



**NURTURING NATURE**  
**Livelihood Sovereignty Alliance**

**Why Rights to Livelihoods  
of indigenous ethnic  
communities in the Mekong  
region matter**

Hanoi, December 2014

# FOREWORD

**W**orking on claiming rights to livelihoods, especially land rights and forest rights, of indigenous ethnic communities is never an easy job, particularly in the contexts of the Mekong region countries (mainly Vietnam, Lao PDR) where governments continue to exercise strong centralized powers.

Rights to livelihoods are fundamental and essential to everyone. And this is especially true for those who are marginalized or disadvantaged of opportunities in the society, often known as indigenous groups, tribal communities, and ethnic minorities. The terms referring to these groups may vary depending on countries or nations.

In this document, we (the Livelihood Sovereignty Alliance - LISO (an alliance comprises of three leading local NGOs: SPERI-CIRUM-CODE)) define the target groups with whom we have long been working together to claim their rights to livelihoods as indigenous ethnic communities in the Mekong region.





# Table of contents

Why we care so much about these? .....	3
What is this document about? .....	5
The ‘speaking’ numbers since 1995 .....	1
Part 1: Our core principles of Livelihood Identity and Livelihood Sovereignty .....	7
<i>Livelihood Identity</i> .....	7
<i>Livelihood Sovereignty</i> .....	7
Part 2: Our 30 unique steps methodology in claiming forestland rights for ethnic groups .....	8
Part 3: Process towards legalization of customary law (regulation) on co-governing Land - Forest for the community prior to the ceremony of granting forestland rights title .....	8
Part 4: The 11 steps practical guidance for community based forestland allocation .....	8
Part 5: Integrating customary law into community based forestland allocation .....	8
Part 6: The 20 years results of claiming forestland rights for ethnic communities .....	8
Part 7: Case studies facilitated by LISO .....	8
<i>Case study 1: Recognition of land rights of the Xinh Mun and sustainable natural resources planning in Bo Ngoi village</i> .....	28
<i>Case study 2: Community-based land allocation and forest management in On Oc village, Muong Lum commune, Yen Chau district, Son La province</i> .....	8
<i>Case study 3: Community Customary-Law Based Forestland Allocation in Simacai and Bat Xat districts, Lao Cai province</i> .....	8
<i>Case study 4: Community based Forest Land Allocation case study in Bac Lang commune</i> .....	8
<i>Case study 5: How to regain forest land for Nung ethnic minority in Ho Muoi as a model for lobby</i> .....	8
<i>Case study 6: Community based forest and land allocation programme in Dong Thang</i> .....	8
<i>Case study 7: Co-management based protection forest and land allocation case study in Hoa Son</i> ....	8
<i>Case study 8: Community Protection Forest and Land Allocation in Ho Moong commune, Sa Thay district, Kon Tum province, Central Highlands</i> .....	8
<i>Case study 9: Community Forest and Land Allocation Case study in Sin Cheng commune</i> .....	8
<i>Case study 10: Recognition of the rights of the Tai (Thai) communities and households in Hanh Dich commune, Que Phong district, Nghe An province over their traditional forest land</i> .....	8
<i>Case study 11: Forestland rights and the Truong Son forestry cooperative in Son Kim commune, Huong Son district, Ha Tinh province</i> .....	8
<i>Case study 12: Forestland rights for poverty alleviation in Tuyen Hoa, Minh Hoa and Bo Trach districts, Quang Binh province</i> .....	8
<i>Case study 13: Resources rights of indigenous ethnic groups for sustainable development in the Central Highlands regions</i> .....	8
<i>Case study 14: Counter-mapping for customary forestland rights and community governance</i> ....	48



# Why we care so much about these?



**L**and and forest are the vital cultural and livelihood spaces of indigenous ethnic communities in many areas especially in the upland. However, issues concerning **access to land and forest (i.e. land rights and forest rights) remain the most critical ones yet to be fully addressed in Vietnam and Laos;**

- More importantly, the **spiritual land and forest of indigenous ethnic communities** play a very essential role in shaping, nurturing and maintaining cultural identity, cultural values and thus stabilizing their daily livelihoods; however, these **have not yet been fully recognized by Vietnam Law (Land Law and Law on Forest Protection and Development);**
- The currently ***lacking or not having suitable/enough space and environment***, particularly in Vietnam, for indigenous ethnic communities to practice their culture and livelihoods is one of the key causes that is ***leading to the erosion of indigenous minority's customary laws associated with community structure and social relationships;***
- Up to 2012, ***about 65% of all upland indigenous ethnic minority households across Vietnam have not yet been granted forestland titles;***
- The government of Vietnam has put efforts in addressing forestland rights issues; but the progress made has been very slow.



# What is this document about?

**T**he purpose of this document is to describe in detail the core principles of SPERI and the newly born alliance (LISO - Livelihoods Sovereignty Alliance, hereafter referred as LISO), our methodologies and achievements in working towards claiming rights to livelihoods for indigenous ethnic communities in the contexts of Vietnam and Lao PDR.

It is a timely moment when LISO feel that we needed to document and share our unique methodology and principles that continue to succeed where other civil society organization may not be able to pursue further in the areas of land and forest rights.

Over a 20 years' journey, LISO have continued actively to achieve definite results and at the same time enjoy seeing the growth and changes in capacity and confidence of many indigenous ethnic groups who are now able to make their own livelihood decisions after their land and forest rights have been claimed.

We are proud to be able to continue working after 20 years in the context of little socio-political freedom in Vietnam to where/when possible, have the great traditional customary values of indigenous ethnic groups incorporated in and gain recognition by the society as well as by Law.





# The 'speaking' numbers since 1995

**59,633.92** hectares of forestland areas were allocated to households and community organizations in Vietnam and Lao PDR.

- **43,621.28** hectares of forestland areas were allocated to 7,827 ethnic households in Vietnam and Lao PDR.
- **16,012.64** hectares of forestland areas were allocated to 49 ethnic community organizations in Vietnam and Lao PDR.





# Part 1: Our core principles of Livelihood Identity and Livelihood Sovereignty

**T**his part provides our definitions of LISO core principles of Livelihood Identity and Livelihood Sovereignty. These are the guiding principles shedding light into our daily/yearly works over the 20 years, for why rights to livelihoods of indigenous ethnic communities matter to us. The definitions were originated from our Founder after long years of practical

experiences and setting up a unique methodology of doing research/studies through learning, engaging and maximizing the voices and identity and wisdom of the many disadvantaged indigenous ethnic groups.







## LIVELIHOOD IDENTITY

Working towards claiming rights to livelihoods means we are striving for livelihood identity and livelihood sovereignty. Our Founder learnt that every 'Livelihood' has its own identity. 'Livelihood Identity' defines a holistic system of social identity which reflects an interaction of living things within a relationship between humans and nature for maintaining its own characteristics culturally, socio-civilly, ecologically and economically'. For almost every society, particularly the indigenous ethnic groups, Livelihood and Identity are especially interrelated interactively. And to achieve the five rights of Livelihood Sovereignty for holistic, sustainable, inter-generational development means that a group can and should sustain their own livelihood, and also preserve their own identity - that which distinguishes them from others. Ethnic Identity of each group depends on the five inter-related rights of Livelihood Sovereignty and Livelihood Identity. The achievement of their Wellbeing and Happiness can only be real if each group can handle independently both their own Livelihood Sovereignty and Livelihood Identity. And we believe that: 'Well-being is your own gift to yourself, from your own values and behavior. If you consciously nurture this gift, at any moment in your life, it will return to you the happiness that is yours. Thereafter, your sovereignty of freedom and creativeness will not desert you'.

## LIVELIHOOD SOVEREIGNTY

Livelihood Sovereignty is defined as 'a holistic ethical alternative solution' which consists of five inter-related rights, including:

- 1) The right to land, forest and water, clean air and natural landscape (basic);
- 2) The right to maintain one's own religion (unique);
- 3) The right to live according to one's own way of life and values of happiness and wellbeing within one's own natural environment (practice);
- 4) The right to operate according to one's own knowledge and decide what to plant, initiate, create and invent on one's own land (holistic); and
- 5) The right to co-manage or co-govern natural resources with neighboring communities and local authorities (strategic).

It needs to be exercised daily, voluntarily and legally, at individual, communal, national and international levels in order to consolidate the sharing of the responsibility towards all living things, for today as well as for the generations of tomorrow. With the achievement of Livelihood Sovereignty, all organisms, human and non-human, will be living in harmony with each other, enjoying happiness and wellbeing, in interdependent self-determination'.

*Tran thi Lanh- Biological Human Ecology  
Theory - 'BHE' 1989 -1999 - 2009*



## Part 2: Our 30 unique steps methodology in claiming forestland rights for ethnic groups



**F**ollowed the core principles, this part provides an overall guideline of the 30-unique steps for claiming land and forest rights in which LISO have attempted to engaging local people, maximizing their knowledge, wisdom and experiences, as well as other actors to join the process for resolving forest and land issues and minimizing conflicts. These 30 unique steps are synthesized after our 20-years experiences working on forestland allocation program since 1995. A detailed practical guidance for community based

forestland allocation shortened to 11 steps with required activities and outputs is also provided. The seven-step methodology of CIRUM for resolving conflicts and allocating forestland (FLAP) should also be acknowledged but its key contents have already been reflected in the shortened 11 steps provided in the next part.

**STEP 1:** Conduct research, together with local people, on the reality, causes and consequences of landlessness and find out solutions for local people to retrieve land and forest which has been occupied by outside actors.





**STEP 2:** Facilitate briefing and training of key persons and traditional leaders to improve their capacity to negotiate with local authorities and land occupiers.

**STEP 3:** Provide training to key-farmers on laws and sub-laws related to forest land rights, pointing out errors and shortcomings in the current bureaucratic process.

**STEP 4:** Facilitate community-based planning of negotiations, focusing on the role of customary laws, and informing land and forest occupiers of environmental, social, cultural, moral and religious outcomes and consequences caused by the process of land and forest grabs.

**STEP 5:** Seek consent from land occupiers and local authorities via processes of direct negotiation and criticism.

**STEP 6:** Organize study tours, sharing experiences on methods of community-based land and forest allocation and customary law-based conflict resolution, as illustrated by successful pilot models in Vietnam and Laos since 1995.

**STEP 7:** Facilitate the selection of key-farmers, village elders and youths to represent the community, cooperating with professional technicians of land and forest and local authorities to participate in training courses and discussions on land overlapping and conflict.

**STEP 8:** Establish an advisory board for land and forest allocation which involves traditional leaders, key-farmers, representatives of local authorities and professional technicians.

**STEP 9:** Support this advisory board to work closely with the community to set up regulations, scheduling plans and solutions to the land and forest overlapping, occupation and conflicts.

**STEP 10:** Establish a district-level leading board for land and forest allocation which involves traditional leaders and key-farmers, to create opportunities for mutual learning and understanding between formal and traditional systems.

**STEP 11:** Support a taskforce for land and forest allocation at the field which includes members of the advisory board and the district leading board. This taskforce helps to set up regulations which correspond to both statutory and customary requirements aiming at retrieving community traditional land and forests in a peaceful and amenable manner.

**STEP 12:** Organize meeting between local people, experienced key-farmers from successful pilot models of land conflict resolution, and occupiers of land and forest.



**STEP 13:** Facilitate the taskforce for land and forest allocation to work with local people (who are selected as household representatives) to survey the land, identifying errors on the maps and borders between households, communities and enterprises caused by land overlapping and occupation.

**STEP 14:** Organize training workshops for local people to share evidence of overlapping and occupation of community land, traditional sacred forests, watershed forests, herbal forests, clan forests, and share experiences from successful pilot models, and to find out solutions.

**STEP 15:** Organize practical training to assess the capacity of different types of forests on the basis of integrating local knowledge and people's participation and suitable technology. This step is done before the official measurement and other land allocation procedures.

**STEP 16:** Inform the district chairperson on the reality of land management, overlapping and land occupation.

**STEP 17:** Set up an action plan for the taskforce in the field, lobbying local authorities to make decisions on the allocation of the land affected by overlapping and occupation.

