collective land get registered?**

At the moment, there is no explicit legislation identifying the process for registering for collective title.

However, the March 2009 draft of the Participatory Land Use Planning Manual contains a proposed method for registration of collective land is outlined.<sup>24</sup>

### **2.3.4 Can companies, such as logging companies, form “economic organizations” to gain collective title?**

Much of the movement towards collective title of agricultural and forest land is driven by a desire to protect villages from large companies, domestic or international. The inalienability of collective land is primarily focused on the preservation of the land within the village community. No village community member, not even the village chief may sell the village lands. However, a village is not the only group that is eligible for collective title. Is it possible for a company to form an “economic organization of the State” and to acquire the land utilization rights through collective title?

In section 2.2.1 above, “economic organizations of the State” were found to be organizations that are eligible to gain collective land rights. The term is not clearly defined within the legislation, but under this type of organization, a company, such as logging companies, may be able to qualify for collective land title.

What protection is in place in the existing legal framework to prevent companies from using collective title to claim land? Most of the protections that are in place are created by allowing villages to access certain areas of land because the villages are considered administrative bodies, and not a typical “organization.”

For example, under Article 7 of Decree 88, “individuals and organizations” are prohibited from gaining land use or land utilization rights to certain types of land, including protected, preserved and unexploited forests. While these prohibitions may not apply to villages, they clearly and unambiguously do apply to a company that establishes an “economic organization.” Through this article, which lists several more prohibitions, the current legislation prevents companies from acquiring collective title as an “economic organization.”

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<sup>24</sup> Technical Advisory Group/Technical Working Team, pg. 83.

### **2.3.5 If the State requisitions collective land, does the collective receive compensation?**

While collective title is designed to protect villages and villagers from inequitable land transactions with companies, it is unclear what sort of protection the collective title provides against State requisition. If the State requisitions collective land, does the collective organization receive compensation?

Under Article 71 of the Land Law (2003), the State must provide compensation for any land that it requisitions from an “individual or organization.” While, an economic organization that gains collective title to some grazing land should be considered an organization under Article 71 and should receive compensation, a village is not necessarily defined the same way.

As discussed in section 2.2.2 above, it is not clear whether the a village unit falls within the scope of an “individual or organization” in any of the legislation pertaining to collective land. This means that it’s not clear what a village can and can not do pertaining to collective land.

There are benefits and disadvantages to either interpretation.

If a village is considered an “individual or organization” in regards to collective land, then it is prohibited under Article 7 of Decree 88 from acquiring collective title to a significant number of types of land, including: protected forests, land in upstream areas and river source areas. This is a disadvantage because these types of land would be blocked from any use by villagers. However, the advantage that results is that a village would then qualify for compensation if the State took back the land.

If, on the other hand, a village is not considered an “individual or organization,” but an administrative body that is a “state organization,” then Article 7 of Decree 88 would not apply and villages will be able to receive land utilization rights to the above types of land. However, Article 71 of the Land Law (2003) also would not apply and the State would have a strong argument that they would not be obligated to compensate the collective for collective land that is requisitioned by the State.

The government may argue that there is no need to compensate for the State’s requisitioning of collective land because collective land is actually owned by the State and the State would have no reason to compensate itself for land that it is requisitioning. The only legal counter argument to this is to use the definition of collective property under the Property Law (1990). Article 12 of the Property Law indicates that if a cooperative or collective organization does not use land for the zoned use, then the State may take back the land without compensation. This implies that any other taking of collective property by the State would require compensation. It also indicates that there is an underlying assumption that the State must compensate for the requisition of land.

While Article 12 of the Property Law (1990) provides an avenue for compensation for collective land that has been taken back by the State, it is not explicit enough. Additional legislation should be created to explicitly state whether or not compensation will be awarded to collective title holders whose collective land has been taken by the State.

### **2.4 Benefits and Disadvantages of Communal Title**

## Benefits of Communal Title

1 - collective land can not be sold by any member of the collective, including the head of the collective organization. This is beneficial because it preserves the collective land as part of the community. Companies seeking large plots of land will not be able to purchase all of the land within a collective from a single person.

