

"The community of ethnic minorities floating on the river of state agro-forestry enterprise renovation".

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1. Introduction

For thousands of years, generation after generation, members of the ethnic minorities¹ (henceforth referred to as ‘the Community’) in Vietnam have assiduously taught their descendants the need to treat the forest as properly as they take care of the elders who hold their Community’s positions of influence and prestige. And this is despite the fact that the Community’s way of naming the forest² differs from the official scientific designation³ that has been formalised by the government in legal documents.

If the government designates “special-use forests” and sets up “National Park management” state machinery to protect those “special-use forests” with a considerably large annual budget to maintain the administration of subsidised living standards and infrastructure for salaried cadres to carry out the maintenance of Nature’s biologically diverse gene pools, then the Community refers to the “spiritual forest” and the autonomous communal establishment of a system of unwritten institutions which stem from their belief in the omnipotent Spirits of the “spiritual forest”. This system of Communal institutions adapts, selects and transmits, from one generation to the next, a standard of behaviour towards Nature for people’s productive activities and for forest living. Each minority ethnic group has a different name for the “spiritual forest” in accordance with their exposition about the forest’s supreme and mysterious powers in terms of their own language and customs.

The Community consider the “spiritual forest” as an arrangement by Nature to assist and protect all living beings, enabling them to exist and behave amicably in the forest. And humans may not take liberty in disposing things according to their whim, as they must seek permission from the Spirits before interfering with the “spiritual forest”.

A number of the Hmong groups call spiritual forests “Nao Long forests” and when in a “Nao Long forest”, even if they find themselves inadvertently having to perform bodily functions, they would feel guilty towards the Spirit (*from statements by Elder Hoang Seo Cau, Can Ho village, Elder Hoang Seo Nha, Can Cau village, Elder Hoang Seo Hang, Pho Cu hamlet, Simacai canton, Lao Cai province, Elder Khay Xu Zang, Long Lan mountain commune, Luang Phrabang canton, Luang Phrabang province, Lao at the “Southern Medicine Network in Community Health Care and Protection of Multicultural Bio-diversity Capital of the MECO-ECOTRA⁴ Network at the Training School for Young Eco-farmers, HEPA, August 2004).*

¹ Peoples of ethnic minorities henceforth = Community

² The Hmong have names such as Tong Xanh, Tu Thi, Nao Long; the Khmu, ‘Lieng phi ho’... These names are inextricably linked to their beliefs towards the forest (its intangible values).

³ The Government nominates ‘special-use’ forests, ‘protective’ forests, or ‘productive’ ones. Thus the forests’ material values are (on tangible bases) economically utilitarian.

⁴ MECO-ECOTRA = Mekong Community Networking and Ecological Trading – a veteran partner of SPERI

Another Hmong group call a spiritual forest the “Tong Xenh forest”, and similarly with “Nao Long forests”, they cannot bring themselves to pollute the forest within the “Tong Xenh forest” domain with their bodily wastes (*From Elder Thao A Zua, of Maesamai mountain commune, Chiangmai canton, Chiangmai province, Thailand, “Settling Forest and Land Disputes based on Customary Laws” conference, Luang Phrabang, October 2009*).

The Khmu group call the forest “Lieng Piho”, and they also hold their swearing ceremony at an assembly in the forest under the auspices of Lieng Piho Spirit (*Elder Thong Phay explaining the Lieng Piho offering rituals at the elders’ meeting during the Long Lan forest commune’s swearing ceremony in October 2009*).

If the Government designates “Protective Forests” and sets up “upland protective forest management committees” with enormous budgets from the taxpayers’ money to be spent on totally subsidised protection management activities modelled after “National parks”, then the Community call these forests “ancestral traditional forests”. These forests are guarded, protected and restored according to the particular manner of each lineage/clan through offering ceremonies from different generations and age groups within the lineage, and for each particular season in the year. The Community believe the Spirits in “lineage forests” help families of the clan with the source of water for their fields and gardens, for terrace rice growing and with daily living activities.

Studies by the Social Policy Ecology Research Institute (SPERI) towards the end of the 20th century and the first decade of this century have revealed fundamental differences, in specific characteristics of philosophy and solutions to the treatment and nurture of forests, between the Community’s practice and the Vietnamese government’s policy as well as its implementation.

The Community treats and nurtures the forest in accordance with their faith and a system of customary laws which has been formed through voluntary participation, passed on orally from one generation to the next, and has grown into a set of religious beliefs. They practice these beliefs through productive work in the process of bonding with the forest. The forest is where their livelihood and control over their livelihood are ensured, and where religious values, knowledge and experiences of the Community are nurtured in the process of companionable association with the forest. The forest is a free space for the Community’s creativity, and the source of inspiration which enables the Community to adapt and grow over time and throughout the economic, social, cultural and religious developmental history of the Community.

The forest is an instructive and nurturing environment for the people’s nature-centred and Community-centred worldviews. The Community see the forest as their mother, Heaven (Giàng) as their father, as the birthplace of people and all living beings. The Community worships the forest, nurtures Nature⁵ in all their daily activities – when they step into the fields,

⁵ ‘Nurturing Nature is a traditional, noble and civilized belief and system of behaviour in the genial relationship between humans and Nature. We can appreciate this noble behaviour through the ethnic minority people’s everyday life activities in the Mekong basin. Nurturing Nature is a belief system of the minority indigenous peoples that need to be equally recognized and understood as other belief systems.’ Tran Thi Lanh, 1992.

prepare their backpacks, go down the mountain, or construct their homes. The Community regard the forest and the land as supreme powers, which cannot be possessed by anybody in particular.⁶ Is not this concept of forest and land almost identical with what has been laid down in the Socialist Republic of Vietnam's Constitution: *'The land belongs to all the people, the Government as representative of the people centrally regulates its management'*? Regrettably many have perceived these customary laws and belief systems as out-dated customs and superstition, anti-scientific and needing to be eliminated!

Precisely because of lack of research, and due to subjective condemnation by a number of scientists and policy makers, a series of mistakes have been made in dealing with the Community since 1975. There has been treatment that led to counter-productive responses on many cultural, social, economic and religious fronts on the part of the forest-dwelling Community. *(Displacing people from the forest, stripping them of their daily livelihood in favour of the companies – From analysis of research at Truong Son Village, Quang Ninh, Quang Binh, ethnic minority member Van Kieu)*

Some scientists, political leaders and businessmen maintain that the forest is an economic support base (the purely profitable part of the forest) in their intention to mould and form a system of planned uses of the people's common property, which is forest and land. This formation is warranted by particular scientific and legal notions of management and exploitation of forests, notions that are fundamentally alien to the Community's customary law and local knowledge system. These policies are completely insensitive to the forest and the land, under the assumption that protecting and developing forests are the duties of state organisations and state-run companies. Numerous government documents have been churned out, ruling on the establishment of national parks, conservation areas, protective forests, and billions of dong of taxpayers' money have been spent by the government on the reforestation of many million hectares of forests under devastation and at risk of serious degradation. *Notably absent in all these documents, however, is any mention of the Community, effectively precluding the Community's participation in policy debates, from implementation to supervision and evaluation of forest policy outcome!*

Many programs have forced the ejection and dispersal of the Communities from their jungle birthplaces in the interest of economic profiteering of the Companies, by dint of accusing the Community's worship and nurture of the forests as superstitious and backward practices!

The two ideas concerning the forest – one, held by Communities dwelling in the forest over generations, is understood as a place where the Community entrusts, nourishes and conducts their material, cultural, religious and spiritual life, and the other, as held by policy makers, is an forestry economics notion, and by managers of state-run forest farms as purely profit-making economic property. These two ideas tend to diverge further day by day and create

⁶ The Constitution of the Socialist Republic of Vietnam stipulates that "The land belongs to all the people". Does this not indicate the ethnic minorities piously adhere to the Constitution?

multi-level differentiation in daily life, in social relations and in viewpoints on harmonious development.

In the formulation of a series of ‘Renovation’ (Đổi Mới) policies since the period of 1986-1999 up to now, there has been no reference whatsoever, with regard to forests and forest land, to the rights to manage and co-manage, or the obligation to take responsibility and share the responsibility of protecting and developing forests between the Community, the local populace and the managers of State forest enterprise and companies ancillary to State forest enterprise. This is the mistake stemming from system-bound thinking and an attitude pertaining to the less-than-transparent legislative and executive processes of a government lacking faith in its people. This kind of thinking and attitude has fostered cover-ups and the danger of losing trust between the people and their government, and continues to do so. Our ancestors have a saying: ‘Losing Money is like letting property walk away instead of people, in other words, it is no loss; losing Sympathy is losing one half, but losing Trust is losing everything.’