**STEP 18:** Organize training workshops for local people to discuss their rights and obligations in using land and forest allocated by the local authorities.

**STEP 19:** Set up detailed action plans, procedures, land use plan, and forest management at the field, together with local people, representatives of local authorities and technicians.

**STEP 20:** Set up a new set of maps describing borders, land use, forest management after completing legal procedures and technical, official works.

**STEP 21:** Organize a training workshop for the entire community members to help them understand legal decisions, community rights and obligations in implementation of a land use plan and governance of different types of forests.



**STEP 22:** Facilitate discussion among community members on community regulations of implementation and supervision of land use plan and forest management. This regulation is made on the basis of consent among the entire community members and the surrounding communities.

**STEP 23:** Submit a draft of community regulations to communal authority for monitoring before sending to district authorities for approval.

**STEP 24:** Document the whole process of land and forest allocation and distribute among households, communities, and relevant functional offices at district and communal levels.

**STEP 25:** Process data on land zoning, land use planning, forest management, land rights and forest co-management rights, to register and establish archives at the relevant functional offices at district and communal levels.



**STEP 26:** Organize a ceremony for granting land certificates and co-management of forest to households, individuals and community.

**STEP 27:** Support and advise the community management board to set up guiding sign boards, diagrams and regulations on land use and forest co-management, and to clarify bordering landmarks.

**STEP 28:** Organize workshops at regional and national levels to share methodological steps in land and forest allocation. Participants to the workshops consist of local people, local authorities, the media, policy makers, community development organizations, functional technical agencies, and relevant neighboring enterprises and companies.

**STEP 29:** Review and compile discussion and analysis from workshops to arrive at

recommendations to send to members of the National Assembly and policy makers dealing with drafting land law. Recommendations are simultaneously updated and posted on SPERI website.

**STEP 30:** Document research and policy analyses of land use and co-management of forests, of socio-economic, environmental, cultural, religious, political impact indicators, in which land use rights and co-management of forests are underpinning strategy aiming at people's confidence, self-determination and secured livelihoods on their own land and forests. Integrate documentation of policy analysis of land use plan and co-management of forests into rural development policies, so as to continue lobbying for the land and forest rights of the indigenous ethnic communities in Mekong region.





# Part 3: Process towards legalization of customary law (regulation) on co-governing Land - Forest for the community prior to the ceremony of granting forestland rights title



**F**ollowed the earlier 30 unique steps toward claiming forestland rights for ethnic groups, in order to obtain the consent from State authorities (government and relevant agencies) with regards to forestland rights for ethnic communities, the following steps are compulsory to follow for LISO colleagues:

**STEP 1:** The customary law based community regulation (in short, customary law regulation, i.e. based upon the logics of concept of values of the community) must have signatures (or finger-prints) of all the households right after the final community-meeting session and consensus with witnesses from village head, the party secretary, representatives from veteran's union, forest protection group, farmers' union, women's union, youth union, and any leaders from the traditional self-help groups in the community. This is important because co-

governance of land and forest as the public assets should be the responsibility of everyone in the village and society (from the political perspectives of LISO Alliance);

**STEP 2:** The village head on behalf of the entire community submits a formal letter associated with the customary law regulation to the Communal People's Committee. The letter must also be addressed to: 1) the Communal Land Department; 2) the Communal Resources and Environment Department, if any; 3) any representatives from the communal unions or associations or groups; 4) the communal Women's Union; 5) the communal Veterans Union; 6) the communal Farmers Union; 7) the Communal Peoples Committee; 8) the communal People's Council; 9) the Party Secretary of the commune;



**STEP 3:** After 15 days from submission, if the village head has not received any response from the Communal People's Committee; the village head needs to send a 2nd letter to remind the Communal People's Committee and relevant offices. This time the same letter associated with the customary law regulation should be sent to all the same addresses (mentioned in step 2);

**STEP 4:** After 15 days but still without any responses, the village head must submit the same letter associated with the customary law regulation to district authority level;

**STEP 5:** In case of receiving feedback i.e. agreement from the Communal People's Committee this should include: 1) Written approval of the Standing Committee of the Communist Party; 2) agreed Resolution of the Communal People's Council; 3) Decision issued by the Communal People's Committee allowing the execution of customary law regulation. With respect to the 30 steps methodology above, LISO colleagues should further the commitments to continue working with village leaders to strengthen the following skills:

- Skill in filing system with priorities and orders of necessary documents prior to stapling them into customary law regulation;
- Skill in understanding orders and importance of various documents prior to issuing the regulation if they benefitted traditional self-help groups and community interest groups;
- Skill in applying regulation into daily life; facilitate shared responsibility and promote rights of each community member; and when there were emergency, skill in know-how to deal with cases through promoting joint responsibility in governing the resources.

**STEP 6:** The document (customary law regulation) should include:

- Administrative Land map of the communal border, Land map of the village border exactly to areas that

would be granted forestland rights title (printed in A4 size)

- Article 160. Religious Land - Land Law 2013. This article was exclusive 15 million people who are ethnic minority who belief on nature worship;
- Article 29 Law on Forest Protection and Development 2004;
- Decree 163. on Land use rights certificate;
- Legal Map of land and forest allocation (printed in A4 size);
- Forestland rights title (or Red book) (copy with notary authority);
- Written approval of the Standing Committee of the Communist Party (copy with notary authority); and its letter sent to the Communal People's Council (communal parliamentarian) requesting to issue resolution (copy with notary authority);
- Agreed Resolution of the Communal People's Council to allow the execution of customary law regulation (copy with notary authority);
- Decision issued by the Communal People's Committee allowing the execution of customary law regulation (copy with notary authority);

Signed and stamped by the Communal People's Committee of the customary law regulation;

- The minutes with signatures (or fingerprints) of all the households at the final community-meeting session and consensus with witnesses from village head, the party secretary, and other representatives from the community agreeing to implement the customary law regulation;
- Gathering and stapling all documents with hard, high quality stapler and sent to all addressed mentioned in Step 2 of this Part and also to all households in the village who share the title over forestland rights.

**STEP 7:** Marking all the maps system, associated with abstract regulations with signed authority at the borders following the conditions of each community



(materials for constructing the sign boards, maps and regulations may be hand made by the community using the recycled material or natural materials from the forests);

**STEP 8:** Community and LISO colleagues submit a plan to celebrate a ceremony receiving forestland rights title for the community with witnesses from authority and relevant offices. This should also invite media and neighboring villages and communes to co-participating so to share

the good news and raise awareness to wider society.

**STEP 9:** This should be informed with neighboring villages and a copy of this set of customary law regulation should be distributed to neighboring villages for sharing, re-training and/or workshop. One copy should be saved at 1) CAKE (electronic version); 2) 02 hard copies should be saved at the LISO library and Archive of SPERI.





# Part 4: The 11 - steps practical guidance for community based forestland allocation



**F**ollowed the overall 30 unique steps, this part provide the 11 steps practical guidance for community-based forestland allocation process. Community-based forestland allocation process, from the LISO perspective, is a process which engages thoroughly and actively the participation of community members into studying, assessing, planning and managing the community resources including: local land and forest landscape condition, the current natural geographical setting and issues, local customary law and land-uses knowledge, current and future needs for cultural space and livelihoods needs fitting into the community-based land and forest uses planning. This process not only invites active participation of community members, but also must respect and ensure community decisions with regards to their resources, resources mapping and

resources planning for temporal and strategic uses.

Traditional leaders (including village elders, clan leaders, clan heads, prestigious members, village heads and any key-persons in the community) play very important parts in the community-based land and forest allocation process, particularly during the conflict settlements and resolutions.

## Principles in community-based land and forest allocation

1. The process must respect customary law of the community and integrate the customary law and statutory law over land and forest resources governance;



2. Local people and community are the key actors and key decision-makers over their land and forest resources during the allocation process;
3. The process must engage to the most full, responsible, and voluntary involvement and participation of all community members (husband and wife, old and young, interest-groups and community associations) before, during and after the land and forest allocation;
4. The process must invite full participation of relevant actors (neighborhood land holders, land users, Department of Natural Resources, Department of Agriculture and Forestry, forest protectors/rangers, Office of Land Registration, People's Committees at all levels) together with the traditional leaders before, during and after the land and forest allocation;
5. The process must establish a transparent disclosure of information, regular checks and monitoring, and also setting up responsible mechanism towards addressing conflicts/overlapping before, during and after the land and forest allocation.





# Steps in community based land and forest allocation

## STEP 1: Conduct a feasibility study

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"><li>- Conduct a feasibility study</li></ul>	<ul style="list-style-type: none"><li>- Documentation of clearly-defined locations and types of lands and forests in the area;</li><li>- Documentation that clearly identifies stakeholders who currently manage various land and forest types;</li><li>- Documentation outlining the needs of the community and local authorities in reference to land and forest resource allocation;</li><li>- Information on current Land Reserve area(s), land uses planning;</li><li>- Documentation identifying key stakeholders to approach and work with from the community and local authority;</li><li>- An analysis of opportunities and risks;</li><li>- Report that summarizes all above information and concluding the chance(s) to undertake further actions.</li></ul>

## STEP 2: Use relevant findings and results from feasibility study to work with local authorities for the MoU

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"><li>- Organize meetings with local authorities;</li></ul>	<ul style="list-style-type: none"><li>- A discussion to share findings and results from feasibility study to local community and authorities;</li><li>- Obtain approval from local authorities and also letter Expressing Interests proposed to work on these issues from village, communal levels;</li><li>- MOUs signed amongst parties together with relevant legal documents.</li></ul>

## STEP 3: Research in-depth customary law, local ecological knowledge and cultural norms of the community in the management, use and conservation of land and forest resources

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"><li>- Conduct field-based research and inviting local community members to co-participate;</li><li>- Organize focus groups discussion and inviting voices from varied community groups;</li><li>- Organize different meetings with community members for consultation and cross-checking of information.</li></ul>	<ul style="list-style-type: none"><li>- An in-depth research report on customary law, local ecological knowledge and cultural norms of the community in the management, use and conservation of land and forest resources;</li><li>- A lay-out of resources mapping and resources planning from the villagers' views.</li></ul>

**STEP 4: Prepare all the paper work for further bureaucratic processes (legal decision, integration of customary law, human and financial resources)**

- District level: set up a Steering committee on Land and Forest allocation; a Technical Working group on Land and Forest allocation;
- Communal level: set up a Council on Land and Forest allocation; an expert group on Land and Forest allocation and disputes settlements (experts include all the traditional leaders and or key representatives of community members)
- Draft a holistic Land and Forest resources use plan;

**STEP 5: Strengthening capacity and awareness for local community and local authorities**

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"> <li>- Organize workshops in preparation for implementing community based and customary law-based Land and Forest allocation and management process.</li> </ul>	<ul style="list-style-type: none"> <li>- All stakeholders obtain a good understanding and clarity over the approach towards implementing community based and customary law based forestland allocation and management, especially the key stakeholders such as provincial, district and communal officials;</li> <li>- Clearly identify roles of each stakeholder in the community based and customary law based forestland allocation process;</li> <li>- Results and findings from the above in-depth research on customary law, local ecological knowledge and cultural norms of the community in forestland use and management presented and shared to stakeholders;</li> <li>- A proposal on how to integrate between customary law and statutory law to governing forestland resources;</li> <li>- A detailed plan for implementation of community based forestland allocation process (identifying participants and responsibilities);</li> <li>- Minutes and reports from meetings distributed and request stakeholders to sign.</li> </ul>
<ul style="list-style-type: none"> <li>- Conduct legal training (based on updated and relevant policy documents) including: Land Law, Circular 38, Circular 07, Decree 23, Circular 17, and any relevant local policies).</li> </ul>	<ul style="list-style-type: none"> <li>- Local community and villagers have a good understanding and clarity of their rights and responsibilities on forestland use and management and protection;</li> <li>- Leaflets or hand books (short and easy to understand) briefing the key contents and issues relevant for villagers and local community on rights and responsibilities over forestland use and management and protection.</li> </ul>
<ul style="list-style-type: none"> <li>- Conduct a training on forests resources evaluation/assessment for local community</li> </ul>	<ul style="list-style-type: none"> <li>- Local community and key persons with good understanding, knowledge and skills in evaluating, assessing their forest and land resources.</li> </ul>
<ul style="list-style-type: none"> <li>- Organize field trips for different stakeholders (e.g. farmers, traditional leaders, local authority, and specialized officials).</li> </ul>	<ul style="list-style-type: none"> <li>- Stakeholders share an environment to observe, and talk and discuss about issues with an expectation to change views and attitude supportive of the allocation process including conflicts/overlapping settlements.</li> </ul>