2 - the State can not grant land use rights within collective land. This is beneficial because villagers can easily understand that once they have established collective land, no one can get a grant from the government to use the same land. With this knowledge, the villagers are empowered and can protect themselves from illegal evictions.

3 - by collectivizing land, the individual villagers will not have to worry that their neighbors may be tempted to sell their land to a company. Villagers feel more secure, and are more secure, with regards to the tenure of the village.

## Disadvantages of Communal Title

1 - it can not be leased or used as collateral. This is one of the most significant disadvantages because there is no way to directly generate income from a temporary transaction related to the land. Communal title holders can not mortgage the collective land for any loans. The collective title holders can only profit from the land by producing a crop or product that they could then use or sell for profit.

2 - the State may requisition the land. Currently, it has not been determined whether a requisition of collective land by the State would result in compensation to the collective for the land that has been seized.

3 - the management of the collective land is determined by the collective. This is mentioned as a disadvantage because it infringes upon the individual villager's ability to adapt and be flexible with the villager's use of her land.

4 - a collective may be dominated by some more influential figures. Their decisions may be made with the interests of fewer people in mind, instead of the interests of the whole collective. This may result in detriment to other members.

**Table 2 - Benefits and Disadvantages of Communal Land and Communal Title**

Benefits	Disadvantages
Communal Land can not be sold by any member of the collective or by the management of the collective.	Communal Land can not be leased or used as collateral.

The State can not grant land use rights within Communal Land.	The State may requisition the land.
Communal Land encourages security and tenure of the village.	The management and use of Communal Land is determined by the collective and not by the individual.
	A collective may be dominated by some people who have more influence than others, resulting in possible injustice.

### 3.0 Case Study of Two Villages

In July of 2009, the Rights-LINK Lao Project field team visited two villages in Laongam District in Salavan Province. The objective of these visits was to meet with the villagers and to discuss the challenges and strengths that the villagers face. For the purposes of this brief study, the villagers were also asked about the organization of the land within the village to determine whether these villages have plots of land assigned to individual households or whether they employ a communal approach. The visits to these two villages raised two interesting scenarios where collective land may be a factor.

#### 3.1 Ban Sun Noan, Laongam District, Salavan Province

Ban Sun Noan is currently 82 households. These households have individual plots of agricultural land. There is no communal agricultural land that is shared by multiple households. Despite having individual plots of land, none of the households have documentation for their land. The village did not pursue any of the steps involved in the LUP-LA titling process, so they do not have an TLUCs or Land Titles to their land.

The village does not perceive an outside threat to their ownership of their land. They have not heard of any land issues in nearby villages. However, the villagers were aware of fees associated with conducting land surveys before they could secure title or certificates. The information that they were given was that the fees would be 250,000 kip per plot of land for each survey. However, this does not match up with the fees that are currently outlined by NLMA Instruction No. 3204 on Collection of Fees and Service Charges by Land Management Sector (issued December 9, 2008).

For this village, the fees associated with titling their individual lands was not worth the abstract protection that land title might provide. While the promulgation of the value of land title and the encouragement of each villager to obtain documentation for their land ownership is a primary objective of the Rights-LINK Lao Project, it is ultimately up to the village to decide how to manage their own finances.

In this situation, collective title can be utilized to provide limited protection for the village, even if there is no perceived threat to the villagers' ownership rights. Under Article 4 of Instruction

No. 3204, the fees associated with surveys and acquiring land title are exempt if the land is collective land. This exemption provides villages that do not have the funding to finance individual surveys to, at a minimum, have their village collective lands (village use forest, spirit forest, and their communal buildings) documented and to acquire collective title for these areas within the village.

Depending on the village, these areas may cover a large percentage of the total village land, or it may cover a small percentage. In either case, plots of land that are non-transferable within the boundaries of the village will provide some measure of protection for the village. With collective land documented and dispersed throughout the village boundaries, it will be more difficult for the entire village area from becoming a land concession because the State does not have the authority to issue land use rights to land that has already been titled as collective land. It will also protect the village area from being purchased by foreign investors because the portions of collective land can not be transferred. This will make the village area less attractive to companies because the company will not be able to obtain the land use rights for these patches of land within the village area.