To live in absence of mutual trust between the People and the Government is to live without Peace, without Security, in Inequality and Meaninglessness. The result will be a life in an Inhumane society.

People’s indifference to the Government, and a Government not fully trusting the People would amount to an enormous loss to the nation.

In reality, there has already been no genuine feelings between the people and many government officials at places, and over time this situation will multiply if the Government still cannot find a sufficiently strong resolve to overcome itself, its own past and current mistakes, in order to recover the solidarity of those bygone years of common cause with the patriotic Community. Solidarity born from the shared experience of struggle for national independence that has become the source of pride all over the world, will not only waste away for good but will also definitely bring down disaster upon the next generation and beyond who are left to pay for its consequences. ‘The Ethical way ultimately manifests in the people being settled and at peace’!

The people, especially over fifteen million members of our ethnic minority peoples who have since antiquity been attached to the forests, ancestral lands and displayed steadfast loyalty to the Government throughout the tragic bloody wars, today have to face their forests, ancestral lands and also the Government’s image and prestige being deliberately perverted by numerous cadres, farm managers, individuals and companies who abuse power and wantonly appropriate property, embed deceitful wording in documents for ruthless profiteering, hook up collusion chains and extract private gains from the Community’s forests and land by force of Government policy and decrees. (Research by Thinh Loc Co. in Đông Thang and Tan Nguyet Co. in Huu Lung).

The Community have lost the rights to worship and nurture Nature, the space for living and practising the way they endeavour to meet daily material and spiritual needs. The Community suffers disorientation and crisis, and has succumbed to total dependency. After many years being set adrift on the river of sedentary farming policies, re-settlement policies,

of new-cultural-villages and shining-culture-points policies, both the Community and the local populace have become slaves to the managers of State-run Forest farms and companies that are directly affiliated to the Forest farms. (Research at Ba Vi village, Ba Vi National Park)

Nature in Vietnam degrades day by day in its bio-diversity and unique scenic heritage places that could hardly be restored given centuries to do so, even with millions or trillions of dong.

The Vietnamese government will have to face the danger of ‘self-inflicted exile from its people’s hearts’. The national development policy has left so much resentment and misery in its wake. The inter-generational warranted basis for human dignity, national self-respect, solidarity and mutual trust in society will be eroded over time, because the forest and land being common public property, which is centrally managed by the state, have not been *equitably and ethically distributed* as it should be by a ‘government of the people, by the people and for the people’.

Leadership strategy and the ‘of the people, by the people and for the people’ mission, and for a Vietnamese society where “the responsibilities and rights between the People, Community, State organisations and Companies”, have not been manifested in action, nor realized with good will and made transparent by the minds and hearts of those in leadership positions – but have resulted in signatures⁷ that enforce the corrupt abuse of power in documents that take advantage of influential positions. Thus, they have condemned to death the livelihood of thousands of forest-dwellers, who have taken on themselves voluntarily the responsibility of nurturing old-growth and younger forests without the need for any revolution. This is a sad outcome indeed for both the people and the government.

Another revolution that must take place, however, is one which necessarily follows the inexorable law of survival: “A banked up stream will burst through,” in order to achieve harmonious development. *Just look at those high officials / Pens in their hands sharper than swords / Their pockets bulge with political prowess / Wine and songs by night / And State affairs the next day...*⁸ One would have thought this phenomenon happened only in the distant past, but it has revived itself in full vigour today.

Why is there a fundamental difference in the rights and attitudes towards forests between the Community and the Government? 2. How is this fundamental difference manifested and illustrated daily in forest regions? (See details at Lũng Sán hamlet research location, Lũng Sui village, with clear practical evidence brought to light and identified by the government’s methodology of land transfer, and of resolving irregular duplications, overlaps and encroachments between management committees for upland protective forests, and spiritual forests based on customary laws and on an absolute respect for the village elders’ participation and the customary law system established by SPERI through the application of circular 07/TTLT/2011).

⁷ The documents in unanimous support of those unchecked Companies that were set up to accumulate forests and land by taking over the forests of ethnic minority peoples all over the country. Tri Le, a highland village contains no less than 4 different types of companies although they spring from just two parents.

⁸ Excerpt from poem about Tran Quoc Nghe, by his former student, in “Thay Toi” [My Teacher], collected writings.

II. The Government's "by the people, from the people and for the people" efforts

II. 1. Post war restoration (1975 – 1986 -1992)

II. 1a. The post-war national psyche and national consciousness

Based on the pride and self-esteem of a time of absolute concentration of resources with respect to drive and creative energy, especially to the consensus and solidarity for a common struggle on behalf of a people's Motherland, with the Party's will and all the people's hearts as one, a time of total marshalling of the forest's powerful advantages, especially of the forest-dwelling Community's patriotism during wartime, the whole country had rejoiced in the earth-shaking 1975 Spring victory.

At the time when the fate of the country hung on a thread, the Community was not only mirroring the image of the fighter's *'Mother Bam, the national guard's mother / Near or far, wherever he went / her son's friends and comrades around him were her children. / Over innumerable country paths that wind and twist hard / but not as numbingly painful as Bam's heart. / Missing your son, be at peace mother Bam, / my dear Bam the national guard's mother.'*⁹ Amidst war and destruction, the Community was not only the warrior's mother, but also a political, military, and security base, and moreover, was a support for the fish-and-water like people-and-army consciousness and solidarity, a pillar of trust in and absolute loyalty to the national defence forces. It would be difficult to find anyone who would take the place of the forest Community for support while the country's fate hung heavily by a fine thread.

An elderly Katu man confided: *"My birth country is La La Fall, we have a song: O La La Fall, the war came, our people helped the army to chase away the invaders. Peace came, the army left, we have not seen them back to visit our village. When the re-settlement and sedentary-farming cadres arrived, they said we are backward, they gave us rice and salt, they berated us for not speaking properly, for being illiterate, and we were not allowed to stay in La La Fall area, our people must relocate to another area, they would not let us make offerings to La La Fall, to stay with La La Fall, the La La Fall Spirit is displeased, we are aggrieved having to leave the Fall. Now we feel guilty to La La Fall spirit. One day, Uncle Government came, embraced us and asked, how hungry were we, we shook our heads, we did not speak, we talked in our mother tongue, fearing if we said the wrong thing, Uncle Government would punish us."*

Upon regaining peace, the forest-dwelling Community became replaceable. The forest's powerful potentials, the forest-dwelling Communities' value systems such as the worship of La La Fall Spirit became instances of 'superstition' and great hindrances to the 'post-war national reconstruction' process! Wherever beliefs in Nature worship (animism) were found, one would encounter without fail the Community's reaction to exploitation efforts from outside. Therefore, the reasoning of sociologists and anthropologists emerging in the embryonic period that came to form a foundation for knowledge and understanding borrowed from the West, unfortunately lacked a realistic political view and has unwittingly provided false arguments for the policy makers of so-called "sedentary farming re-settlement".

⁹ From "Me Suot" [Mother Suot] poem by To Huu.

Such policy has been used to justify acts of forcibly removing Communities out of their forests and replacing them with Forestry enterprise managers and State managed companies in order to create a favourable space for exploiting the forest. This could be easily enough understood in the context of post war national reconstruction with a sociological and anthropological knowledge foundation that had not been realistically worked out from living practice. The programs of resettlement and sedentary farming, of relocating the Community away from the forests to be replaced by managers of State Forest Enterprises and State-managed companies, were set up to create a space available for forest exploitation, and that was a fairly understandable situation in the context of post-war national reconstruction.

The question to be asked is about the policy and attitude of leaders, of their direction, objective and interaction with the forest-dwelling Community of each specific region, in steering the national spirit of solidarity and its resolve towards uplifting and enriching the Party's mind and the people's hearts in peace time. How can they do this without encroaching on each other's values, without stripping each other's fundamental rights to livelihood, nor committing divisive acts and destroying cultural diversity which has been the traditional heritage of the Community, of the nation as a whole, and which has become the oxygen for the proliferation of the forest's capacities, its bio-mass, and for the forest Spirits in particular, as well as for those of many past elders who, as forest leaders, had fought in the anti-colonial war and passed away silently happy?

What happens when the Community is displaced from the forests and substituted with a salaried working force put there to "protect" the forests? It is indeed what happens when the Community and the Government are distancing from each other due solely to decreed commands and an absence of good will by the latter while executing, in strict adherence to the letter of law, those tasks and rights of co-management, of shared protection and extraction of the forest bounties between the Community, the State and the companies!