## STEP 6: Evaluate and monitor the status of land and forest uses and conflicts settlements/resolutions

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"> <li>- Evaluate current status of land uses;</li> <li>- Evaluate current status of forest uses, different types of forests, forest users/managers; boundaries of different land holders/forest users/managers in the communal unit/villages, households, and area that is expected to conduct the LAP program;</li> <li>- Identify clearly the boundaries (exact, precise) of the different land and forest types.</li> </ul>	<ul style="list-style-type: none"> <li>- Map of current land uses from community views and perceptions;</li> <li>- Report indicating locations, size area and boundary; attached with that map of current land uses;</li> <li>- Map of land holders and forest users (currently using the land and forest);</li> <li>- Identify and resolve all the overlapping<sup>1</sup> on the base of integrating between the 2 maps (local community and local authority);</li> <li>- Attach all relevant documents (minutes, meetings) with all signatures from parties/actors;</li> <li>- Document recording all the lessons learnt from resources conflict settlements/resolutions;</li> </ul>
<ul style="list-style-type: none"> <li>- Evaluate forest resources.</li> </ul>	<ul style="list-style-type: none"> <li>- Report on forest status including: map of current forest status, completed Annex 09 (Joint Circular 07);</li> <li>- Report on ethno-botany (forest timber/woody species).</li> </ul>

## STEP 7: Planning and options in land and forest uses plan

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"> <li>- An expert group on Land and Forest allocation and disputes settlements draft Planning and options in land and forest uses plan based upon inputs gathered from community members;</li> <li>- The Planning and options in land and forest uses must utilize these sources: district land use planning; lay-out of resources mapping (and lay-out of resources planning) from the villagers' views/perceptions; and map of current land uses from community views and perceptions;</li> <li>- Organize community meetings to discuss about that draft Planning and options in land and forest uses plan (including also utilization of result and findings from the ethno-botany (forest woody species) and a planned option/implementation of FLA.</li> </ul>	<ul style="list-style-type: none"> <li>- Draft Planning and options in land and forest uses (e.g. an area for Land reserve, an area for Agro-forestry production. The area allocated for communal uses should note to prioritize the disadvantaged vulnerable groups first). This draft must be attached with map;</li> <li>- Final option of land and forest allocation process and procedure to be approved by local community members;</li> <li>- All options must be approved<sup>2</sup> by communal peoples council;</li> <li>- All above results to be approved and signed by district peoples committee;</li> <li>- All minutes and meetings be signed by parties including villagers, village representatives and communes;</li> <li>- Unit of forest patrolling team established (attached by Decision of communal authority).</li> </ul>

<sup>1</sup> Resolving disputes and overlapping must be a thorough and throughout the entire land and forest process.

<sup>2</sup> All the areas that have not yet been allocated land and forest must be approved and signed by the Communal Peoples Council.

## **STEP 8: Gather local rules, regulations, customary law in management and protection of land and forest**

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"> <li>- An expert group on Land and Forest allocation and disputing settlements and a forest patrolling team consult with community members (especially the key persons) to discuss and draft the local rules and customary law in land and forest uses and management.</li> <li>- Organize community meetings to gain consensus and pass the local rules. Depending upon context, may be invite other stakeholders to join and learn;</li> <li>- Organize meetings at communal level for all sectors to learn and gain consensus by communal peoples council;</li> <li>- Have the local rules approved by functional offices at district level.</li> </ul>	<ul style="list-style-type: none"> <li>- Produce documentation outlining local rules and customary law in land and forest uses and management, which also integrates<sup>3</sup> statutory law to be approved.</li> </ul>

## **STEP 9: Complete LFA records, filings and issuance of Land/Forest use rights certificates**

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"> <li>- A Technical Working group on Land and Forest allocation complete all the LFA records, filings and also Map of LFA with reference to legal consistency;</li> <li>- A Council on Land and Forest allocation publish all the LFA files and also Map of LFA in front of all community members;</li> <li>- A Technical Working group on Land and Forest allocation undertake second check of all the files (records, minutes, reports and maps); resolve any final issues/mistakes;</li> <li>- The communal peoples committee proposed to all levels and relevant sectors for approval.</li> </ul>	<ul style="list-style-type: none"> <li>- Production of public minutes on the LFA files/records;</li> <li>- Completion and submission of all the LFA records/filings and Map of LFA for approval;</li> <li>- Approval decisions of district authorities on land and forest allocation.</li> </ul>

<sup>3</sup> Results of ethno-botany study and research.



## STEP 10: Allocating and receiving land and forest at the field

<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"><li>- Organize field works to clear the boundaries, signify land marks by land markers amongst the forest/land holders, users, neighbors/managers.</li></ul>	<ul style="list-style-type: none"><li>- Minutes on allocation and receipt of land and forest at the field to be signed and approved by villagers, local members and neighborhoods;</li><li>- Completion of a system of land markers.</li></ul>

## STEP 11: Organize a ceremony to hand Land Use Rights certificates to land holders and final review/lessons learnt

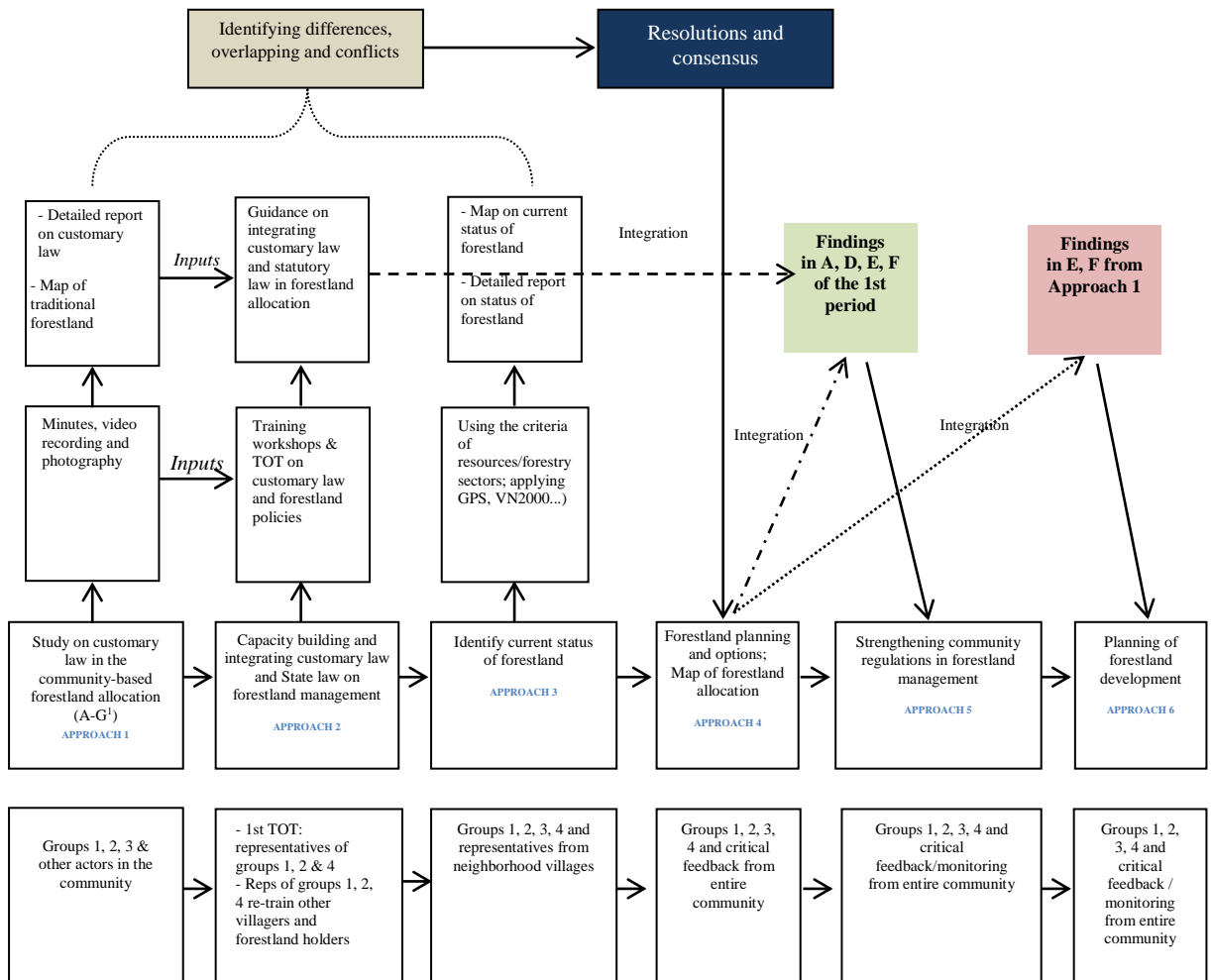
<b>Activities</b>	<b>Outputs</b>
<ul style="list-style-type: none"><li>- Organize a ceremony to hand LUR certificates to all land holders;</li><li>- Finish all land markers and a system of wooden boards to signify local rules/customary law on land and forest management of the community.</li></ul>	<ul style="list-style-type: none"><li>- All land holders, community members received forestland use rights certificates;</li><li>- Completion of all land markers and wooden boards signifying local rules/customary law on forestland management of the community;</li><li>- Leaflets on local rules in forestland use and management distributed to all land holders.</li></ul>
<ul style="list-style-type: none"><li>- Hand the database (hard copies, soft copies and video) to all related actors/stakeholders.</li></ul>	<ul style="list-style-type: none"><li>- A complete database.</li></ul>







## Part 5: Integrating customary law into community based forestland allocation



**Important notes:**

(1) Contents must be studied for ***customary law in the community-based forestland allocation*** including:

- A: Community perceptions on how they value land and forest;
- B: Various types of community ownerships of land and forest (from perspectives to practical indications)
- C: Community planning of land and forest resources use and management (from perspectives to practical indications)
- D: Community customary institution on managing land and forest resources
- E: Community uses - protection - development of land and forest resources
- F: Benefits distribution from land and forest resources
- G: Advantages and disadvantages/conflicts over land and forest resources

## (2) *Participating actors in the community-based forestland allocation*

- Group 1: Group who govern, give advice and overall monitoring of the allocation process including traditional elders, clan leaders, spiritual leaders, herbalists, and village leaders.
- Group 2: Different interest groups in the community who practice using and managing land and forest (group leader and vice leader, head of groups/association/union, or interest-groups).
- Group 3: Land holders, forest users, forest managers, clan heads, community representative board, forest management board, or any other users/managers e.g. management board of protection forest.
- Group 4: Technical team, consultation group, communal land council, and staff of LISO alliance.