### **3.2 Ban Dong Tong Noy, Laongam District, Salavan Province**

Ban Dong Tong Noy is currently 85 households. These households have individual plots of agricultural land. There is no communal agricultural land that is shared by multiple households. Each household has acquired TLUCs for their household's land.<sup>25</sup> At the time that they conducted these surveys and acquired this documentation, the fee was 50,000 kip per plot.

These are only temporary certificates and are not permanent title. Under LUP-LA, these documents were supposed to be reviewed three years after their issuance, at which point, they would be replaced with land title documents. This three year time period has passed, but the villagers are waiting for the government officials to return to review the documents and to issue land title. The villagers stated that if they asked the local officials to return and to review the title, that they would be charged new fees, but if they waited for the local officials to return on their own, no additional fees would be charged.

In terms of collective land, this village created a small dam to create a water reservoir. This reservoir was established prior to the land surveys that were conducted for the TLUCs. The water contained in the reservoir is bordered by agricultural land that is owned by Ban Dong Tong Noy residents on one side and a agricultural land owned by another village on the other side. Both villages share access to the water in this reservoir.

As discussed above, it is unclear whether Instruction 564 (2007) includes water area lands as possible collective land under "other lands that have the characteristics to be collectively used of the village." However, under Article 4 of the Water and Water Resources Law (1996), the State owns water and water resources. Unless future legislation provides an explicit statement that villages are a type of administrative organization that can own water areas, this water reservoir is not likely to qualify as collective land.

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<sup>25</sup> See Appendix 3 for examples of TLUCs for farm land and for housing land.

#### **4.0 Suggestions for Rights-LINK Lao Project**

Communal title has distinct advantages that will be appealing to many villages. However, it also has distinct disadvantages that villages may dismiss.

The villages themselves are in the best position to decide whether they would prefer collective over individual title. So, it is important that the Rights-LINK Lao Project communicate the key differences between collective title and individual title in a way that the villagers understand the differences and can make an informed decision on whether they would prefer their land to be collective or individual land.

To begin with, not everyone is eligible for collective title. However, as a village, the villagers are always eligible. The village owns the land, and the village chief does not have the right to sell, transfer, lease, or grant concessions on the collective land.

The primary benefit that should be explained is that the land can not be sold by any member of the collective or by the collective as a whole, thereby preserving the collective land for the village. If the village contains people who hold TLUCs, they may not wish to relinquish their individual title, so the benefits of providing a stable village community that can not be sold should be emphasized.

The primary drawback that should be emphasized is that it can not be leased or used as collateral. This is a strong disincentive, but villages may not have a current demand for capital and may not judge this to be a strong disincentive.

It should also be explained that villagers can have individual title to plots of land as well as the village having collective title. It is not mutually exclusive and GoL expects to have a mix of private title and collective title in most villages. This is particularly evident by the fact that most forests (Protected, Conservation, Production) are only attainable through collective title. The only forest that is attainable as private title are forests that are designated as degraded or barren. As most villages have spirit forests, the concept of having individual and collective title is something that should be very familiar to each village.

As with forests, some water bodies, such as ponds and rivers can not be individually owned. So, the only way for a villager to gain a land utilization right to the river is if the village itself acquires collective title.

However, much of the more detailed information regarding how to register for collective title may not be available until the PLUP Manual is published. Even then, new legislation is required to establish the official registration process. Once the final draft of the PLUP Manual is published, or once new legislation provides the details of the registration process, these documents should be reviewed and incorporated into the Rights-LINK Lao Project extension materials.

#### **5.0 Suggestions for GoL and NGOs**



In the course of researching the legal framework for collective land and collective title, many issues and questions of interpretation came up. Since the implementation of collective title is currently being developed, the most significant issues warrant mentioning.

1 - clarify the exact types of organizations that are eligible to receive collective title. Instruction 564 provides a broader definition that incorporates ethnic minority groups (which may form a portion of a village), but Decree 88, which preempts Instruction 564 and is a more recent document, identifies Article 59 of the Land Law (2003) as the foundation for the creation of collective title. Either a clarification of the organizations that are listed under Article 59 or a specific definition stating the types of groups who are eligible for collective title is necessary for clarity on this issue.