The slogan: "To surge towards Socialism straight from Feudalism – 1959," became the command and drive for the whole Party, nation, armed forces and every type of flora and fauna (the entire body of natural resources) on Vietnamese territory at the onset of the anti-US war. This command was a favourite fiat with leaders who confidently announced: "Building a Socialist society without going through the Capitalist stage" at the end of the war in 1975, in the arrogant frame of mind of Victors (the 1975 Spring Victory). At that time, in their jubilant euphoria, the leaders threw away their intelligence and their knowledge of dialectics in the rule and pattern of decent behaviour towards fellow countrymen, who represented the traditional civil society as social resource, who were always ready to sacrifice themselves for the survival of the Motherland, and who rubbed shoulders with the leaders all the way throughout the struggle for national independence as well as the victorious defence war against invaders: *"When things are a hundredfold easy, they can be done without the people, but when difficulties are afoot, the people can fix them even it is harder by ten thousandfold."*

The Government continued its 'command' style and action as emanated from the central headquarters during the anti-invasion war, *forcibly imposing it over* a completely new era for the nation (i.e. in peace time), cobbling it with a not-so-subtle and absent-mindedly less than

honest omission by the leadership of the word ‘Community’, forgetting the fine and subtle traits of a culture that founds daily behaviour on a prowess base which evinces the adage “*the peak of civilization is one’s action*”, a principle that has permeated every sinew and muscle in each and every ancient and contemporary Vietnamese, was admittedly unavoidable, but adding to this was a lack of honesty in leadership.

Almost all legal documents and practical action put every priority and trust in State-owned Forest enterprises and companies directly subordinated to these State-owned enterprises in the onslaught and appropriation of the forests and land, where Community members have been born, grown up, and have endured over time; and the ordinances for re-settlement and sedentary farming were used to relocate the Community away from the forest to an isolated life, a life of waiting for hand-outs from sedentary farm re-settlement cadres. This government treatment is demeaning, unethical and inhumane in its totally unjustifiable execution.

II.1.b. Post-war National Leadership Resolve

As the war ended, the country recovered from war ravages by means of forest exploitation plans to rebuild the nation under various forms: 1) Forest materials being directly used in national post-war construction projects; 2) Exporting raw forest resources to boost funding for meeting sundry national targets and demands; 3) Reviewing schemes for forest conservation¹⁰; 4) Enforcing resettlement and sedentary farming¹¹ with the Community moved off the forests to allow concentrated exploitation¹² and development.¹³ Unlike the period of 1975-1986, when the Government directed the centralised forest exploitation to pursue ‘post-war restoration’, during the period 1986-1999, the Government effected pervasive and penetrating centralisation in ‘restoring the forests as a result of careless and disorderly exploitation’ during the 1975-1986 period. *A vicious circle started from here.*

To continue on with the issuing of orders to the whole country in wartime command style, the decree to ‘lock-up the forests’, no. 90-CT of 19/3/1992 was the first one of a new series. As the state-owned forestry enterprise system had for over a decade (1975-1990) been specialised in exploiting the forests, the Government’s ‘locking up the forests’ meant legally shutting out all means of livelihood for millions of forest-dwelling peoples and thousands of State forestry employees who relied on forest exploitation for their livelihood during that period (1975-1990). (Pham Dũng to check again number of cadres and employees of 1990...)

For the Community, the forest represents a fighter’s pride during the war. The Community provided vegetables, medicine from the forest, which is a safe place for hiding war leaders out of the love for humanity and forest. The Community’s source of knowledge based on the forest has been a history of adaptation, of hundreds of years of nurturing and creativity.

¹⁰ This top-down approach to conservation and development saw many of the peoples’ ancestral lands replaced by State-owned forest farms specialized in exploitation.

¹¹ Ethnic minority peoples were forced to move to other areas and given subsidies by the resettlement and sedentary farming project. These subsidies were funded by earnings from extraction of resources which also underwrote the budgets for both the ethnic communities and State-owned Forest enterprise cadres. The whole country lived off the forests.

¹² Exploiting = Selling raw material resources

¹³ Planting commercial forests for materials used in rope fibers and mine pit props...

In time of peace, the forest is a marketplace, a hospital, a school, a place of worshipping Nature spirits, a free and creative space for discerning the way the natural world serves Community-centred and Nature-centred needs. With the forest environment being compared to 'the soul of a Nation that dwells deep in the forests, the decline of forests means the Nation's fortune falls into decadence'!

All members of the partner-communities of SPERI from all over Vietnam to neighbouring countries in the Mekong River Basin display almost the same pattern of ethical behaviour towards the forest, albeit under varying forms of expression. The Government, meanwhile, considers the peoples paying respects to the forest as exhibiting signs of backward and superstitious practices. Many villages and mountain communes had their names changed, subjected to population displacement away from their areas of Nature and Ancestral worship by the resettlement and sedentary farming programs. The result of nearly 30 years, since 1975 introduction of resettlement and sedentary farming, has been a deep hurt on the part of many village elders and communities who felt they have been injured. As they are stripped of their space for Nature and Ancestor worship, they feel guilty of self-dishonouring and loss of merits with their tradition and mores. They are forced to live continually in crisis once separated from the forest and this crisis only intensifies day by day in their hearts and minds.

Many a village elder has confided their distressed feelings with sighs of despondency as they found themselves daily in the deprived living condition of the pigeon-cage like accommodation in resettlement and sedentary farming areas, those quarters which are constructed to a half-baked and bizarre architectural fad of the time, in so chaotic a layout as to overlook such essential conveniences as private toilets!

Sedentary farming Resettlement has crudely and brutally eliminated the edifices of Nature worship, as demonstrated with the people's faith and spirit being ritually entrusted to the architecture of the house, to the roof, the eaves, the main doors, windows, pillars, the sacred room, the kitchen, the male staircase and female staircase, prior to their house keys being exchanged for those at the sedentary farm settlement dwellings. Some of the Community felt compelled to slip back to their old homes, living in clandestine conditions, as their forests now belonged to the managers of State forestry enterprises and the companies. They contended with existing in stealth right on their own Ancestral land and *being ruled as illegal*.¹⁴ They felt increasingly guilty to the forest and towards themselves, their ancestors, but their survival and livelihood forced them to follow through to the end and wait for the day of Nature Spirits' judgment. The place-names given by the Government have become more and more distant and strange. The riot in the Western Highland in 2001 was an example of the painful and grievous impact on popular sentiment and the status quo of the nation. Although efforts have been made to discard this reality into the bin of history, it still remains a naked, low-profile but burning reality just because the continuation of wartime command mode instead of rectification and revival with the Community at a time when the country's fortune is teetering on the

¹⁴ Law in the hands of rulers. Decree 200/2004, Chapter IV. See Concrete Solutions, Article 7. On Land. Item 2, Arbitration and resolution of disputes and infringements of land laws (*State forest enterprise land being encroached on, disputed over, legal infringements committed*) mean resolution to each actual individual case in accordance with legal ruling?

globalisation arena, and people's forests and land have to be auctioned off to compete for better bond and share values.

Decree 200/2004. Provincial people's committees determine or readjust the acreage and boundaries of disparate types of land to be handed over to *Forestry Companies and Management Boards that are expected to be established*. Point 4, Article a. Handing over of rent-free land to Management Boards of protective forests and special-use forests, Forestry Enterprises to be turned into income-generating concerns, land reserved for seed production, handing over of services, public-purpose lands in Forestry enterprises.

A house, to the peoples of ethnic minority, is not merely a shelter from the ravages of the weather as conceived by sedentary farm settlement designers, but a conservatorium of the faith in Nature Spirits, and building a houses is an education and upbringing strategy for inhabitants to transmit for posterity the right moral behaviour norms towards Nature Spirits of the forest. Such forest Ethics has been optimal for the maintenance, nurture and furthering of the people's creative knowledge in this self-sufficient life space from one generation to the next. The houses of sedentary farming resettlement areas of the lock-and-key-handing-over culture, which displaces the peoples from their forests, represents a low point in national leadership strategy. It displays a poor knowledge in culture, bio-diversity and harmonious development, and an abysmal lack of moral authority from the "government of the people, by the people and for the people". (*See details of research study of Sa Thay resettlement village*).