# Part 6: The 20-years results of claiming forestland rights for ethnic communities

## Total forestland areas allocated to households since 1995

Districts/Provinces	Ethnic groups	Total areas of forestland allocation (ha)
Bac Ha, Muong Khuong, Than Uyen, Si Ma Cai districts, Lao Cai province	Hmong	3,023.1
Phieng Khoai and Muong Lum commune, Yen Chau district, Son La province	Hmong, Xinh Mun	3,697.5
Nghia Hoa commune, Chu Pah district, Gia Lai province	Gia Rai, Mo Nong	300.0
Hanh Dich commune, Que Phong district, Nghe An province	Thai	3,360.0
Son Kim I commune, Huong Son district, Ha Tinh province	Kinh	3,613.7
Tuyen Hoa, Minh Hoa, Bo Trach districts of Quang Binh province	Ma Lieng, Sach, and Kinh	16,304.8
Luang Prabang district of Luang Prabang province, Laos PDR	Hmong	8,449.2
Ho Muoi village, Minh Son commune, Huu Lung district, Lang Son province	Nung	37.8
Trai Da village, Hoa Son commune, Huu Lung district, Lang Son province	Nung, Tay, Cao Lan and San Chi	453.6
6 villages of Dong Thang commune, Dinh Lap district, Lang Son province	Tay, Dzao, San Chi	1520.6
11 villages of Bac Lang commune, Dinh Lap district, Lang Son province	Dzao, Tay, San Chi	2860.98
<b>Total</b>		<b>43,621.28</b>



## Total forestland areas allocated to community organizations since 1995

No.	Organizations	Types of forests	Area (Ha)
<b>I</b>	<b><i>Ke village, Lam Hoa commune, Tuyen Hoa district, Quang Binh province - Vietnam</i></b>		
1	Women Union	Watershed forest	26
2	Youth Union	Protected forest	38
<b>II</b>	<b><i>Hanh Dich commune, Que Phong district, Nghe An province - Vietnam</i></b>		
3	Youth Union in Chieng village	Protected forest	20
4	Women Union in Chieng village	Protected forest	18
5	Farmer's Association in Chieng village	Protected forest	15
6	Veterans Association in Chieng village	Protected forest	17
7	Herbal medicine group in Pa Kim village	Spiritual / Herbal medicine forest	7
8	Women Union in Pa Kim village	Protected forest	21
9	Farmer's Association in Pa Kim village	Protected forest	19
10	Women Union in Chan village	Protected forest	9
11	Farmers' Association in Chan village	Protected forest	11
12	Women Union in Pa Co village	Protected forest	17
13	Farmer's Union in Pa Co village	Protected forest	13
14	Traditional herbal medicine group in Pom Om	Spiritual / Herbal medicine forest	19
15	Women Union in Pom Om village	Protected forest	22
16	Farmers' Association in Pom Om village	Protected forest	19
17	Women Union in Khom village	Protected forest	14
18	Traditional herbal medicine group in Cham Put village	Spiritual / Herbal medicine forest	13
19	Women Union in Cham Put village	Protected forest	16
20	Women Union in Mut village	Protected forest	6
21	Women Union in Cong village	Protected forest	9
22	Women Union in Na Xai village	Protected forest	8
23	Border Army 519	Protected forest	20
24	Pom Om village	Spiritual forest, herbal medicine forest, protected/watershed forest, productive forest	426.5
25	Chieng village	Productive forest	56.4
26	Khom village	Productive forest	12.8
27	Pa Co village	Productive forest	23.1
28	Pa Kim village	Productive forest	94.8
<b>III</b>	<b><i>Si Ma Cai district, Lao Cai province – Vietnam</i></b>		
29	Traditional herbal medicine group in Sin Cheng commune	'Nao Long' spiritual / herbal forest	30.78
30	Community forests for groups in Ban Me commune		13.33
31	Herbal medicine group in Can Ho commune	'Nao Long' spiritual / herbal forest	~ 5

32	Community forests in Lung Sui commune	'Nao Long' spiritual/herbal forest	3.58
<b>IV Bat Xat district, Lao Cai province – Vietnam</b>			
33	Community forests for groups in Sai Duan village, in Phin Ngan commune, Bat Xat district	Community forests	127.69
34	Community forests for groups in Sung Hoang village, in Phin Ngan commune, Bat Xat district	Community forests	16
<b>IV Luang Prabang province, Lao PDR</b>			
35	Long Lan community	Spiritual forest, herbal medicine forest, protected/watershed forest, productive forest	8,234
36	Traditional herbal medicine group in Long Long Lan village, Luang Prabang district	'Nao Long' spiritual / herbal forest	47
37	Traditional herbal medicine group in Xieng Da village, Nam Bac district	'Nao Long' spiritual / herbal forest	59
38	Traditional herbal medicine group in Nam Kha village, Nam Bac district	'Nao Long' spiritual / herbal forest	10
39	Community forest of Densavang	Spiritual forest, herbal medicine forest, protected/watershed forest, productive forest	1,005
40	Community forest of Phonsavat	Spiritual forest, herbal medicine forest, protected/watershed forest, productive forest	815
41	Community forest of Nasamphan	Spiritual forest, herbal medicine forest, protected/watershed forest, productive forest	400
<b>V Central Highlands area of Vietnam</b>			
42	Violak village, Po E commune, Kon Plong district, Kon Tum province		56.7
43	Ka Bay village, Ho Moong commune, Sa Thay district		30.8
44	Dak Yo, Dak Vok, and Ko Tu villages, Ho Moong commune, Sa Thay district, Kon Tum		55.4
<b>VI Huu Lung district, Lang Son province</b>			
45	Community forest in Ho Muoi village, Minh Son commune		21.8
46	Community forest, Trai Da village, Hoa Son commune		89.43
<b>VII Dinh Lap district, Lang Son province</b>			
47	Community forests of 6 villages of Dong Thang commune		2024.25
48	Community forests for 11 villages in Bac Lang commune, Dinh Lap district	Community red books	1617.59
49	Community forests for 9 organizations (women, herbal, veteran, farmers, youths) from 11 villages in Bac Lang commune, Dinh Lap district		359.69
<b>Total</b>			<b>16,012.64</b>



# **Part 7: Case studies facilitated by LIS0**



## Case study 1: Recognition of land rights of the Xinh Mun and sustainable natural resources planning in Bo Ngoi village



**B**o Ngoi is one of the eight villages of the Xinh Mun ethnic minority located in Phieng Khoai commune, Yen Chau district, Son La province. Like other Xinh Mun communities in the Northwestern region of Vietnam, villagers in Bo Ngoi village had their life-practices primarily based on hunting and gathering of forest products, despite that the forest resources have been rapidly degraded due to the reclamation policy that mobilized the low-land farmers to migrate to upland areas to do businesses, and also the national development projects such as the Hoa Binh Hydro-electric Dam clearing areas of forests to make way for development projects.

The Xinh Mun minority community was resettled into the Bo Ngoi valley in 1985. Due to focusing merely on the technical aspect of how to displace people from the mountain down to low-land, and ignorance of the traditional farming practices of the Xinh Mun people, the sedentary program was not effective. Additionally, being unfamiliar with low-land cultivation within the cramped land size, after nearly 10 years up to 1995, the Xinh Mun villagers in Bo Ngoi were still living in poverty and deadlock. Although the group was

identified as one of the first ethnic groups to settle in the Northwestern region, the Xinh Mun in general, and specifically Bo Ngoi villagers were still regarded by the Kinh (Vietnamese ethnic majority) as a 'small ethnic group' referred to by the discriminatory name 'Puoc' people (literally meaning, illiterate and backward).

After two-year resettlement, two thirds of the Bo Ngoi valley (approximately 30 ha) that had been assigned to Xinh Mun resettled families, were further illegally encroached upon by the Kinh (Vietnamese ethnic majority) who migrated from Hai Duong province. The main cause of this was the resettlement program that did not carefully make a detailed plan of land use for the entire valley. More seriously, there were those Xinh Mun families who were resettled that were not granted certificates of land use rights. As a consequence, many Xinh Mun villagers in Bo Ngoi village had to rely on the gather of forest products in order to exchange with outsiders for subsistence needs. In the traditional social structure of the Xinh Mun community, women often played a central role. However, during the resettlement period, their role changed and their voices were not considered. In the legal framework at the time, women were not recognized i.e. their names were not placed equally with their husbands in the land use rights certificates.

Facing the above challenges, Towards Ethnic Women - TEW (the former organization later merged into SPERI) put efforts into working with local community to lobby local government to reclaim the areas that were encroached upon and requested local authorities to recognize the claims and the rights of Xinh Mun villagers over natural resources (land and forest) in the Bo Ngoi valley as well as recognizing the names of women in the certificates of land use rights. The effort on recognition of women's name to be placed equally as men's names in the land rights certificates was an initiative that, at the time, was not even yet in the legal framework.



As a result, the land area encroached on (30 ha) by the Kinh (Vietnamese ethnic majority) were returned to the Xinh Mun community. The Xinh Mun families were now granted with certificates of land use rights including the recognition of women's and men's names as equal in the titles of the certificates. In addition, the Bo Ngoi valley was re-planned in accordance with the Xinh Mun traditional farming practices and land uses planning, whereby every family has had access to rice field, home garden and also forest. In addition, the Bo Ngoi community was also allocated the community forest land in order to practice the Xinh Mun's traditions of collective customary governance. The autonomy of the Xinh Mun community, especially the

women in their community governance, natural resources management, production organization and management in the household economy were then significantly improved.

The above successes in claiming and recognizing resource rights in Bo Ngoi village were later extended to other 7 villages of the Xinh Mun community in Phieng Khoai commune, Yen Chau district. Moreover, paragraph 3, Article 48 of the Land Law 1993 was later amended/revised by the Congress November 26, 2003 officially recognizing that the names of the wife and the husband be put in equal in the certificate of land use rights.



## Case study 2: Community-based land allocation and forest management in On Oc village, Muong Lum commune, Yen Chau district, Son La province



On Oc is one of the nine villages in Muong Lum commune, Yen Chau district, Son La province. Currently, there are 87 households of which 85 households (457 people) are of the Hmong ethnic group. Like other ethnic groups such as the Thai, Muong, Dzao, Kho Mu, La Ha, Xinh Mun, Khang, Laos and Tay in Son La province, the traditional practice of the Hmong people in On Oc relies largely on dry farming with the main crops such as corn, rice and livestock (cattle, pigs) as well as collection of forest products for daily needs.

Prior to 2002, forest land in the On Oc area was very much open access. Management of the forests was much dependent on the top-down plans from Program 327 (i.e. Re-greening 5 million hectares of barren hills/degraded land). At this time, areas of natural forests there were already severely degraded in terms of their size and quality, particularly exhausted by exploitation of some rare species such as Bách Xanh (*Calocedrus*

*macrolepis*), Nghiến (*Burretiodendron tonkinense*) and Đinh Hương (*Syzygium aromaticum*).

From 2001-2002, TEW collaborated with Son La Provincial Department of Forest Protection and Yen Chau district functional agencies to implement forest land allocation in On Oc village, Muong Lum commune. This was the first pilot model in Son La province in community based forest land allocation. The total allocated area was 1,207.45 hectares of mainly natural protected and production forests. Three main user-groups in the village were granted community forest land titles such as the On Oc community, a group of 10 families including 3 clans (Vu, Thao and Vang), and the 3 village socio-political associations; individual households forest land titles were also given to 21 households.

After allocation, the On Oc community has set rules and plans to strictly protect and regenerate two thirds of the hills, villagers were thus committed to only access the foothills for cultivation. With customary voluntary self-management mechanisms through unwritten rules of the village, most of the natural forests, notably rare woods have been regenerated and growing well.

Since 2009, the above user groups in On Oc village have received money from the Payment of Forest Ecological Services (PFES). On average, one family could receive about 3.5 million VND per year from PFES, while the community receives about 170 million VND. One part of this payment is spent for the forest protection/patrolling team (about 30%); the remainder is used for public investments such as growing more trees, building drinking water system and kindergarten.

Forest land allocation for families, groups of families and community in On Oc village have since become the practical and also methodological basis for the entire Son La province to study and expand to other locations in the province.

Accordingly, families and community have become the first priority groups in the



forest land allocation policy implementation in Son La province, making up the highest proportion i.e. 83.21% up to 31/12/2013 of recipients of forest land rights.

During the period before 2003, the provision of forest land rights to communities has not yet gained recognition by statutory law. The community has just only recently been

asserted as a legal entity over forest land management since the update/revision of the Law on Land in 2003 and the Law on Forest Protection and Development in 2004. The allocation of forest land to groups of families and clans are currently still being considered by the government via a draft regulation on forest co-management, co-use and co-benefits.