2 - in redefining the groups that are eligible for collective land, particular focus should be paid on intra-village and inter-village groups. Within villages that may have received some relocated villagers, the relocated villagers may wish to form their own collective land which is separate from the rest of the village. In areas where multiple villages cooperate with each other toward the same goal and share their land resources to accomplish this goal, they may wish to create collectives that encompass more than one village. The current legislation is unclear whether either of these groups qualifies as a collective and can receive collective title. Both intra-village and inter-village groups should have access to collective title in order to achieve the primary goal collective land: to protect the unified interests of a group of people.

3 - in areas where LUP-LA title projects have already been conducted, the villagers may not wish to have individual title to their agricultural or grazing lands. The legislation should explicitly state whether or not individuals can relinquish their private title and give their land to the collective. If this is allowed, then the legislation would also have to include the method by which this can be accomplished.

4 - explicitly define the types of forests that are eligible as collective forests. The legislation has conflicting statements regarding whether villages can receive collective title to Protection and Conservation Forests that have been zoned as Village Use Forests, or whether villages are only able to receive collective title to Village Use Production Forests.

5 - explicitly state whether the State will compensate for the taking of collective land. If so, then the method for calculating the compensation should also be in the legislation.

**Appendix 1 - Legislation Relevant to Communal Land and  
Communal Title in Lao PDR**

<b>Legal Document</b>	<b>Date</b>	<b>Issuing Body</b>
Constitution	15 August 1991	Special Assembly <b>REVISED</b>
Constitution (Revised)	6 May 2003	National Assembly
Property Law	27 March 1990	Supreme Assembly
Forestry Law	2 November 1996	National Assembly <b>REPEALED</b>
Land Law	12 April 1997	National Assembly <b>REPEALED</b>
Land Law	21 October 2003	National Assembly
Law on Local Administration	21 October 2003	National Assembly
Forestry Law	9 November 2005	National Assembly <b>REPEALED</b>
Forestry Law	24 December 2007	National Assembly
PM Decree 236 Implementation of the Land Law	18 December 1998	Prime Minister <b>REPEALED</b>
PM Decree 101 Implementation of the Land Law	20 April 2005	Prime Minister <b>REPEALED</b>
PM Decree 88 Implementation of the Land Law	3 June 2008	Prime Minister
PM Instructions Adjudications Pertaining to Land Use and Occupation for Land Registration and Titling	6 August 2007	National Land Management Authority
PM Instructions Collection of Fees and Service Charges by Land Management Sector	9 December 2008	National Land Management Authority

**Appendix 2 - Chart on Legislation Relevant to  
Communal Land and Communal Title in Lao PDR**

Article	Text	Relevance
<b>Constitution</b> Article 10	The State manages the society through the provisions of the Constitution and the laws. Party and state organisations the Lao Front for National Construction, mass organisations, social organisations and all citizens must function within the bounds of the Constitution and the laws.	Duty of organizations and citizens to follow legislation.
Article 16	The State protects and promotes all forms of property rights: State, collective, private domestic and foreign investment in the Lao People's Democratic Republic.	Establishes collective property.
Article 17	The State protects the property rights (such as the rights of possession, use, usufruct, and disposition) and the inheritance rights of organisations and individuals. Land is a national heritage, and the State ensures the rights to use, transfer and inherit it in accordance with the laws.	Constitutional right to own property.  Ownership rights for land shall be determined by implementing legislation.
Article 75	The Lao People's Democratic Republic is divided into three levels of local administration, namely provinces, districts and villages.  The provincial level consists of provinces and cities; The district level consists of districts and municipalities; [and] The village level consists of villages.  Provinces are [governed by] governors, cities are [governed by] governors of cities, districts are [governed by] mayors, municipalities are [governed by] chiefs of municipalities and villages are [administered by] village chiefs...	Villages are the smallest administrative body at the local village level.  Villages are a state organization.  Villages are administered by a village chief.
Article 78	The village chiefs have the responsibility to organise the implementation of the laws, decisions and orders of the State, to maintain the peace and public order of the village, and to develop the villages in all fields.	Village chiefs are responsible for implementing legislation at the local village level.