II.2. 'Renovation' – the Multi-sector Economy (1992-1999)

Homologous points of time during 1986–1992-1999 periods marked out the change-over time of a series of careful post-transitional deliberations over an interstitial change to Socialism with the Capitalistic stage by-passed, when the country headed for a multi-sector economy from two sectors (the State economy and the collective economy through an unparalleled form of Co-operative commune). The *Government's prior concern was to plan and analyse the whole forest system,¹⁵ the sole capital source and leverage fulcrum for 'Renovating' society and elevating the leadership role of the Government to a higher level in approaching 'Renovation'*. Policies rolled out along the 'Renovation' trajectory were related to 19 million hectares of forest and forested land that were the designated responsibility of State Forest enterprises. The exploitation function became the planting function for reforestation and caretaking and also for the protection of shady 'creative accountancy', and of mischievous 'balancing' of income and expenditure figures... Were they not the clueless fantasies of a nation making entry into a multi-sector economy, directed by a top-down command structure that underpinned the State Forest Enterprises for nearly half a century starting from 1959, advocating an ascent to Socialism with the Capitalist stage by-passed, an ascent whose shape and form were yet to be in any way knowable?

¹⁵ Capitalism deploys industrial know-how as a leverage for creating profit. Vietnamese socialism uses the forests, forest land and State-run Forestry farm managers as bases for profit making.

The application of Land laws, Forest Protection and Development laws plus dozens of other related legal texts and policies to open the way for ‘Renovation’ of over 19 million hectares of forest and land continued to be the charge bestowed to the State Forest Enterprise managers with desensitised hearts and with memory banks stacked in timber saw blades that have been laid down as stepping stones for all the progressive scales: a truly inimitable process!

An analysis undertaken of forest and land as common property, following a series of forceful top-down planning through the ‘Renovation of State Forest Enterprise’ documents, is stifling enough by itself, because of the unrestrained priority granted to these organisations. The series of policies¹⁶ related to the reclassification of State Forest Enterprises, and guiding documents on the establishment of companies directly affiliated to State Forest Enterprises, all consistently focus on asserting the task of widening the area of forests and forest land appropriated for use.

The documents, however, omit the people from their texts. The issuing of the decree 90/CP/1992 has provided an impetus for cadres, employees of State-run Forestry farms and forest-dwellers to destroy the innocent forests, because the official masters of the forests are now the State Forest farms with written orders to dissolve and liquidate, to change accountancy formulation, to fiddle with income and expenditure records while there exists no other forms of birth certificate to replace what has been lost, even purely on paper! The forest-dwellers since centuries past are now given notice that the forests are closed off, bringing on a calamity by the throng of people swarming the jungle, family after family, and department branch after department branch marching into the forests.

The destruction of forests was violent and devastating. Then, hundreds of thousands of State Forest Enterprise cadres and employees stumbled onto a crisis situation; the Government began to recognise the dangerous risk, and the President of the Ministers’ Council issued Resolution No.327/CT on 15/9/1992 outlining a policy for the use of uncultivated land, denuded hills, coastal forests, coastal sediment shores and lands at water edge, all under the abbreviated ‘Project 327’ with a thousands billion đồng budget.

Resolution 327/CT of 15/9/1992 from the President of the Ministers’ Council, Part 1. Policy. Article 2. “Setting up projects... based on existing State-run Forest farms, including Military Forest farms as core agents...”

¹⁶ 1) Decree 388/HĐBT of 20/11/1991; 2) Directive 90-CT of 19/3/1992; 3) Directive 12/TCLN of 19/8/1992 of Department of Forestry; 4) Decree 12/CP of 2/3/1993; 5) Decree 01/NĐ-CP of 4/1/1995 on handing over forests and long-term settled forest land; 6) 661/QĐ-TTg of 29/7/1998 Resolution; 7) Decree No. 163/1999/NĐ-CP of 16/11/1999; 8) Resolution No. 187/1999/QĐ-TTg; 2005-2010: 9) No. 3256/VPCP-NN of 13/6/2005; 10) No. 198/TB-VPCP of 28/11/2006; 11) No. 68/TB-VPCP of 14/3/2008; 12) No. 159/TB-VPCP of 18/5/2011; 16) No. 4664/VPCP-KTN of 11/7/2011; 17) No.277/TB-VPCP of 16/11/2011; 18) Directive 03/CT-TTg of 17/1/2011 from the Prime Minister; 19) No.30/TB-VPCP of 1/2/2012; 20) No.861/VPCP-ĐMDN of 15/2/2012; 21) No. 1449/VPCP-ĐMDN of 8/3/2012; 16) No. 4664/VPCP-KTN of 11/7/2011; 17) No.277/TP-VPCP of 16/11/2011; 18) Directive 03/CT-TTg of 17/1/2012 from Prime Minister; 19) No.30/TB-VPCP of 1/2/2012; 20) No.861/VPCP-ĐMDN of 15/2/2012; 21) No.1449/VPCP-ĐMDN of 8/3/2012.

To disburse Project 327, State-run forest farm managers are required to have forest areas scrawled out on maps, to engage partners and find locations for planting and caretaking, to comply with inspection criteria for evaluation of scheduled payments and percentage of surviving forests, after receipt of commission for planting and caretaking in order to attain reported and approved data, and output estimates after disbursement, and so on and so forth. *This was the first time forests and land as the people's common property were subjected to planning by State-run forest farm managers for utilisation!*

Project 327 was a rescue package for State Forest farm managers fallen into danger of jeopardising both the forest capacity and livelihood of hundreds of thousands of employees who, for more than a decade, relied on income underwritten by exploitation. Resolution 327 Article 3. Organising practical set-up. Article 17. Fourth itemised line refers to appraisal of 327 Projects carried out by the National Science Centre and the Government Science Committee who undertake to scrutinize and criticize, but only as far as the President of Ministerial Council document goes. In reality, State forest farm managers, including Military forest farms with land administrative cadres who mostly have rudimentary mapping skill, have transmuted the forests beyond shape and form in innumerable ways with their expedient map drawing to cope with budget challenges. *(Forest and Land Transfer Research locations at Hanh Dich, Son Kim, and Ngu Hoa villages on bureaucratic and undemocratic practices - to the extent of moving administrative boundaries of communal villages in one administrative territory to another canton in another province, and from one village to another. All was due to lack of competence of cadres who carry out land planning without prior process of valuation and lack of accountability on the part of state cadres.)*

After two years of materialising Project 327 the Government discovered many shortcomings. The Government Decree 02/CP of 15/1/1994 aimed to regulate the handing over of forest farm land to organisations,¹⁷ households,¹⁸ and individuals¹⁹ for sustained long-term forest farm-oriented use with a thousands billion Vietnam Dong budget.

There is no reference whatsoever to the threshold of contracted area for individuals, organisations or households in the entire Decree 02/CP/1994. It only mentions the time limit for forestry contracts to be 50 years. Article 6. Point b. For other organisations, households and individuals, the limit is 50 years. At the end of this stipulated limit, if the organisation, household, or individual concerned still maintains demands and usage in compliance to regulated objectives, the Government will consider extension. If Forestry trees with more than 50-year cycle are planted, the Government will extend contracts until the harvest of their main produce. *The forests and land as public property were subjected to planned utilisation for the second time!*

¹⁷ Organisations: mainly military-related organisations pursuing peacetime economic enterprises according to 02/CP

¹⁸ Households: In reality there has not been any truly practical legal support to enable them to receive contracts as 02/CP stipulates.

¹⁹ Individuals: are actually the cadres who are family relations of State Forest farm managers win contracts for planting, caretaking and protecting according to self-help accountancy mechanism based on 327 contract to earn livelihood after government subsidies are dissolved.

In practice, the 02/CP/1994 decree created a condition allowing State forest Enterprise managers, employee cadres and their devious partners in society to begin participating in gaining contracts with unlimited areas and 50-year limit of forest planting and caretaking. Ethnic minority peoples, local inhabitants were the victims of sedentary farm resettlement program, as they did not have the good fortune of qualifying as partners in directly carrying out the 327 Project like State forest farm managers.

From the text of the 02/CP/1994 Decree, Article 6. Point b. "...other organisations, individuals, the time limit is 50 years. At the end of stipulated time limit, ...the Government will extend until the harvest of the main produce." Not limiting the handed-over area of forests and land to be contracted out to State-run forest farms, family households, other organisations and individuals, was one of the loopholes and opportunities for individuals and organisations to accumulate tracts of forests and land being people's common property. In the post-Renovation era (1999-2005) these individuals and organisations have gouged profits time after time out of privatisation money (2003-2012) and legally transformed areas of forests and land (which, at the point of Decree 02/CP being issued, were managed under State administrative routine as public common property). Without much ado Decree 163/CP/1999 (the 5 rights) turned these individuals and organisations into owners of forests and land (which saw the start of management by market mechanism and mode).