### Case study 3: Community Customary-Law Based Forestland Allocation in Simacai and Bat Xat districts, Lao Cai province

After years of working with indigenous ethnic minorities in Lao Cai, SPERI's expertise was recognized as they came together with Lao Cai provincial authorities to assist them in Community Customary-Law Based Forestland Allocation (CLFLA). Out of this collaboration SPERI developed a manual now being used for CLFLA across the province and by the province for the Payment for Forest Environmental Services (PFES) - a first in Vietnam.

Lao Cai is one of the remote mountainous provinces located in the Northwestern region of Vietnam, with the most distinctive cultural and ecological diversity. The province is home to 25 different indigenous ethnic groups, accounting for 64% of the population. The long-established traditions, practices and livelihoods of these indigenous ethnic minorities have always been closely attached to the forest and land.

For forest living ethnic minorities the forest and land are not only essential for agricultural production, for the gathering of forest fruits and other non-timber forest products, but, more importantly have great cultural and spiritual significance. They see the forests as nurturing and protecting their spiritual life, ensuring the cohesion of their families, clans and the community as a whole.

Over many years working and researching in Lao Cai we found that each indigenous minority community had established sacred forest areas. For the Nung, 'Dong Chu' and 'Dong Hau' forest, for the Thu Lao, 'Tang Dang May' forest and for the Hmong the 'Nao Long' forest. These sacred forests areas are a place for indigenous ethnic minorities to express their devotion and reverence towards the Forest Spirits that have given them the source of life. In arable land areas villagers have also set up altar-tables to worship the Land Spirit named 'Thu Ty' (both in Hmong and Nung languages), or



Tang Thu Ty' (Thu Lao language). At these altars they pray for protection of their lives, crops, animals, peace and happiness.

Although the community forests areas are relatively small and scattered, they have often provided not only basic needs such as food, firewood, medicine, and other resources but also maintained water sources for agriculture, raising fish and rice growing. Community forests are important recreational areas for local people, and provide a safe space to store indigenous wisdom and local ecological knowledge. Within the community forests, there are also special places for the practice of traditional culture such as the community ritual ceremony that makes a sacred connection between the villagers and their Natural Spirits.





A serious problem for ethnic minorities however is that these traditional community forest land areas are not yet recognized or valued by Statutory Law and as a consequence local communities have not been granted the rights over these areas. Not only that, most of the community forest land is under the control of Protection Forest Management Boards and Special-used Forest Management Boards.

In addition, many households in the region have not yet been granted any rights to use forest land. Without land, ethnic minorities cannot organize or plan their livelihoods or culture. Another serious issue is the overlapping of forest land areas that have been allocated causing boundary disputes between land users and managers. To add to the confusion there are glaring policy inconsistencies between the Natural Resources and the Environment Ministry (MoNRE) and Forestry/Agriculture and Rural Development Ministry, allowing loopholes for forest destruction, and limiting equality of access to forests and forest services for indigenous ethnic minorities.

From 2011-2013, the Social Policy Ecology Research Institute (SPERI) in collaboration with Lao Cai Provincial Department of Forestry (PDF), Simacai District People's Committee and other relevant functional offices (e.g. Office of Natural Resources and the Environment, and Office of Forests/Forestry) conducted research and implemented a pilot model on forest allocation. This model was associated with forestland allocation on the basis of respecting community customary law and engaged the participation of local villagers and community elders through the Joint Circular 07/TTLT/2011/MARD-MoNRE for Hmong families and communities in 8

villages of Lung Sui commune, Simacai district, Lao Cai province.

The cooperation program included: i) reviewing all the land boundaries, land users, and types of forest and forestland in the pilot communities in order to plan for present and future local socio-cultural-economic needs; ii) setting up a set of criteria and approaches to resolving overlapping boundaries of forestland management areas in villages; iii) planning methods of forestland allocation for different users; iv) implementing forest allocation associated with forestland allotment for villages as well as making a manual for community based forest land allocation in the context of Simacai in particular and Lao Cai in general; and v) strengthening the customary laws of communities via setting up community customary-law based regulations in forestland management after allocation.

The results from this are that six communities obtained 82.2 hectares of the 'Nao Long' and 'Thu Ty' spirit forest land. 224 households in 8 villages were also granted the rights to use over 284 hectares of productive forestland. The manual on CLFLA which outlines best practices from the pilot model in Lung Sui commune was summarized and published by the Lao Cai PDF jointly with SPERI. This manual has now been used extensively in forest land allocation across the province. Importantly, the Lung Sui commune pilot has become the first model that Lao Cai province used to implement the PFES at family and community level for the first time ever in Vietnam. Currently, the CLFLA is expanding in some other locations of Lao Cai province such as Ban Me and Sin Cheng communes in Simacai district, and Phin Ngan commune in Bat Xat district.

## Case study 4: Community based Forest Land Allocation case study in Bac Lang commune



In 2005 CIRUM began work in Bac Lang Commune, Dinh Lap District (the poorest District of Lang Son Province), where the local Dzao and Tay ethnic minorities were facing very serious issues. Conflicts over land were numerous, overlapping boundaries common and there was a highly unequal land area distribution. Some households were using more than 100 hectares whilst others had only one hectare or less, or even no land at all. The commune authorities were constantly deluged with complaint letters from villagers on forest land issues which they dutifully passed on to the District, but little action had been taken.

Two years later after CIRUM's intervention, every household had been allocated land, inequality had greatly diminished, with nearly every household having 20-30 ha, and a large portion of forest had been reserved for protection and use by the community.

Before CIRUM could help in allocation, we had to solve the myriad of conflicts. Some

early conflicts were a result of a 1960s resettlement programme which had moved Dzao people down from their former mountain homes to lowland areas occupied by Tay people. The Dzao weren't given enough land and, in any case, didn't know how to grow wet rice. Conflicts arose between the Tay and Dzao and were still continuing many years later.

Another early cause of conflicts were the outdated '364' administrative maps used to demarcate commune and state forest enterprise (SFE) boundaries. These maps were made at the time of the chaos of collectivization, not based on any surveys but made after a visit to the commune office 50 years ago. A typical example of a conflict caused by a map in Bac Lang was the case of Khe Pha village, where the 364 map showed the entire village, cultivation land and forest land within the boundaries of the land owned by the SFE. Other conflicts were related to the earlier 'Green Book' land management process or SFE contracts. In 2005 the chairman of



Bac Lang commune challenged CIRUM to resolve the Khe Pha problem as well as many other land conflicts, as during his lifetime he said he had seen no change.

Beginning at the end of the year, CIRUM resolved to take up the challenge, using our 'seven steps' methodology for resolving conflicts and allocating forest land (FLAP).<sup>4</sup>

The years of conflict and inaction from local government meant that CIRUM had a difficult task, as villagers were jaded from endless discussion and initially very reticent to take part. Nevertheless we persisted, in some villages having as many as 20 formal meetings, as well as countless informal meetings and discussions. Key to our methodology is the full participation of all stakeholders, including government and SFE and the establishment of a land council or consultant group. We usually take representatives of the District and the SFE with the local people to compare reality with the 364 map.

The land council or land consultant group (LCG) is set up at communal level with different stakeholders: communal leaders, mass organizations (fatherland front, farmers association, women's and youth unions) women's leaders, and elders or village leaders from the particular village being assessed. The LCG is the main decision making body throughout the process.

We contracted the Forest Inventory and Planning Institute, FIPI to assist in survey and mapping. The FLAP is based on land law 163 which allows allocation of forest land to individuals, households and organizations with a maximum 30 ha of forest land allocated per household for 50 years use.

For CIRUM a highlight of the Bac Lang process was solving nearly all (39 of 42) of the conflicts identified by using customary law and with the involvement of village elders. This enabled the requirements of statutory law to be met, as well as customary law. An example of this was when land was handed over from one household to another, sealed with a feast.

We were particularly happy with the dramatic increase in *community allocation* in Bac Lang with 2,047 of a total of 5,246 hectares allocated to the community. This kind of allocation can potentially address possible problems in the strategy of 'private-household allocation' which run counter to community and communal traditions in resource access, control and (re-)allocation.

We have learnt a lot from this FLAP process.

- FLAP takes time, resources, patience and passion. We estimate an average of a year and a half per commune to carry out necessary research, build trust and resolve conflicts. Once conflicts have been resolved and mapping agreed, then the formalities of allocation can go ahead.
- Those working in FLAP need to understand community development approaches, participatory research methodologies and the importance of understanding local culture. It is essential to ensure participation of all stakeholders and to have a good understanding of the history of land and forest law and relevant government programs.
- On research we found that one research effort pre-FLAP is insufficient, and that research during the process has to continue. We often found that the findings from initial research are too superficial, or even incorrect.

Today, villagers in Bac Lang appear satisfied with how land has been allocated, and complaint letters to the commune authorities on this issue are no longer received. The forest is regenerating and incomes have increased. People planted acacia on bare soil and in poor forest, and this has improved water retention, increasing rice production in lower areas. For an evaluation of process see the evaluation by Jun Borrás.<sup>5</sup>

<sup>4</sup> <http://cirum.org/detail/programmes/land-conflict-resolution-and-forest-land-allocation-programmes-802.html>

<sup>5</sup> Towards a Pro-Poor Forest Land (Re)Allocation Process in Vietnam, <http://land.net.vn/eng/tu-lieu.html>

## Case study 5: How to regain forest land for Nung ethnic minority in Ho Muoi as a model for lobby



In 2010 CIRUM began work in Ho Muoi village, Minh Son Commune, Huu Lung District, Lang Son Province with the local Nung and Tay ethnic minorities. At the time, almost all land in the commune was occupied by the SFE, and all the primary forests had been turned to bare hills or *eucalyptus* mono-plantations by them. There were a number of simmering disputes because as usual, the SFE had been awarded all the land cultivated traditionally by ethnic minorities living there.

We were interested working in Ho Muoi, as the Nung Hua clan had been living there for as long as anyone could remember, sustainably managing the forest. They didn't have a red book for this forest however, and many households were very poor, with on average only 0.3 ha of production land per household on which they survived. To regain their land, however, the SFE would have to give up some under its control.

There had been many complaints from local people over a long time to communal authorities but nothing had changed. The district also felt powerless because two of the SFE were under provincial control, and a Ministry of Rural Development vocational forestry school was also

occupying large tracts of land. Huu Lung was becoming known for conflicts between local people and SFE, with the stories occasionally reaching the national media.

Historically, there was a small protection forest area (Xoong protected forest) supposedly protecting water supplies, but that had been badly degraded by the SFE who had replanted the area with moisture sucking *eucalyptus* leaving the province to re-classify the area as production forest.

Our FLAP was successful. 38 ha were returned to 43 households and 22 ha were returned to the community to manage as watershed protection forest.

The highlight of the action was our success in building a firm consensus community-commune PC-district PC-NGO for the future management of land in the area, and the use of exchange visits to our models to build capacity and confidence. The models at HEPA and Son Kim commune were used to show district and provincial authorities on the leadership of the district, the possibilities of regeneration, and how to regain land from a SFE.

Remaining primary forest is being used as a wildling regeneration source for bare and degraded forest, and local regulations and protection are working well. The forest is growing and regenerating well.



## Case study 6: Community based forest and land allocation programme in Dong Thang



In 2010 CIRUM began work in Dong Thang Commune, Dinh Lap District Lang Son Province with local Dzao and Tay and San Chi ethnic minorities. This is a remote, thinly populated commune of 5,450 hectares, nearly all classified as forest land.

There were particular challenges here. The province had awarded the Thinh Loc Company with 1,627 hectares, including 1,073 of good 'protection' forest, the remaining being production land, mainly grazing, cultivation and some plantations. The company had been clearly failing to protect the good forest and not 'enriching' the degraded areas as it had proposed. Essentially their continued holding of this land after 24 months with no action meant they were in breach of the red book agreement.

To make matters worse, the company had been given 500 ha of local peoples' farmland by the province who, using inaccurate maps, apparently didn't realize the conflicts they had created.

Our FLAP ran from 2010 - 2012 following MARD and MONRE's inter-circular 07/2011. After two years' work, 284 household red books were issued covering

921 ha of production forest land. Communal red books were issued covering 2,024 ha of protection forest, including forest regarded as sacred by the ethnic minorities of the area.