<b>Property Law</b> Article 2 Forms of Property	<p>There are 5 forms of property:</p> <p>State property [which refers to property belonging to the State]</p> <p>collective property [which refers to property belonging to a collective]</p> <p>individual property [which refers to property belonging to an individual]</p> <p>private property [which refers to property belonging to a private economic unit and]</p> <p>personal property [which refers to items for personal use].</p> <p>Communal property is divided into [two further categories:] property belonging to co-operatives and property belonging to other collective organisations.</p> <p>The State protects such property by the laws.</p>	<p>Establishes collective property as being distinct from state property.</p>
Article 4 State-owned Property	<p>...Land, underground resources, water, forests, aquatic animals and wildlife which are natural resources belong to the national community represented by the State, [and] the State may grant the right of possession, use, transfer and inheritance [in respect of such natural resources] to other organisations, economic units and individuals.</p>	<p>All land is originally owned by the State.</p> <p>The State distributes land and the rights associated with land.</p>
Article 10 Content of Property of Cooperatives or other Communal Organisations	<p>A cooperative or other collective organisation shall have the right of possession, use, usufruct and disposition of assets belonging to it as provided for by the laws and shall exercise such rights in accordance with its statutes.</p> <p>The right to dispose of assets is given to the cooperatives and other collective organisations to be exercised independently by the management of such cooperatives or collective organisations and no individual has the right to dispose of such assets.</p>	<p>The rights that a collective organization may have over collective land are determined by legislation.</p> <p>If the collective organization has the right to dispose of assets, then it must be a decision of the collective's management and not an individual.</p>
Article 12 Use of Land Held by Cooperatives or other Communal Organisations	<p>Cooperatives and other collective organisations must make correct use of the land in their possession, otherwise they will be fined according to the regulations on the management and use of agricultural land or the State may take back the land and grant it to other economic units or individuals without any liability for compensation.</p>	<p>Communals must use land according to the zoned use for the land.</p> <p>Implies that collective property includes land.</p> <p>Implies that if the collective obeys the zoned use of the land and the State takes back the land, then the State is liable for compensation.</p>
<b>Land Law</b> Article 54 Right to Protect Land	<p>The right to protect land is the right assigned by the State to an individual or organisation to protect the land with a view to using it for a specific purpose.</p>	<p>Defines the right to protect land.</p>

<b><i>Land Law (contd.)</i></b> Article 55 Right to Use Land	The right to use land is the right to use land for certain purposes in order to provide for the needs of the holder of land use rights, in accordance with the land allocation plan of the State.	Defines the right to use land.
Article 59 Rights of State Organisations, Political Organisations, the Lao Front for National Construction, Mass Organisations, and Economic Organisations of the State	State organisations, political organisations, the Lao National Front for National Construction, mass organisations, and economic organisations of the State that have the right to use land only have the rights to protect and use such land and have no right to transfer, lease or grant concessions or to use land as a share contribution or guarantee.	Cited by Decree 88 as the source of collective property.  Establishes that state organizations may gain the right to protect and the right to use land without the right to transfer, lease or grant concessions.
Article 71 Compensation for Losses Caused by Land Requisition	When it is necessary to use the land of any individual or organisation for public purposes, the State shall requisition the land and shall pay appropriate compensation to such individual or organisation...	Establishes a duty for the State to provide compensation for land that is requisitioned from an individual or organization.  However, collective land, owned by the State (at the village level) may not be subject to Article 71.
Article 75 Land Given to Become Communal Property	The State does not recognize the claim for land that individuals or organisations have given to become collective property during the period of national liberation and at the present time.	Individuals and organizations that have given land to become collective property do not have a claim for the return of that land to the individual or organization.
<b><i>Law on Local Administration</i></b> Article 2 Local Administration	Local administration [refers to] the State administration at the local level. There are three levels of local administration in the Lao People's Democratic Republic: provincial, district, and village levels.  At the provincial level, there are provinces, cities and, if required, a special zone; At the district level, there are districts and municipalities; At the village level, there are villages.  The government delegates responsibility to the local administration authorities to manage the territory, natural resources and population in order to preserve and develop into a modern, civil and prosperous society.	Establishes the village as an administrative organization of the State.