In 1994, individuals and organisations were awarded contracts for forests and land pursuant to Decree 02/CP by a mechanism which did not limit the surface area; the time limit for contract was 50 years. Ten years later came Decree 200/2004, in Article 4. Selling stocks of State forest enterprises with processing facilities attached. Point 6. Priority in purchase of shares reserved for producers of raw materials supplied to processing plants. Decree 200/2004. Chapter III. Renovating reform of management mechanism. Article 5. Management mechanism of Forestry Companies. Point 2. Sale of shares to supplier-producers of raw materials, pilot equitisation of plantation forests.

Many among the new owners of forests and land later became economic and political power brokers, capable of undermining social values with written deeds of a bureaucratic Law which are lacking in both the capability and social responsibility expected of such documents. Decree 200/2004 applied to forests which were originally ancestral land, the Community's place for the worship of Nature Spirit, and where the spirit of the Motherland dwelled, circulating the flow of blood back to the heart that nourished and maintained the laws for survival of downstream nutrient gene lines according Nature's prerogative.

Almost a year later, the Government went on to issue Decree 01/CP of 4/1/1995 to regulate the contracting of forest and land use for forestry industry, agriculture and aquaculture by State-run enterprises with a budget of thousands billion dong. Decree 01/CP of 4/1/1995. Article 9. Contracting agricultural land. Point 3. Time limit is 50 years. Article 11. Contracting forest farm land. Point 2. Time limit for contracting protective and special-use forests is 50 years. Decree 01/CP/1995 was similar in meaning content to Decree 02/CP, with no mention of a limit to acreage of forest and land but only the time limit of 50 years for the entire fund of agricultural land, protective forest and also special-use forest land. The Decree clearly

stipulates that State Forest farms are to be the sole recipients of forest and land contracts. *The public common property that was forests and land were subject to planned utilisation for the third time around, with the people still in absentia!*

The vigorous undertaking of both Decrees 02/CP/1994 and 01/CP/1995 was to hopefully bring about a good outcome to the forests, land and people's life with taxpayers' money through project 327/1992.

Examining the actual situation of contracts, and their awarding as a result of the two said Decrees following the maps delineating contracted areas of planting and caretaking of forests by Project 327/1992, from the perspective of a SPERI project on Community-based handing-over of forest and land, has sufficiently revealed, through documents alone, about the talisman-like and laughable mapping with arbitrary scrawled boundary lines encircling areas among highland villages. (*Research locations of TEW/CHESH/CIRD at the areas of forests handed over from 1997 to 2005 in Lao Cai, Son La, Nghe An, Ha Tinh, Quang Binh, Daklak, and Gia Lai*)

Based on confidential revelations of those who were village and canton leaders at that time, as they, together with technicians from FIPI (Planning investigation Branch for North-central forests) and specialists from SPERI, traced the course of the cross-cutting, overlapping documentation and of the helter-skelter mess in forests and land registers, in secret blue books and dispute notes, it was discovered that the colourfully drawn and professionally marked maps of land lots and parcels were really conclusions plucked from the scenic excursions made by land-administration cadres together with 'high-level' State forest farm managers!

Those excursion tourists classified forests with GPS mapping technique, interpreted blocks of land based on long-distance surveillance images over people's forests and land, then later referred to the professionally coloured maps authored by a certain 'mapping and surveying consultant company', or 'topological image survey company'. They rode on the backs of motor-cycles, and over beer drinking tables, they hand sketched the forests, land and mountain peaks whose fate were being sealed, whose identity approximated, and even relocated somewhere, or put into possession of somebody. All was done originally from these hand sketches. This was no hidden hand of Adam Smith's world-shaking theory of the late 18th century. These were the flesh and bone hands of Communists who were in an eager bustle to step into integration with the international world, using the people's forests and land for their advancement in the global economy. This was the time when arbitrary cross-overlapping was first concocted on the very maps that have been legislated for disbursing between Decree 02/CP and Decree 01/CP.

It is cold, oh so cold it scorches one's heart / This sad and desolate soul peering out on the river / Water turns timidly upstream, clouds curl themselves in pouches / Soaking wet, a boat slips against the flow / Fish gnaw at the net, bubbles snapping / Birds sound tremulous,

*searching for their nests / Lost deep in the mountain, the distant frontier pass / It is cold, oh so cold it scorches one's heart.*²⁰ (SPERI research location)

When hearing about the decree 327 concept of obtaining lease-hold and contracts for planting and caretaking of forests, one cadre revealed: Disbursing Level One: Central Government enters into contract with Forest Enterprise managers; Level two: Forest Enterprise managers enter into contract with subordinate units; Level three: Subordinate units enter into contract with companies providing technical services; Level four: Technical service companies sign up devious and crafty organisations and individuals in society; Level five: Craftier companies and individuals in society sign up on-site growers and caretakers.

Project 327 and the two Decrees 02/CP and 01/CP lasted for nearly 5 years from 1992 to 1997, when the Government avowed to devote itself to the forests, to the soil, to State Forest farms, to family households, to other organisations and to individuals, all being citizens living in Vietnam. At this stage, the Government has not yet referred to Vietnamese living abroad or foreigners in the documents dealing with forests and land. However, during those nearly 5 years of putting Project 327 into effect, the system's mechanism hatched spontaneously by nature a regrettable habit that spread far and wide. This was the mode of 'business dealing' through 'contractual agreement' that stuck intolerably close to the dictate of a one-way line of power running from the Central government to the State Forest Enterprise managers and the company Chief executive officers, then to individuals and organisations (related to State forest farms).

This idea of 'doing business' was popularly understood as the 'culture of the brown envelops', as it was the condition for winning contracts from the multi-tier bosses whose headquarters was the State Forest Enterprise. The 'brown envelop' habit appeared in the highland society and solidified into '*sine qua non* condition' between those who wish to obtain contracts for forest planting and those on the other side with their power to distribute contracts. That was a damage inflicted on social ethics and social relations right in the heart of mountain communes and villages. Also from then on, the internal coherence of a community was sundered by a divide between those who acquired large tracts of forests and land and those households who had to work the soil as hired hands.

Besides, getting through the five levels of bridging intermediaries to disburse the 327 Project had incurred not only considerable costs to the people but also to the regime's integrity, all because of the dictatorial and bureaucratic mode of leadership. The flaws of this leadership mode were compounded by inept governance and lack of accountability on the part of State Forest Enterprises, who enjoyed privileges and trust from the Government. The people still went amiss in this whole picture. Unofficial interest groups began to appear in highland society to cannibalise each other through 'land brokers' and 'forest brokers'. Corrupt acts started to be committed. Contradiction and conflict arose between the people and State forest enterprises, between the Community and the companies affiliated with State Forest Enterprises.

The Parliament debated hotly in language terms that had been alien to Vietnamese culture and basic social ethics, such as 'corruption', 'power wangle', 'harassment'... It brought

²⁰ Poem by Tran Quoc Nghe (aka Thay Tu Nghe – Laureate Nghe)

surprises that were not a pretty sight on national television. Peoples in the highland or down the plain are all proud of Vietnam, and are admired all over the world as Vietnam has been an exemplar to the world in solidarity, heroism and the will to fight vis-a-vis world powers. Today the country is a target for sneering and suspicion while our national self-esteem has taken leave for good. Nevertheless, government documents still continue to be written in commands and dictates. Learning from experience as well, the government issued the intercalating Decree 661/QĐ-TTg of 29/7/1998: Setting up the project to plant a new 5-million hectare forest.

Continuing on with ‘Renovation’, drawing from the experience of Project 327, the Prime Ministerial Decree no. 661/QĐ-TTg of 29/7/1998 on objectives, tasks, policy and organisation for putting into effect the project of planting 5 million new hectares of forest. This time, the Prime Minister did not pick State Forest Enterprises as partners to award contracts, but set up ‘protective forest management boards’. The target for each ‘protective forest management board’ was 5,000 hectares minimum of forest.