For CIRUM a highlight of Dong Thang has been post FLAP sustainable management. Local people and authorities agreed regulations to protect the forest, and CIRUM and the commune authorities worked together to set up an herbal healers group to protect valuable species and the forest environment in which they live. People in this area will need to remain vigilant, however, and to be supported in challenging illegal logging or harvesting of non timber forest products (NTFP).

The existence of the company in the area remains a challenge. Despite continued complaints from local people in the commune, provincial and district authorities are not moving on the issue. Communal authorities have limited capacity to either speak out or take action. We recommend continued support for commune and local leaders to lobby to solve the Thinh Loc problem. We suggest exchange programs, training on policy and land law and management skills, followed by further training on meeting and memo skills.

## Case study 7: Co-management based protection forest and land allocation case study in Hoa Son

In 2012 CIRUM began work in Hoa Son Commune, Huu Lung District, Lang Son Province with the local Nung, Tay, Cao Lan and San Chi ethnic minorities. At that time there had been no land allocation processes, and the district was becoming known for conflict over forestland.

We saw the degradation of the Khuon Pinh protection forest area as particularly problematic. The protected area was vital in conserving water to supply one of the biggest reservoirs in Lang Son province, used for irrigating rice paddies. Unfortunately, the SFE together with local people had been cutting natural forest and replacing it with *eucalyptus*. Tuan Nguyet company (a sister company of Dong Thang's Thinh Loc company) had also been paying local villagers to hand over their cultivation plots located in the protected forest. This is curious, as it is illegal to buy and sell protection forest land, and because the local people selling land do not have any official land use rights, so they are simply handing over areas they use illegally.

Working closely with the district authorities, CIRUM carried out a FLAP allocating 453 hectares of forestland to households and 89 hectares to the community for management. CIRUM also successfully lobbied the district to issue an official letter to Hoa Son commune banning further planting of *eucalyptus* in the protection area. Hoa Son Commune Peoples Committee has regulated a forest protection group to manage and protect the forest from outside intrusion and damage from grazing animals.

A highlight for us is the consensus achieved between the DPC, CPC and CIRUM on re-forestation in the protection area with native species. This will start 2015 with replanting from community nurseries in LandNet members production forest land and at the same time in communal protection forest areas within the protected area.

An ongoing challenge is the relative attractiveness of the destructive *eucalyptus* as an income generating source compared to the more ecological *acacia*.





## Case study 8: Community Protection Forest and Land Allocation in Ho Moong commune, Sa Thay district, Kon Tum province, Central Highlands

In 2013 CIRUM completed a pilot community FLAP of 31 hectares in Ka Bay village, Ho Moong Commune, Sa Thay District, Kon Tum Province with the local Gia Rai ethnic minority. We followed this in 2014 with a community FLAP of 55 hectares for another three villages in the commune, Dak Vok, Dak Yo and Ko Tu. In the four villages, 826 households with 2,960 people have benefitted from this FLAP.

All the villages are resettlement villages constructed to house villagers displaced by the Plei Krong hydropower scheme in 2005. For the first three years after they were moved they lived on the small amount of compensation they had received and rice provided by the government. In their previous homes, they were really indigenous people, living on ancestral lands. In the resettlement villages, they are surrounded by government communal land, managed by the Commune Peoples Committee (CPC)

with only a tiny piece of land for their house.

As the resettlement scheme failed to provide any land for cultivation, villagers had been forced to clear commune forest land surrounding the water sources that supply their villages, badly damaging the quality and amount of water available to the villages.

Realizing their problems the leader of the CPC worked with villagers to set up a local LandNet and declare a protected area around the water sources. Although officially classified as 'production forest' by government, the people have declared these areas as protected areas. To cement these protected areas officially however requires red books to be issued by the district authorities, so the local LandNet requested CIRUM to assist.

There is much work still to be done, as the people are still hungry and lacking land.





## Case study 9: Community Forest and Land Allocation Case study in Sin Cheng commune

In 2014 CIRUM started work in 9 villages in Sin Cheng Commune, Simacai District, Lao Cai Province. The population of the commune is nearly 4,000, mostly H'Mong ethnic minority, with Nung, Thu Lao, and Tay making up the rest. The commune covers nearly 2000 hectares, 750 of which are classified as forest land, 380 ha as protected forest.

Sin Cheng is a very poor commune. No red books have been issued to households or communities here and people are left to scratch a living from very small plots. Land used by farmers has become degraded with the use of chemicals and is performing badly with poor yields. There is a growing fuel and heating wood crisis. The lion's share of land belongs to the Protection Forest Management Board (PFMB). Around a decade ago, the province, needing at least 5,000 ha to establish a PFMB, and to receive the benefits that go with it, 'paper-mapped' large areas including those being used by communities for gardening and agriculture, as plantations, or even where they were living.

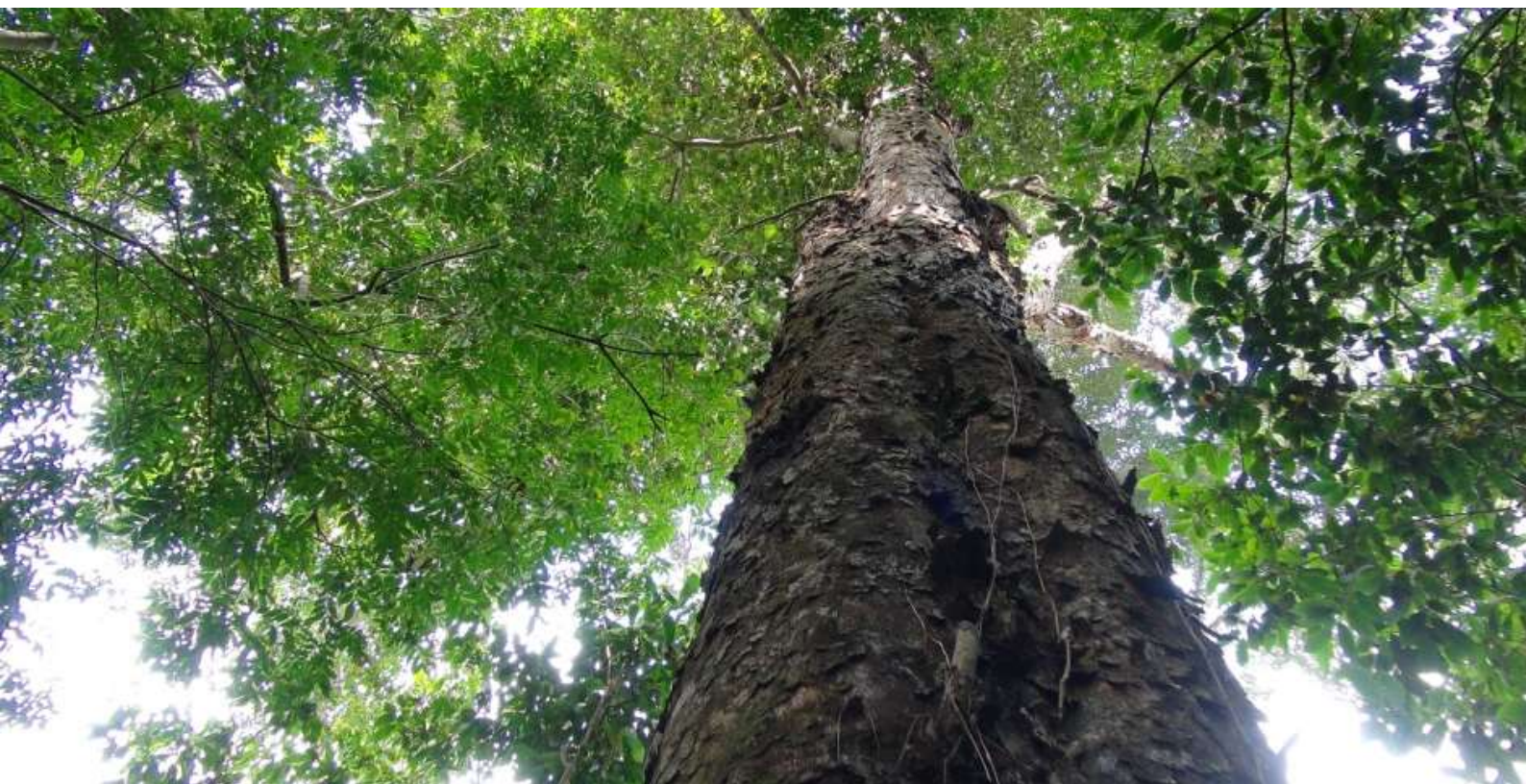
Nevertheless, people many continue as they did before - because they have to survive. Many are hungry, growing food on tiny plots, or indeed have no land at all. A

growing issue here is that many have planted trees for timber on land now owned by the PFMB. As the trees mature, naturally people wish to harvest their timber, but are not allowed to do so. Conflicts are erupting and will grow as the people are hungry and desperate.

Our FLAP process in Sin Cheng is nearing its conclusion. Our present mapping has found 31 ha of very good 'sacred' forest being preserved by communities and 190 ha of household land being used 250 households. These areas are in the final stages of approval for the issuing of red books.

On the positive side we see that the District Peoples Committee has realized the scale of the problem they are facing, and the need to reclassify land in order to help the landless and hungry.

In addition, contrary to many people's beliefs, the local people have shown they understand the value of preserving the forest and that it is important to leave forest to protect water and soil. Most urgently there needs to be a proper mapping of boundaries and land use together and a reclassification allowing farmers to protect forest and gain payments for this protection.





## Case study 10: Recognition of the rights of the Thai communities and households in Hanh Dich commune, Que Phong district, Nghe An province over their traditional forest land

**H**anh Dich is one of 14 communes in the mountainous regions of Que Phong district, Nghe An province. This commune has a total land area of approximately 18,026.24 hectares, in which forestland accounts for 89.7% (16,182.56 hectares).

The total population of Hanh Dich commune is 3,377 people across 748 households, most of whom are Tai (Thai) ethnic minority people residing in 11 villages. These include: Chieng, Pa Kim, Cham, Pa Co, Pom Om, Khom, Cham Put, Mut, Coong, Na Sai and Hua Muong. For many generations the forest and forestland have had meaningful values to the culture and life-practices of the Tai (Thai) people. Their livelihood has mainly come from growing wet rice and harvesting non-timber forest products.

Over the past decade, the forest and land in Que Phong district, particularly in Hanh Dich, have undergone many ups and downs, and so have the lives of the Tai people living there. According to the Tai tradition, land and forest in certain areas are owned and governed by the 'Tao' spirit (i.e. as a Landlord). Households own properties on agricultural land but these lands are largely self-claimed land. The communities have common forestland areas to serve the collective cultural practices such as ceremonies, funerals and worshipping the nature's spirits.

Since 1954, forest and land have been asserted to be owned by the State (i.e. as phrased and defined in the Constitution and Land Law - 'the People's Ownership') and the State is only a representative body to facilitate its management. Under this plan, the State has set up administrative mechanisms through the formation of Cooperatives and State Forestry Enterprises (SFEs) and Management Boards (MBs). "Although, since the 90s, the State has begun a policy of allocating/contracting forestland under which people and communities are eligible for recognition of the rights for forest and land use, a large area of forestland in Que

Phong district is still managed by state organizations such as MBs, SFEs and Voluntary Youth Division 7."

In 2003, Towards Ethnic Women (TEW) coordinated with local governments to implement a pilot project on community based forest land allocation to Tai (Thai) families in Hanh Dich under Degree 163/1999/ND-CP. Accordingly, 360 families, and 16 village organizations (e.g. Farmer's and Women Unions, Youth and Veteran Associations and Healers' Groups) in 10 villages have been temporarily allocated a total forest land area of 3,360 hectares. This initiative was exceptionally pioneering given that it was the first time that forest land had been allocated to local communities via village organizations, despite the fact that, at the time, the community was not recognized by law as a legal forest land entity.