<b>Law on Local Administration (contd.)</b> Article 51 Criteria for Creation	<p>The criteria for the creation of a Village are:</p> <ol style="list-style-type: none"> <li>1. A suitable geographical location for administration;</li> <li>2. Population:</li> </ol> <p>A village in an urban area should have a population of at least one thousand; A village in the low-lying areas should have a population of at least five hundred; A village in the mountainous or remote areas should have a population of at least two hundred; and</p> <ol style="list-style-type: none"> <li>3. Socio-economic development conditions must be sustainable.</li> </ol>	Establishes the minimum population requirements for the creation of a village.
Article 52 Role and Functions of Village Heads	Each village head is the chief of the village administration and represents the village. He is responsible to the district or municipality administrations and to all villagers for the implementation of his role, authority and duties.	The governing person at the village administrative level is the village head.
<b>Forestry Law</b> Article 4 Ownership of Forest and Forestland	<p>Natural forest and Forestland is the property of the national community and The State manages them in a centralized and uniform manner.</p> <p>Trees planted in the areas designated for tree planting by labor and/or fund of individuals or organizations with recognition of the Forest and Forestland Management Organizations become the property of such individuals and organizations.</p>	<p>All forestland is originally owned by the State.</p> <p>The State distributes land and the rights associated with land.</p>
Article 11 Conservation Forest	...Conservation Forest consists of National Conservation Forest and Conservation Forest at Provincial, District, and Village levels.	Establishes the Village Conservation Forest classification.
Article 13 Forest areas	Each of Protection Forest, Conservation Forest and Production Forest has areas of dense forest, degraded forest, bare Forestland and village use forest according to each zoning plan.	<p>Establishes the possibility of village use forest zoning in all three categories of forest.</p> <p>This allows collective land to encompass Protection, Conservation and Production forest that are zoned as village use forest.</p>
Article 39 Categories of utilization of forest and forest products	<p>Utilization of forest and forest products is classified into 4 categories as follows:</p> <ul style="list-style-type: none"> <li>- utilization for village public benefits</li> <li>- utilization for household</li> <li>- customary utilization</li> <li>- utilization for business</li> </ul> <p>All categories of utilization must avoid causing negative impacts on forest, natural environment and society.</p>	

<p><b>Forestry Law (contd.)</b>  <b>Article 40</b>  Utilization of forest and forest products for village public benefits</p>	<p>Utilization of timber for construction activities such as village office, meeting hall, school and dispensary is allowed to use the timber only in the classified village use forest with the authorization of the District or Municipal Administration Office through the application from the District or Municipal Agriculture and Forestry Office in accordance with the Provincial or Vientiane Capital annual logging plan endorsed by the government.</p> <p>Non-commercial utilization of forest products for medicinal use, decorative activities, exhibition and so on is allowed through the collection/harvest in the classified forest zones.</p> <p>As for commercial utilization, it must be in accordance with Article 43 of this Law.</p>	<p>Village use forest can be used by the village for construction timber for village community buildings.</p> <p>Provided that the village use forest is not a “total protection zone” the village may use the forest to gather various non-commercial forest products.</p> <p>Villages may use village use forests for commercial activities as defined in Article 43.</p>
<p><b>Article 41</b>  Utilization of forest for household</p>	<p>The State allows people in the village to use non-protected timber species in the village use forest for construction and repair of houses, particularly for those households in necessity such as households without houses to live, households with very old house, or house damaged or destroyed by disaster with the certification from village administration offices and approval by District or Municipal Agriculture and Forestry Office according to specific regulation.</p>	<p>Individual households may use timber from collective village use forests for construction and repairs to their houses.</p>
<p><b>Article 42</b>  Customary utilization of forest</p>	<p>Customary utilization of forest is the use of forest and forest products that has been carried out for a long time in accordance with laws and regulations. The State allows to use trees and to harvest non-protected species of forest products for household consumption with the condition that such customary use shall not cause adverse impacts on forest, forest resources, environment as well as inflicting on rights and benefits of other individuals or organizations.</p> <p>Customary utilization of forest and forest products must be carried out in accordance with management plan and village regulations that are in compliance with laws and regulations.</p>	
<p><b>Article 43</b>  Utilization of forest for business</p>	<p>Utilization of forest for business is to use the natural forest for tourism, recreation sites, logging and harvesting of forest products for commercial purposes.</p> <p>Tourism and recreation can be undertaken in the so-designated areas of the controlled use zones of Protection Forest, Conservation Forest and Production Forest...</p>	<p>Villages may use village use forests for commercial purposes in compliance with this article.</p>