To reach the 5,000 ha minimum, the cadres transferred from the Forestry Branch were still among those recruited into ‘project 661 management boards’. They had to try coming up with maps of 5,000 ha areas, and fit their data to the Decree 661/1998 target. Research data from hand-over forest land collected by SPERI have revealed that most maps by ‘protective forest management boards’ are areas ‘talismanically drawn’ encroaching on and overlapping Spiritual forests, family land, community forests, and peoples’ graves. Clashes between the Community and ‘protective forest management committees’ were caused by none other than the magical surveying of almost all local regions by the two companies: ‘Mapping industry consultant Company’ and ‘Photographic and topographic surveying Company’ with their respective signatures and seals showing headquarters in Dong Da District, Hanoi. The President of the management board of these two companies is Mrs. Nguyen Thi Bich Tuyen, former Minister Dang Hung Vo’s ex-wife. These two companies were born in post-Renovation and pre-privatisation era, independent, liable to set up companies, welcoming projects that have actually been signalled for pick-up from within the Departmental offices of the Central Government, and perpetuating the modus operandi of Project 327. *Forests and land thus were subjected to planned utilisation for the fourth time.*

These two companies, weaving their talismanic magic over many provinces from the first post-Renovation pre-privatisation years have wreaked havoc in the spiritual forests, the water-source protecting lineage forests, the Southern medicine forests... of the ethnic minority communities, where they have been practising their faith for centuries. *(See SPERI research on locations with encroaching areas mapped to secure a Management board capable of satisfying the 5,000 ha Government criterion. Lung San hamlet of Lung Sui village had its territory encroached on by the survey and mapping systems of the Photographic and Topographic Survey Company based at Dong Da District, Hanoi)*

Just one year later, the Government issued Decree 163/1999/NĐ-CP on 16/11/1999 regarding the handing over and leasing of forestry enterprise land to organisations, households, and individuals for sustainably long-term use as per forestry enterprise purposes. Decree 163 was a golden opportunity for the State forest farm managers, companies directly subordinated

to State forest farms (spawned from Decree 327), other organisations and individuals who were favoured in winning contracts with unlimited acreage for 50 years as stipulated by both decrees 02/CP/1994 and 01/CP/1995, to convert without the slightest fuss those hand-drawn, encircled, registered maps into legitimate Certificates of Land use (red register) with automatic 1) Right to use land, 2) Right to mortgage, 3) Right to raise capital, 4) Right to transfer, and 5) Right to inherit.

The State Forest Enterprises, the firms and companies subordinated to State Forest Enterprises, the cadres employed by State forest farms, and crafty individuals in society were now forest owners with 5 preferential rights over an area limited to 30 ha per household as stipulated in Point 1, Article 13 of Decree 163/CP. There was no quota for the number of organisational forms. Neither was there any limit to the types of qualified individuals. The time limit for freehold and leasehold Forestry Enterprise land is regulated in Point 2. Article 13 and Point 3. Article 14 of Decree 163/CP/1999 and in Point c. regarding individual and household sustainable use for 50 years. *Forest and land as public property was subjected to planned utilisation for the 5th time.*

The essence of Decree 163/CP/1999 amounts to a legal opportunity for State forest Enterprise managers, companies subordinated to State forest farms, and individuals favoured by State forest Enterprise to grab millions of hectares of forests and land.

The cyclic ‘karmic cause and effect’ of ‘Renovation’ consists in using the people’s forest and land to mortgage, and to accumulate capital through an interest group being the private companies, and through State Forest Enterprise managers, while the Constitution and the Law encourage without qualms the building of casinos, golf courses and continue on with renovating State Forest Enterprises to achieve global economic integration!

Decree 163/CP was a tragic milestone in history. It can be said that the Government, in callously opening the way for State Forest Enterprises and a multitude of companies spawning from State Forest Enterprises – those forest- and land-grabbing sorcerers - to colonise the Community of ethnic minority peoples right in the bosom of the Nation, has enabled a thriving growth of intra-institutional corruption, the root of numerous devious ruses and tricks. And the perpetrators are the masters of privatisation. Lording over a system-created forest and land, they pounce on the people’s common property. *(See forms of conversion from Huu Lung Forestry farm – canton level, at Tinh Loc Company research location, involving the black magic to obtain 1600 ha of forest and land in Dong Thang village, and Tan Nguyet Company in appropriating hundreds of hectares in Huu Lung, by those who are originally wage workers at Huu Lung Forestry farm)*

After nearly a decade (1990-1999), the nature of ‘Renovation’ turns out to be a legislative, executive and judicial process lacking in accountability, co-operation, and trust towards the people. Untrammelled favouritism towards State-run forest farms and their subsidiary companies has meant rampant maltreatment of the people, especially the forest-dwellers. Plundering the public purse through non-transparent State-run forest farms and companies, while disallowing public scrutiny, is a sure form of institutional corruption.

Shortcomings, conflicts, and disputes over land between the Community and State Forest Enterprises and their subsidiary companies grew bigger by the day. The forests and land where the Community have lived for hundreds of years are encircled erratically in property maps of various types of companies, of management boards, State forest enterprise managers and billionaires - hatched out of 327/1992 projects, of Decrees 02/CP/1994, 01/CP/1995, and of 661/1998 projects made legal by decree 163/NĐ/1999 - who in turns neatly acquire public property that is the people's forests and land. (Anh Nam, village land administrative cadres have said jokingly but truthfully: 'I live on a platform floor (on stilts), but stepping off the stairs, then I am on Vanguard Pioneer Youth Corps' land.' Chieng commune under 01/CP review of Bo Ka, Son Tay, Ky Anh, Ngu Hoa)

The introduction of Decree 163/1999/NĐ-CP with the 5 legal rights to utilise forests and forested land marked a period that put up the opportunity for permanent appropriation of the Community's livelihood and control over means of livelihood, and was the beginning of profiteering, market-cornering, lack of transparency, and of allowing entry by organisations and company groups into the Government's centrally-run property market. The Community of ethnic minority peoples and several million people living in forest regions have become the 'servant class' in the centre of a Nation 'advancing straight' towards Socialism, skipping Capitalism, by its commands and nepotic treatments. (*see absurdity in rights to manage forest and land and the average land area owned by Forestry farm cadres and Companies compared to farming households in the highland.*²¹ *Areas inclusive of forest being handed over to households based on the publication on the situation of forests in the year 2011 by Ministry of Agriculture. Average forest land of LT/CT for forestry: National conference document 15/5/2011*)

The Government continually *created legal corridors* and *flashed green light signals* to State Forest Enterprises, companies and 'State-affiliated management boards' while *ignoring the multi-generational* role of the people who have long endured in and bonded to the forest. In the resistance wars against the French and the Americans, the ethnic minority Community members were the jungle scouts, the combatants' trusted collaborators, and a death-defying force ready to sacrifice themselves for the motherland at any time. As peace returned, the Government no longer upheld that trust in the people. More than a few officials even believed that ethnic minority people were so backward, superstitious, destructive to forests and so under-developed that they must be removed from the forest itself.

Instead the Government put its trust in the *Forest management boards*, State Forest Enterprises and companies affiliated with State Forest Enterprises, a salaried work force to take care of the forest. *People who have lived for generations in close ties with the forests were now discredited* by the Government. Especially for those ethnic minority communities who built up their beliefs and customs in expansive tracts of forest, they were totally precluded from any

²¹ Forestry farm and Company employees. While on average highland farmer owns 0.6 ha per household for livelihood and spiritual activities, Forestry farms and companies own 3.8 Million ha before arrangement for renovation of Forest farms (2005). After renovation arrangement, the area owned by Forestry farms and Companies (2011) is 2.1 Million ha. Average area per cadre employed by Forest farms and Forestry Companies managing the natural forest is 88.36 ha. For planted forests, the average is 29 ha per cadre supernatural worker!

special rights to manage and administer core projects. They were not allowed to access information, conduct discussion on and participate in the scrutiny and supervision of those projects. They became passive outsiders, reduced to hired labourers for the foremen at the last link in the chain of sub-contractors for core programs. These were core programs that were, in name, supposed to be run for ethnic communities' benefit. The wide gap between the people and the State agents has persisted for nearly 3 decades now without any sign of narrowing.

II.3. Post-common Land, Pre-shareholder Forest & Land – 1999-2008)

After 4 years (1999-2003) of headache and unrest, disputes, contradiction and even huge clashes have ensued. The violent riots of the Communities of ethnic minority peoples in Daklak and Gia Lai provinces in 2001 were shameful indicators of a blundering period. This period arched over the five-time bureaucratic and dictatorial planning on paper, with ignorant doling out of privileges without restraint to State-run forest farm managers and companies that were the progeny of State Forest Enterprises, neglecting the people and ethnic minority Community, this period has left emotional wounds that are hard to heal.

2003 Land Law. Article 117. Point 2. Right and responsibility of local community in land utilisation. "The Community who are using land cannot exchange, transfer, lease, grant use rights, mortgage, stand security, or accumulate capital with the land use rights." Article 9. Point 3. The communities living in villages, mountain communes and hamlets sharing the same customs or kinship receiving Government grant or recognition of rights to utilise land. Decree 181/2004/NĐ-CP of 29/10/2004 re implementing Land Law. Point 3. Article 54. Local community with land of historical or cultural heritage significance will be able to receive certificates for land use rights.