During the period from 2011 to 2013, SPERI, LISO and local governments have conducted a pilot project on forest allocation associated with forestland allotment for Tai communities in Hanh Dich affected by Joint Circular 07/2011/TTLT/MARD-MoNRE.

Accordingly, the 5 communities including Chieng, Pa Kim, Pa Co, Pom Om and Khom have obtained their rights to use 613.66 hectares of the traditional forestland.

Most recently, according to Decision No. 340/QD-People's Committee of Nghe An Province dated January 24, 2013, almost all of the forestland in Que Phong district (90,741.1 hectares) was declared to be reallocated the Pu Hoat Nature Reserve. This planned Nature Reserve would take over the entire forestland that has been allocated to families and communities in Que Phong district. Additionally, an expansion of rubber plantations in Que Phong district has been conducted by the Nghe An Equity Investment for Rubber Development in accordance with Decision 4081/QD issued by Nghe An provincial People's Committee dated 13/9/2013. This certain encroachment of rubber plants onto community forestland areas has

already begun to create another critical challenge not only for family and community forest land, but also of livelihood security of the local people. Given these challenges, SPERI and LISO are continuing their effort and engagement

to support key farmers and LandNet to approach and negotiate with local governments and companies to secure livelihood sovereignty resources as forest and land of the Tai (Thai) people.





## Case study 11: Forestland rights and the Truong Son forestry cooperative in Son Kim commune, Huong Son district, Ha Tinh province

**S**on Kim is a mountainous commune, in the Northwest part of Huong Son district, Ha Tinh province. The commune is mainly home to ethnic Kinh (Vietnamese) people and some Laos's residents.

As mountain dwellers, the livelihood of these people in Son Kim relies mainly on land and forest. However, in the period before 2000, despite residing in a quite large land area - about 43,255.48 hectares - Son Kim dwellers faced a heavy shortage of productive land. It is estimated that each person only had access to about 0.62 hectares including farm-land, forest land and residential land. Households in the commune had not been granted certificates of forestland use rights either.

Meanwhile, State organizations located in the region were allocated with a significantly large area of forest and forestland. These resources were allocated mainly for exploitation, commercial purposes, and/or tight control of State-based resources management scheme such as the Huong Son Forestry and Services Limited Company (27,617.1 hectares), Vu Quang Nature Reserve (78,140 hectares), Military Economic Cooperation Division 4 (1,960 hectares) and Tay Son Tea Factory (970 hectares). These were legitimate uses, according to the Vietnamese legal framework, in terms of national regulation of land and forest resources through a system of State Agro-Forestry Enterprises since 1945, and followed the Decree No. 02/1994/CP on the allocation of forestland to households, individuals and organizations. As a consequence, people in Son Kim were faced with poverty, with 30% of the population worked as couriers for smugglers in the Cau Treo international border gate. Forest resources have been

quickly depleted due to overexploitation by the above organizations, and through illegal logging.

In 2001, Towards Ethnic Women - TEW (an organization which has since merged into SPERI) collaborated with local community and local government to implement a pilot project on "Capacity empowerment for the Son Kim commune in management and use of natural resources" which focused on allocating forest land use rights to households in accordance with Decree 163/1999/CP. As a result, 874 households were granted with use rights over 3,613.74 hectares of forest and forestland.

After the allotment, 59 families in Son Kim 1 commune have further voluntarily collaborated to establish the Truong Son Forestry Cooperative, which collectively manages 1,161.44 hectares of forest and forestland. The entire area consists of shares from family members who have adjacent forestlands and jointly manage the entire property together. This cooperative area is also divided into two main ecological and economic productive zones. Two thirds of the forest and forestland uphill are strictly managed. The remained foothill is assigned to member families for developing agro-forestry farms. These farms act as the "live green belts" to protect the entire forest area uphill of the Cooperative.

The Truong Son Forestry Cooperative has operated effectively to date, and provides a model for best practices for many communities in Ha Tinh, and other provinces like Lang Son and Quang Binh, to replicate. Currently, the Cooperative is an on-site study space for students and researchers from the Farmer's Field School Human Ecology Practice Area, facilitated by SPERI.

## Case study 12: Forestland rights for poverty alleviation in Tuyen Hoa, Minh Hoa and Bo Trach districts, Quang Binh province



Tuyen Hoa, Minh Hoa and Bo Trach districts of Quang Binh province are the traditional lands of many indigenous ethnic groups such as the Sach, Ruc, Ma Lieng, Nguon, May, Arem, Macong and Kinh. Villages of these groups are scattered mostly along the Truong Son mountain range, along the border area between Vietnam and Laos PDR. These include the Dan Hoa, Thuong Hoa, and Hoa Son communes of Minh Hoa district; Lam Hoa commune of Tuyen Hoa district and Tan Trach and Thuong Trach communes of Bo Trach district. Their livelihoods and traditional cultural practices mainly depend upon forest and land. In particular, groups like the Ma Lieng and Ruc people still regularly follow traditional practices in hunting and gathering.

Quang Binh is a province known for enduring most extreme natural disasters. In addition, the destructive interventions of the American War, such as spreading of Agent Orange, have had many consequences for the lives and daily activities of people in the province.

As is the case in many locations across the country, most forest and forestland

resources in the aforementioned districts have been managed by State Forestry Enterprises for a long time, often through subsidized government programs like Program 327 - Greening the Barren Land. However, many local people, individual families and ethnic minority households have not yet been allocated forest land for Agro-Forestry production or resolved land rights claims. Additionally, due to mismanagement and unregulated timber extraction that has rapidly occurred from 1980-2000, the forests under the management of State Forestry Enterprises have been seriously depleted.

Since 1997, the Towards Ethnic Women (TEW) and, later, its independent branch organization, the 'Center for Indigenous Knowledge Research and Development' (CIRD) collaborated with local partners to implement pilot projects in poverty alleviation and community development. Its first priority was to secure forest land rights for households, particularly indigenous ethnic minorities' households in 13 communes of Tuyen Hoa, Minh Hoa and Bo Trach district, Quang Binh province.



From 1998 to 2001, with the support and advice of TEW, local governments have implemented pilot projects on granting forest land rights to households and community organizations in Ngu Hoa and Lam Hoa commune (Tuyen Hoa district), Hoa Phuc commune (Minh Hoa district) and Xuan Trach commune (Bo Trach district).

The approach of the project was to focus on studies and respect the ethnic identity and cultural value of the customary law and local indigenous knowledge of local communities in the forest land survey, mapping, land use planning, and especially resolving land conflicts by respecting and encouraging the voices and experiences of Village Elders Council. Land use planning was conducted in accordance with the specific local landscape patterns, local cultural conditions and economic status of each community.

As a result, 413 households and 13 community organizations of youth, women, farmers and veterans in 21/22 villages were granted with the rights to use and manage over 5,350 hectares of agricultural and forest land. Land and forest rights are the foundation for establishing and developing a wide range of Interest Groups (gardening, animal husbandry, savings and credit) at the village, commune, inter-communal and district levels. These initiatives were derived from working with and learning from the grassroots level of TEW/CIRD. These Interest Group activities and ways of working have contributed significantly to help local families escape from poverty and improve their living conditions, while the forest and land resources have been managed and used much more efficiently.

## **The Interest Groups in forest management and development in Cao Quang commune.**

As with many other locations in Quang Binh province, 90% of the forest land (over 10,750 hectares) of Cao Quang commune, Tuyen Hoa district was managed by Cao Quang Forestry Enterprise, a subsidiary of the Northern Quang Binh Industrial Forestry Company. During this time, the people in the commune depended upon land and forest resources as a major source of their livelihood. To ensure livelihood, with almost no other choices, the people in the commune had to encroach and exploit the forest and land within the Enterprise area, resulting into social conflicts, land disputes and thus a continuous decline of available forest resources.

In 2008, after eight years of support and lobbying of TEW/CIRD with local governments, the People's Committee of Quang Binh province officially withdrew 10,750.26 ha of forest land from the Cao Quang Forestry Enterprise to reallocate to 531 households in Cao Quang commune.

To support each other in management of the forest-land, households who were allocated adjoining forest-land voluntarily organized themselves into 18 groups with similar interests, namely interest groups in forest land management and development. The initiation of these interest groups was considered to be a most incredible and wonderful grassroots initiative. As of 2012, these interest groups have planted acacia trees on more than 933 hectares of barren land, which has contributed to an increase of forest cover from 75% in 2005 to 90% in 2012. This planted forest area has also been harvested and contributes to improving economic income for families, with about 31 million VND per hectare. This initiative has now expanded to other localities inside and outside Quang Binh province.

## Case study 13: Resources rights of indigenous ethnic groups for sustainable development in the Central Highlands regions



The Central Highlands region is the native habitat of numerous indigenous ethnic groups such as Gia Rai, Ede, Ba Na, Xo Dang, Co Ho, M'nong, Ra Glai, Gia Trieng, Ma, Chu Ru, Brau and Ro Mam communities. In the perception of these groups, 'forest' is viewed equally to 'land and their home'. The same viewing is applied for land. Forest and land are the two owned by 'Buon' or 'Lang', meaning that of the entire community (property) or village (ownership). Forest and land are only governed by the supervision of the 'Yang' i.e. as the Sky God and each ethnic community's customary law governance system, often headed by the village Elder's Council. A village would only be formed when it owns four types of resources, including: residential land, rotated cultivation land, community usage forest and the sacred forests.

In the decades after 1975, various development policies for the Central Highlands were underwent, for instance: expansion of commercial crops, establishment of State Agro-forestry Enterprises, mobilization of Northern Vietnam lowland farmers to migrate

upland for building new economic zones, and thus reclamation and started commercial farming. Followed on, national larger-scale 'development' programs on economic development such as building hydro-power dams, hydroelectric power, and extractive mining have caused significantly changes to natural resources landscapes, demographic movement, culture and livelihoods changes. Many of the changes have also been very detrimental to the indigenous ethnic groups in the Region.

Millions of hectares of natural forests and forestland have been converted into commercial plantations in the period from 1995 to 2012. Living and cultural spaces of the indigenous ethnic groups have been shrunken. In many places, the sacred forests - which are the most essential but core value-linkages between their lives and the nature surrounding them, where indigenous ethnic groups often and annually organize ritual ceremonies to worship Nature's spirits, especially the 'Yang' (the Sky God) - have been virtually disappeared (CODE 2014).

The Central Highlands has the largest areas of forest and forestland, in which has also had the highest proportion of indigenous ethnic minorities nationally. Nevertheless, the speed and rate of forestland needed urgently to allocate to households and ethnic communities are shown the most slowest and lowest. By the end of 2012, the entire Central Highlands Region has only had 11,353 households (1.5%) assigned to use and manage about 71.7 thousand ha of forest land (2.55%) of the total forest and forestland area in the Region. In addition, allocation and recognition of forest land to be distributed to local communities has just only been taken place since 2010. As a result, only 51/2460 villages (2.1%) were allocated with an area of about 26.1 thousand ha of forest land (equivalent to only 0.96%) (CODE 2014).

From the mid 1990s until now, the LISO Alliance has implemented applied



researches as well as community development projects, especially targeting the resources rights of indigenous ethnic communities to land and forest resources. In the 1997-1998, TEW (the former organization merged into SPERI) supported local authorities and local communities to conduct a pilot on forest land allocation for Gia Rai and M'nong households in Nghia Hoa commune, Chu Pah district, Gia Lai province, with a total area of more than 300 ha. Later-on, the Consultancy on Development Institute (CODE, a lobbying/advocacy unit/department under SPERI grown up into an independent institute) has conducted a series of policy researches and consultancies on resettlement projects largely by impacts from hydro-power dams and bauxite mining towards sustainable development for the Central Highlands Region.

In 2013, CIRUM (a member organization of the LISO Alliance) in collaboration with the Kon Tum Science and Technology Association, Sa Thay District People's Committee and relevant functional agencies and local community conducted a pilot on forest allocation associated with forestland allotment for the Gia Rai community in Ka Bay village, Ho Moong commune in accordance with the Joint Circular 07/MARD-MoNRE (2011).