<b>Forestry Law (contd.)</b> Article 82 Forest and forestland preserved and developed by village	District Governor or Municipality Head allocates forests to village administration offices for management, preservation, development and use according to land management and land and forest allocation plan at village level.  The forest under village responsibility shall be classified into three categories i.e. Protection Forest that includes water source forest and river side forest, road side forest, Conservation Forest that includes spirit forest and cemetery forest, and Village Use Forest. In addition, there shall be non-classified land areas, which can be determined as production areas.	This article establishes that villages will control and implement the management of Protection Forest, Conservation Forest and Village Use Forest. This suggests that all Protection Forest and Conservation Forest within the village boundaries are collective land.
Article 93 Rights of forest and forestland users	...The State organizations only have the rights to manage, preserve, develop and use natural forest according to laws and regulations. But they have no right of transfer, inheritance, lease or concession, with exception of the cases stated in Articles 75 and 76 of this Law.	This article is consistent with the use rights associated with collective land.
Article 94 Rights to forest and forestland preservation and development	...State organizations have the rights to preservation of natural forest and forestland allocated by the State according to laws and regulations.	This article is consistent with the use rights associated with collective land.
Article 95 Right to use forest and forestland	...State organizations have the rights to use including development of allocated natural forest and forestland according to the allocation plans and laws and regulations.	This article is consistent with the use rights associated with collective land.
Article 96 Right to usufruct from forest and Forestland	...State organizations have no right of usufruct from natural forest and forestland with exception of cases mentioned in Articles 75 and 76 of this Law.	This article is consistent with the use rights associated with collective land.
Article 99 Termination of use right to forest plantation and forestland	Use right to forest plantation and forestland of individuals, households or organizations shall be terminated in any of the following cases: 1. Voluntary renunciation of use right; 2. Transfer of use right to another person; 3. Death of person or abolishment of organization without any inheritors. 4. Expropriation of use right by the State for public benefit use, but the State shall compensate the loss in accordance with laws and regulations;	This article establishes the right to compensation. However, compensation is paid to only individuals, households or organizations.  However, collective land, owned by the State (at the village level) is not be subject to Article 99.



<p><b>PM Decree 88</b> Article 3 Meaning of Terms Used in the Land Law</p>	<p>“Land Use Rights” refers to the right of a person or an organization who acquires permanent land use rights through the Land Title which is a document proving evidence of permanent land use rights obtaining through assignment, exchange, sale-purchase, and inheritance. Land use rights consist of: land protection rights, land utilization right, land usufruct right, right to transfer land use rights, and right to inherit land use rights. Individual or organization being granted the above-mentioned land use rights is entitled to lease out the land to other persons, use the land as collateral, put in capital or share in a joint-venture, and exchange or sale such land use rights.</p> <p>“Land Utilization Rights” refers to an organization or individual who acquires the right to use the land in accordance with the land allocation plan of the State. Organizations will only have the rights to protect and use, as specified in Articles 55 and 59 of the Land Law. Individual who acquires land utilization rights will only have the rights to manage, protection, use, usufruct and inherit...</p> <p>“Communal Land” refers to all land parcels and natural resources which are available within the territory of the Lao PDR for which the state has granted the right to collectively use by villages, organizations and state organizations concerned, as specified in Article 59 of the Land Law...</p>	<p>Establishes collective land as land collectively used by villages. However, there is no definition of “collectively use.”</p> <p>Neither “land use rights” nor “land utilization rights” accurately describe “collective use.” They do not pertain to villages as a local administrative body, but to individuals and organizations.</p>
<p>Article 6 Prohibition of Land Occupation</p>	<p>All illegal land occupations shall be cancelled, and the court prosecution following the justice process shall be applied for any damages occur.</p> <p>Illegal land occupations are reflected as follows:</p> <ol style="list-style-type: none"> <li>1. Occupation of land in the area of conservation forest, unexploited forest, watershed forest, mining area land, cultural and archaeological sites, natural tourism site, historical sites and state preserved area.</li> <li>2. Occupation of land without authorization in the forms of digging the land to form the canal, planting trees, placing of religious marks, building fence, building houses or stalls to mark the boundaries or putting the demarcation along natural river and streams, then using the power to reserve the area for own use or abusing of authority, function and position to encroach the land within the state preserved area and the land which has not yet been allocated by the state.</li> </ol>	<p>It is unclear whether this section details the “prohibited areas” that are mentioned in Article 7, sub-point 4 below.</p>