The Office of Resources and Environment deals with disturbances over land use rights based on land-use certificates already granted at Points b, l, Section 4. Article 41 of this Decree 181. Article 72. Point 5. of Decree 181: Local community to be handed protective forests by the Government as stipulated by the Forest Protection and Development Law. Forest Protection and Development Law no. 29/2004/QH 11 dated 3/12/2004. Article 29. Handing over forests to village communities. Point 1. Item a. Village communities with customs, mores, and tradition that tie them closely to the forest in production, living activities, culture, and religion, are able to manage the forest, are required to apply for forests to be handed over. Point 2. Item a. Forests currently managed and utilised effectively by communities. Item b. Forests with water resource in direct service to communities, or serving other common benefits to communities. Item c. Bordering forests need to be handed over to communities to serve their common benefits. The adjudicatory body to be the People's Committee at canton, district or village level as stipulated by Section 1a. of Article 29.

A few Articles and Points of the 2003 Land Law and Forest Protection and Development Law reveal some enlightened recognition on paper in the strategy to placate the people's anger. Regrettably, the document that put the people first was born too late. The testing ground for priority on paper proved to have a willing spirit but a weak flesh, as forests had

already fallen into the hands of the power elite. *‘Alas, alas, Tan Thanh temple is resigned to be frozen shut through the night / This faithful heart is now left with the yellow moon.’*²²

The whole lot of spiritual forests, traditionally protective water source forests, upland source forests of the Water Goddess (a Western Highland belief), Tong Xenh forests, Nao Long forests, Thu Ti forests, Hmong lineage forests in the North-west, the Khmu’s Lieng Piho forests, Chuong Mien ceremony of the Dzao, the southern medicine forests of the Thai, etc. the forest Supermarkets, the traditional university, the living museum in the jungle, and the space for survival and nurture of the Community’s control right to livelihood... have fallen firmly into the hands of the State Forest Enterprises and small companies. While the land could hardly be altered any more than as configured by natural laws of creation, it could still cruelly mistreat the Community by agreeing to have cosmetics applied to get itself ready for the gambling ventures and the property market as playground for the ‘uncouth rapacious-era billionaires’ to take a leaf out of the western capitalism book.

The prime origin of the Decree 200/2004, issued in parallel to and on the same day and month with the above mentioned 2003 Land Law and the 2004 Forest Protection and Development Law, must be that it was meant to highlight the Government’s meticulous deliberation in its main objective to consolidate and regulate all the disparate remnants of forest remaining. Decree 200/2004/NĐ-CP of 3/12/2004. Chapter II. Renovating the organisation structure of State forest farms, Article 4. Points 2. and 3. State farms managing under 1000 ha to convert to income earning work units. Decree 200/2004/NĐ-CP Chapter III. Renovating the working mechanism. Article 4. Equitisation of State Forest Enterprises connected to processing plants. Point 6. Sale of shares to producers supplying raw materials to processing plants. Article 5. Management mechanism of State Forest Enterprises. Point 2. Sale of shares to producers of raw materials, pilot equitisation of plantation forests. Point 3. State Forest Enterprises to be allowed to choose the formats of contracting forests and forestry land out to organisations, households, and individuals. Point 4. State forest farms to be eligible for advantages of joint venture companies, to combine with organisations, individuals inside the country and overseas to plant forests, process materials, set-up enterprises and provide services as stipulated by the Law. Article 6. Point 2. Operating mechanism for Forest Management boards. To run the contract projects of forest protection, reforestation, hunger eradication and poverty reduction in buffer zones as subsidised by the forest support and protection budget.

Decree 200/2004/NĐ Chapter IV. Concrete solutions. Article 7. Regarding land. Point 2. Settle, bring to final determination dispute cases and infringements on land law (encroaching State Forest Enterprises land, ensued disputes and infringements), real case-by-case resolution, each to its final determination as stipulated by the Law. Point 3. Review and readjust to comply with planned program for land usage by State Forest Enterprises ... *“Provincial People’s Committees to determine and rectify the acreage, boundary of all types of land handed over to State Forest Enterprises, Forest Management boards proposed to be set up.”* Point 4. Item a. Handing over land without collecting usage charges from Protective forest management boards, State Forest Enterprises converted to types of income-generating enterprise units, land in the

²² From poem by Thầy Nghệ

seed production service, transfer of service, land serving common purposes in State Forest Enterprises. Item b. Leasing or handing over land with usage charges paid by State Forest Enterprises for enterprise purposes. Item c. Provincial People's committee to organise survey, open land administration file and issue certificates of land use to State Forest Enterprises and forest management boards. Local budget to be ensured of adequate coverage for costs of checking and revising, pegging boundaries, handing over land and issuing certificates of land use to forest management boards and State Forest Enterprises.

Point 5. Parcels of land outside planning area consigned to State Forest Enterprises and forest management boards will be recovered by provincial-level People's committees who will hand over as priority consignment to those local inhabitants who do not yet have any, or not have sufficient land for production or for residence compared to the local common mean standard. Article 8. Managing and utilising the forest. Item 2. Handing over forests to State Forest Enterprises and forest management boards. Article 9. Finance and assets. Item 8. State Forest Enterprises assigned for managing areas of forests in extremely poor condition and in the process of being nurtured in remote areas with high population of ethnic minority peoples will be subsidised for managing forest protection in compliance to protective forest regulations.

Decree 200/2004. Chapter IV. Concrete solutions. Article 7. Concerning land. Point 4. Item a. Land handed over without usage charges to Management boards for Protective Forests, special-use forests, for State Forest Enterprises converted to income-generating units, and for land assigned to production services. *This is the loophole allowing individuals to set up companies and to use as justification for growing forest plantations (there are 4 companies of this type in Tri Le).* Point 4. Supplementary Item. Local budget to underwrite expenditure for review of land, handing over land, and issuing certificates of land use rights to Forest management boards and State Forest Enterprises.

Decree 200/2004. Chapter V. Organisation for implementation. Article 14. Responsibility of parent companies. Item 2. Co-ordinating local State functional agencies in guiding State Forest Enterprises to review land and comply with formalities in reporting to local Provincial level People's committees in the issuing of land use certificates to State Forest Enterprises that are subsidiaries of the parent corporation. *Forests and land as public property were subject to planning for the 6th time. (Cao Quang research location on Northern Danh River State forest farm - CIRD).* It was with a comprehensively clever calculation in strategy and motive, plus a thorough centralisation of power to appropriate forests and land that the laws were designed, right from the government policy to "continue with renovation of State Forest Enterprises" existing side by side with those Points and Articles to assuage the people's feelings in the 2003 Land Law and the 2004 Forest protection and development Law. In reality, they were not at all applicable as there was no more forest left after the all-round blockade concentrated to reserving for the Companies and State Forest Enterprise managers from Decree 163/CP/1999 and Decree 200/2004.

II.4. Post-shareholder and Pre-privatization Land

After Decree 200/2004, State Forest Enterprises managers and subsidiary companies having legalised their territories, forest and land disputes, litigating letters and applications mounted at exponential rate in the forest regions. The Government continued to mitigate losses of livelihood, socio-political status, cultural identity and ethnic minority religion by the Decree 23/2006. Article 20. Point 2. Item a. “Canton level People’s committees to hand over productive forests and protective forests without forest use charges to villagers’ communities, and with priority reserved for forests tied to ethnic minority communities’ customs and tradition.”

Issuing Decree 23/2006. Article 20 continued to assuage people’s resentment and losses, at all time the Government knew that: in Decree 200/2004 “Chapter IV. Concrete solutions. Article 7. Concerning land. Point 2. Settle, bring to final determination dispute cases and infringements on land law (encroaching State Forest Enterprises land, ensued disputes and infringements), concrete case-by-case resolution, each carried to its final determination as stipulated by the Law. Point 3. Review and readjust to comply with planned program for land usage by State Forest Enterprises ... Provincial People’s committees to determine or readjust the acreage and boundary for types of land to be handed over to State Forest Enterprises and management boards for planned use. Point 4. Item a. Handing over land without collecting usage charges from Protective forest management boards, State Forest Enterprises converted to types of income-generating enterprise units, land in the seed production service, transfer of service, land serving common purposes in State Forest Enterprises. Item b. Leasing or handing over land with usage charges paid by State Forest Enterprises for enterprise purposes. Item c. Provincial People’s committee to organise survey, to open land administration files and to issue certificates of land use to State Forest Enterprises and forest management boards. Local budget to be ensured of adequate coverage for costs of checking and revising, pegging boundaries, handing over land and issuing certificates of land use to forest management boards and State Forest Enterprises.”