As a result, the Gia Rai indigenous ethnic community in Ka Bay village has been granted the forest land use rights title/certificate to manage 30.8 ha of forestland including 22.8 ha of protected forest and 8 ha of spirit/sacred forest. This effort brought about the assertion/recognition of the exclusive rights of the Gia Rai ethnic people in Ka Bay to their traditional domain, but more importantly the ensure of the continuity of having access to their livelihoods needs and cultural spiritual identity spaces within the resettled area.

Although this pilot was implemented in a small scale, but this is the first initiative in Kon Tum province with regards to granting/recognizing the forestland access, use, and management rights to local communities, especially indigenous ethnic group(s). This initiative was started and built from the efforts and lessons learned from other pilot projects consulted by LISO regarding forestland allocation to local ethnic communities.

Currently, with the further facilitation by LISO, the model on forest allocation associated with forestland allotment for local communities has already been taken to expand by local governments and local communities to replicate in other localities in Sa Thay and Kon Plong districts, Kon Tum province.

## Case study 14: Counter-mapping for customary forestland rights and community governance

Long Lan village is located in the 'Phu Sung' watershed area, 40km Northeast of Luang Prabang City, Luang Prabang Province, Lao PDR. The village is home to 73 households (524 people) of the White Hmong. They consist of six different clans: Zang, Ly, Tho, Mua, Ho and Vang.

Long Lan village has been studied recently as an area with the richest and most beautiful natural forests remaining in the Luang Prabang province. This is largely thanks to the ongoing collective efforts of the Hmong community and their great capacity for strong leadership, customary law governance, local ecological knowledge and notably realized recognition of the official/legal system for community governance of Long Lan traditional forest land. This has also been achieved partly due to the longstanding participatory rights-based approaches that CHESH-Laos (one of the former organizations merged into SPERI) has used together with the Long Lan villagers

and co-facilitated to ensure its implementation from 1999 until now.

Like many other upland-dwelling indigenous ethnic minorities in the Northern Lao DPR, the livelihood practices of the Hmong people in Long Lan area have primarily depended upon forest and land resources; in some areas they have used slash-burn cultivation, and in the past, have grown opium as a cash crop and raised cattle. However, in the year 2000, the Lao government issued a policy to ban slash-burn cultivation and stop opium growing. This policy ban presented Long Lan villagers with an emerging challenge of how to quickly respond and find an alternative means of food production and cash income. Additional challenges came through pressures upon their forest and land resources largely demanded from external interests. This included illegal encroachment behavior of others coming into Long Lan to search for commercial opportunities from the land and the forest. In certain cases there were agents from neighboring villages also arriving.





## **Customary-based land and forest allocation**

From 2002-2005, the CHESH Lao office supported and worked together with Long Lan village to conduct forest and land allocation with considerations to maximize their community customary law and their local ecological knowledge. During the entire process, Long Lan villagers were the main decision makers in determining the land use boundaries and conflict resolution. The provincial and district officials only provided certain technical services for transferring the received data onto maps and calculating the size of the various planned areas.

The process also integrated and embraced the mutual adaptation of customary and statutory laws, scientific and traditional spiritual values, and also technical and local knowledge, in order to complete a land and forest allocation plan which aimed at forest conservation but also development. This plan was accepted by state and different village sectors i.e. women, youth, etc. and also those from the surrounding 12 villages.

As a result, this customary-based forest and land allocation plan in Long Lan fit the villagers' many essential spiritual and practical perceptions, and practices of local land use were standardized into categories of state forestry law. An area totaling 8,534 ha was legally allocated to Long Lan village. The statutory categories were retained, and at the same time, certain parts were adapted to fit with the customary and local practices, thereby producing a different set of boundaries which would further support the spiritual practices and practical needs of the Long Lan people. The entire area included 5,034 ha of forest land, divided into 1,137 ha of preserved forest, 2,888 ha of protected forest, and 1,099 ha of production forest. There were also 3,399 ha of agricultural land allocated to families, including 1,812 ha for cultivation and 1,587 ha for livestock.

These lessons from Long Lan village were later applied to neighboring villages in the 'Phu Sung' watershed area. During from 2010-2013, under the facilitation and support of CHESH Lao with a similar approach i.e. customary-based land and

forest allocation, communities of the Khmu, Hmong, and Lao Lum ethnic minority groups in the Densavang, Phonsavat and Nasamphan villages were granted titles for over 2,200 ha of their traditional domains.

## **Legalization of customary law for the Hmong in Long Lan**

This was the first time, happened in 2005, in Lao PDR that forest land use regulations produced by a village based on their own customary law were certified by District authorities. The careful step by step, negotiating and inclusive processes were particularly essential for obtaining the agreement and consensus of both the authorities and the 12 surrounding villages. The most difficult step was obtaining the District authorities' initial approval for customary regulations of the communities, as in many instances customary rules differed from what were prescribed in the statutory law. Under the law, for example, people are free to cultivate any type of crop on production land, but under the Long Lan regulations the type of crops they could cultivate were often needed to be clearly defined. According to the state law, land should also not be left fallow for a long time; yet, for Long Lan community, regulations would allow land to be left rested for a sufficient time to regain its fertility and energy (from Long Lan villagers viewpoints).

## **The 'No Song' traditional institution and customary law network on forest protection in the 'Phu Sung' watershed area**

Substantial challenges to the conservation of the Long Lan forest still remain, particularly from private companies which often want to grab forest land for the purpose of cash crop plantations (i.e. coffee and rubber) and also from surrounding villages whose own forest land has already been degraded and, in some cases, who are short of land for cultivation. As their needs for firewood and housing construction increase, and as many areas of agricultural land are converted to expanding rubber plantations, these nearby villages are pressured to

move deeper into the forest areas of Long Lan to search for land for cultivation.

The first solution of Long Lan village to these pressures was to organize a traditional 'No Song' ceremony in 2009. This was a unique Hmong ritual/collective strength/community vow ceremony where representatives of Hmong society in a particular area assemble to discuss and decide adjustments to their customary laws governing cultural identity, community governance, and natural resource management. 'No Song' means 'community sharing food and commitment'. The Long Lan 'No Song' ceremony constituted a revival of this custom after 30 years of abeyance. It attracted an attendance of Hmong from all 25 villages in the Luang Prabang district, government officials, academics, intellectuals, and media alike - possibly even including Hmong identities from several countries like Thailand and Vietnam. It was a way of establishing the social and political status of Long Lan customary law as the governing instrument of forest protection in Long Lan.

The second solution to address pressures upon Long Lan forest resources was the creation of several models of sustainable sloping land agriculture (such as ecological vegetable growing, herbal medicine and traditional handicraft revival) in order to improve living conditions, increase income and reduce pressure on the forests. In this respect, Long Lan has been especially effective and stands out as a model of economic innovation for

surrounding villages to learn from, especially for growing ecological vegetables under forest canopy.

The third solution is that Long Lan has initiated the creation of a customary law network amongst the 12 villages in the 'Phu Sung' watershed area for forest management only. Forest management teams were then set up to regularly patrol and protect the forest. Long Lan village, and later the space at Long Lan farmer field school, is also being developed as a live forum for policy makers, government authorities, development workers, researchers and media interested in the connection and observation of a real model of integration between cultural, tradition and sustainable natural resource management.

### **Long Lan community based farmer field school**

In 2012, under the guidance and support of SPERI, Long Lan continued work in further establishing a Farmer Field School - A Regional Model for Sustainable Community Co-Management of Natural Resources. The school will combine the Long Lan model of community resilience with the appropriate application of low-impact, high-yield sustainable production based on tropical forest farming principles. The school will act as the focus for the creation and expansion of a self-sustaining, resilient, community-led (facilitated by Community Elders, Key Farmers and Youth Leaders) and inter-community network.





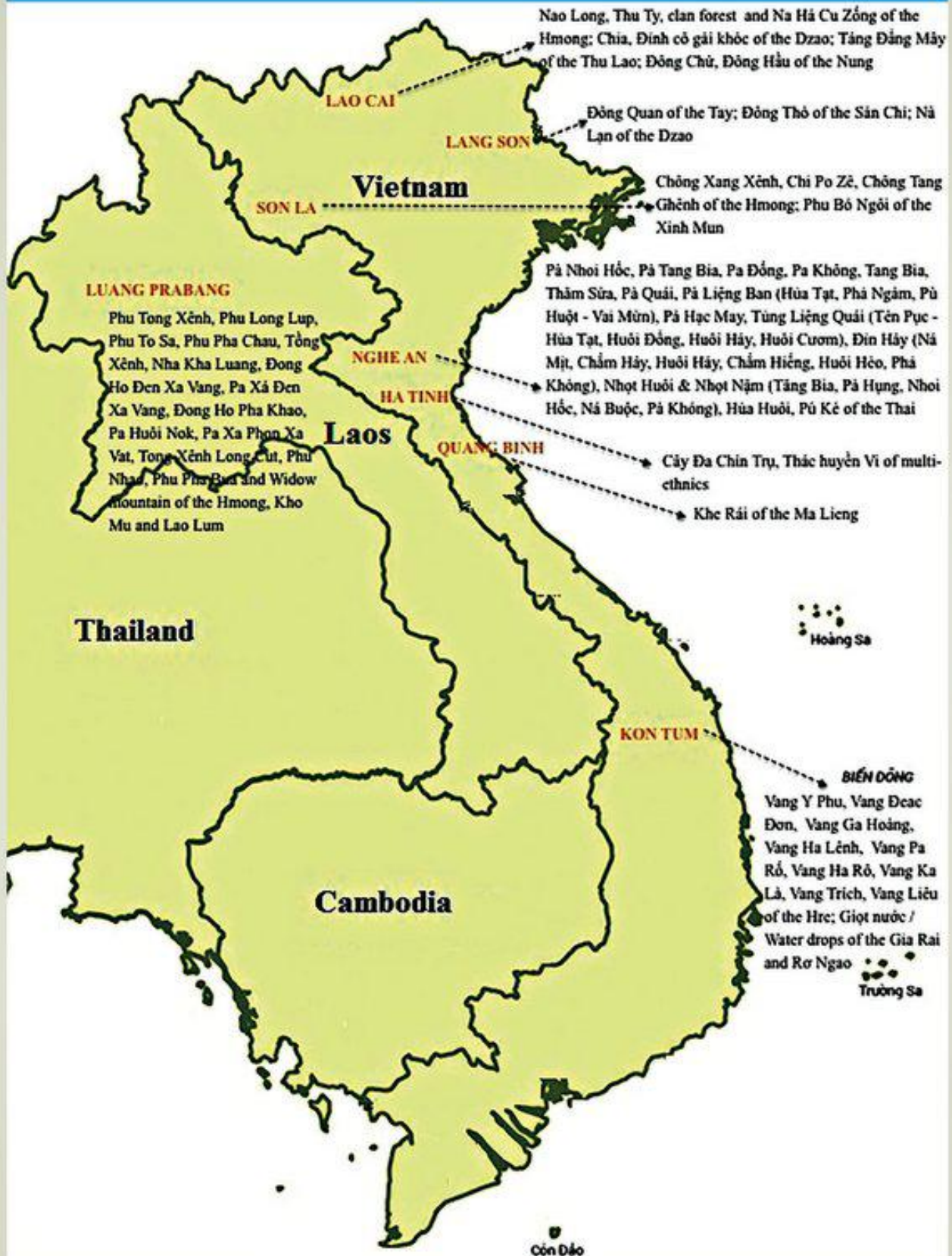
# Map of community spirit forestland



**C**ommunity spirit forestland is space in which villagers practice and maintain their religious values toward natural spirits via traditional rituals. This land has been recognized over many generations as owned by the whole community and its management and protection is closely associated with the traditional practices and ideologies of the community, the roles of elderly and prestigious people and clan heads who voluntarily implement its management.

In addition to its spiritual purpose, this forestland provides resources to ensure the livelihood of households in the community for living, cultivating, housing, firewood, herbal medicines and food. In minds of villagers these community forestland areas have always belonged to them and were transferred to them by their previous generations. Yet local communities still lack of rights under the law to manage and use these forestland areas.

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