<p><b>PM Decree 88 (contd.)</b> Article 7 Prohibition of Issuing Certificate for Granting the Land Use Rights of Land Utilization Rights</p>	<p>Local administrative authorities and authorities who possess concerned mandates are not allowed to issue any certificate for granting the land use rights or land utilization rights to individuals or organizations for the following categories of land:</p> <ol style="list-style-type: none"> <li>1. Protected forest, preserved forest and un-exploited forest land;</li> <li>2. land at the are of natural water reservoir;</li> <li>3. land in the upstream area, land in the river source are, land along the pond, natural marsh and land preserved by the state;</li> <li>4. state and collective land in prohibited area;</li> <li>5. land in the mining area;</li> <li>6. land in the cultural area, archaeological site, historical site, and natural tourism places;</li> <li>7. land for national defense and security;</li> <li>8. communication land preserved for building road or other public infrastructures;</li> <li>9. land preserved for setting up electricity transmission line;</li> <li>10. land being banned by the provision of the law.</li> </ol>	<p>Pg. 82 of the March, 2009 draft of the Participatory Land Use Planning Manual Village and Village Cluster Levels correctly indicates that this article prevents the issuance of Land Use Rights or Land Utilization Rights for Protection Forests, Conservation Forests and Unexploited Forest Land. However, it also implies that these types of forests can not be included in collective land.</p> <p>This depends on the interpretation of “individuals and organizations.” See Sections 2.2.2 and 2.3.5 above.</p>
<p><b>Instruction 564</b> Article 1.2.3</p>	<p>“Land Use Right” means the right of a person or of an organization that has received the land use right with a Land Title that is a document evidencing the permanent land use right originating from the transfer, exchange, sale-purchase and inheritance. The land use right is made up of the right to protect, the right to use the land, the usufruct right from the land, the right to transfer the land use right, and the right to inherit the land use right. The person or organization that has received such a right has the right to lease the land to other person, to use as security, to be used in a joint venture or to be a share, exchange or can sell the land use right.</p>	<p>Establishes the rights associated with Land Title.</p>
<p>Article 1.2.4</p>	<p>“Right to Use the Land” means the organization that has received the right to use the land according to the State land zoning and the right to protect and use as set in Articles 55 and 59 of Land Law. For the persons who have received the right to use the land, they have only the right to occupy, protect, use, to get usufruct from the land and inherit.</p>	<p>Establishes the rights associated with the right to use the land.</p>

Article 4.11	<p>...Second Type [:] Communal Land is:</p> <p>Land of cooperatives, collective organizations, village communal land use in common by the community of persons, the various ethnic groups in the villages, the collective land comprises: land that the population had allocated to households for use for agricultural production during the season with nobody being the owner of the use right of the land, the forest for use, the production forest, cemeteries, sacred forests. Land where rituals are held, land set for cattle raising and other lands that have the characteristics to be collectively used of the village.</p> <p>The collective land is a land managed by the Government but a collective title is issued to the cooperatives, the collective organizations, communities, group of persons, ethnic groups that have the feature of been communally used with nobody having the land use right, [.] the collective land is forbidden for sale, transfer, used as security, lease or given for concession, [.] the collective land must be protected and developed for only the collective interest[s].</p>	<p>Most developed definition of collective land.</p> <p>Most developed identification of the rights and responsibilities associated with collective land.</p>
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**Appendix 3 - Sample TLUC Documents from Ban Dong Tong Noy**