All the above details were clearly grasped down to their minutiae and signed off by the Government. Why was the Government so ruthless?

Thousands of hectares of spiritual forests and the Community’s belief system have been magically transmuted and converted into villas, mansions, eco-tourist locations, and mock-fashion palaces of brazen ostentation by the “uncouth rapacious-era billionaires’. The Community became a horde of slaves right on their own land and forests.

Next was Circular 38/2007/TT-BNN. Item 1. General ruling. Point 5. *Auction of forest usage rights, ownership of productive and plantation forests.* Implemented pursuant Article 34 of Forest Protection and Development, Point b. Section 3. Article 20, Article 21 of Decree 23/2006/NĐ-CP and legal stipulation on auction. The forests were managed according to the Government’s intention but they were also singularly subjected to dictates of the market economy in an unparalleled framework!? *The forests and land as public property were subjected to planning for the 7th time. This was a legal shelter for the red and green capitalists*

later. (Impossible to obtain figures from official information made public on land areas of planted forests auctioned as property.)

And what about land? An unparalleled absurdity was *the Government's stipulation for fixing price, withdrawing land, compensating and resettling inhabitants dated 13/8/2009 in Decree 69/2009/NĐ-CP prior to modification of planning for land. After 79 days, the Government detailed the readjusted plan and projected land usage on 02/11/2009 in Circular No. 19/2009/TT-BTNMT. To follow closely the unacceptably intricate and lively twists and turns of the articles and items of Circular 19/2009: Article 2. Set up, adjust and revise plan and program for land use. Item 2. Organise set-up, adjust planning, program of land use by lower echelons executed during the time of setting up, adjust land use planning and programs that are handed down from above. The upper echelon thus insists on direct determination of land use quota to be distributed to form the basis for lower echelons to plan. It is a way of selling certificates down the river.*

Adjusting and fixing land price as directed by the Government before planning for land use is an act of autocratic totalitarian leadership. To allow the issue of legal documents without any mention of the people is anti-democratic, lacking transparency and morality, and essentially characteristic of institutional corruption. Circular 19/2009. Article 2. Set up, adjust, check and revise land use planning, programs. Item 2. Organising set-up, adjustment of land use planning and programs by lower echelons to be executed during the time of setting up, adjusting land use planning and programs that are handed down from above. The upper echelons must insist on direct determination of land use quota required to be distributed to form the basis for lower echelons to set up land use planning and programs. Forests and land as public property were subjected to planning for the 8th time.

Even if the Heavenly Emperor could sprout antlers on his head, he would still not be able to pay compensation for or explain what the Government will do next on the narrow and dark path of the phrase "continuing renovation of State forest farms" when the people's common property becomes assets of the 'red and green billionaires'.

Following the circular 07/2011/TTLT-BNNPTNT-BTNMT dated 29/01/2011 handing over forests, leasing forests linked to granted and leased land for forestry Enterprises, *the foreigner factor emerged, and legalisation proceeded for the birth certificates of sundry pell-mell groups dealing in land, forests, industry, ship building, timber processing...*, and for the death certificates to cultural identity and humanistic values that have been assiduously built up by many generations. In Article 2. Point a. Handing over forests; Point b. Completing hand-over files; Point c. Completing land administration files on cases where forests have been handed but forestry enterprises land has not yet been handed over or leased, or certificates not yet issued. Article 2. State organisations, organised groups, family households, individuals, local communities, Vietnamese living overseas, foreign individuals and organisations related to utilisation of forest enterprise land, ownership or use of forests...

Article 7. Completing files on handing over forests for cases where forest farm land has been handed over or leased but the files on handing over or leasing forests have not yet been

opened. Article 8. Item 2. Concerning Management boards for protective and special-use forests. Item a. Bureau of Resources and Environment to take charge of co-ordinating with Forestry Branch office to examine and verify files on proposed handing over of forestry land, and to issue certificates. Item b. Provincial People's Committees to decide on the handing over of forestry farm land, and to issue certificates to management boards for protective forests and management boards for special-use forests. Article 8. Point 2. Item a. Bureau of Resources and Environment to take charge of co-ordinating with Forestry Branch office to examine and verify files on proposed handing over of forestry land, and to issue certificates. *Forests and land as the people's common property were subjected to planning for the 9th time.*

With 10 easy-to-understand and detailed appendices to guide the opening and completing of files, the granting of certificates for use rights to management boards of protective and special-use forest, to individuals, family households, overseas Vietnamese, or to international individuals and organisations... this shady scheme, by interest groups in unethical command of power positions, was calculated to accelerate their taking advantage of procedures to legalise the files on forests and land under control of those crafty companies, individuals, and organisations who previously won contracts to take care of forests, or to lease cultivated forest land but have not yet acquired land use rights from the decrees 02/CP/1994 and 01/CP/1995, or planning rights for protective forests through Project 661/1998, as legalised by Decree 163/CP/1999, which contains no mention of the people's right to participate.

The manifestation full of trickery of those legal documents paved the way for individuals and companies to step with confidence into the game of pricing the people's common property by market rule (of valued assets). It also ushered in a new social style, a new glamorous rich set, a new morality, a new colonial society and a new colonised mentality in Vietnamese hearts and cosmology. The innocent lineage and community forests have already dotted the survey maps of two companies: 1) the Mapping industry Consultants Company, and 2) the Photographic and Topographic survey Company based in Dong Da District, Hanoi for nearly half a decade (2006) (*See details at research location Lung Sui from September 2011 to November 2012 by village Elders, community, local authorities and offices and branches participating in land transfers linked to transfers of forests as based on Customary laws and legal reference in Circular 07/TTLT/2011*).

Following circular 07/TTLT/2011, Deputy Minister to various Ministries - no. 1019/TTg-ĐMDN dated 24/6/2011 re 'arranging renovation of State-owned forest Enterprises.' Item 1. People's Committees at provincial and City under Central government levels to co-ordinate with Ministries: Resources and Environment, Agriculture and Rural Development in guiding the closing of land lease contracts, the issue of certificates of land use rights over the acreage of State forest farms (limited liability companies with one partner, unlimited liability companies with two or more partners, joint stock companies) which are anticipated to be retained for the management of their deployment in productive enterprise objectives. Completion to be effected by the end of 2011. In 2012, complete determination of boundaries, pegging out boundaries, survey of pegs and boundary lines for land use by State forest enterprises and units responsible for public utility provision.

Pressed within an inch of death's door, after 10 times planning starting from the command to "shut the forest gates" in 1992 till today, forests and land, the people's common property, have been trampled, centrally managed by the Government 'of the people, by the people and for the people', then appropriated for use and put at the disposal of companies and a number of 'interest' groups in society. *Tens of millions of people are set adrift in the river of continued 'renovation' to State Forest Enterprises for nearly half a century with nowhere yet for a landing.*

Every year, one waits for the 23rd day of the 12th lunar month for making offerings to and entreating the Kitchen God, on the return from his ascension to Heavenly Court, to explain the puzzle of a monster embryo that has not yet fully formed. The Warrior's Wife (in classic poetry) lamented: "Now that you have left for the wind and sand realm, where do you stop for rest in this moonlit night?" The elders still keep a vigil looking out for the return visit of the combatants. Elder Dien, of the Ma Lieng had wept worrying that city people did not have enough land to grow rice on. Elder Cao Mai thinks Lowlanders are awash in floods because they run out of forests. Elder Len is concerned that if the children wanted to see a tiger, they would have to sell 5 tons of corn to catch a bus to the capital to go and look at the tigers caged in the zoo. Elder Keo does not dare trapping fish in the taboo stream for fear of offending the Stream Spirit. Elder Xay Khu Yzang cannot understand why the Government flashed signals for companies to fell 500 year-old trees that had been flowering and fruiting to rejuvenate the wild upland forest for the benefit of all the people. Elder Chong Zia Zang is worried for the Long Lan not having enough land to grow vegetable, as Long Lan Forest has taken over all the land of Long Lan. Elder Can Chu Su anguishes why the Government does not transfer the incense jar from Nao Long Forest to the Co-operative Forest so that the latter could be looked after like Nao Long forest. Elder Lua asks why the forests cannot be guarded according to the method of Hoang A Tuong in 1920. Elder Amachem worries he would have to sell the children to the lowland Vietnamese to avoid being apprehended by Father Heaven because he has been remiss in making offerings to the forests!./.