



Land and forests float on a river of policy

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In 1990, an elder of the Dzaio ethnic minority group living in Ba Vi Mountain, Ba Vi district, Ha Tay province described their lives in connection to their forestlands as “floating of a river of policy.” By this he meant that they no longer had control over their own forests, the very basis of their culture and livelihood. The following critical analysis of forest management and forestland allocation in Vietnam since the early 1990s describes that “river of policy” and its effects upon the daily lifestyle of indigenous ethnic minority communities in Vietnam.

Key Message

“The impact of ‘Doi moi’ in transforming Vietnam from a subsidy system to market economy has been to transform the Sustainable Traditional Interdependent Logic of the Ecological Cultural Livelihood of Highland Society to Unsustainability and Dependency. The driving force behind this transformation has been: 1. The Top-down Mechanism of Governance, and 2. the Biased Mindset of national leaders without adequate theoretical and practical understanding of the unique human-nature relations of Viet Nam”.

Part 1: Historical background

Historically, the governance mechanism of Vietnam since 1954 has been top-down, with a leadership habit of blindly follow the examples of other countries without due consideration of the unique characteristics of Vietnam’s own natural, social and cultural capital. One of the first steps of the Vietnamese government following the independence in 1945, was land reform 1954 to cancel the landlord and intellectual classes, and redistribute land to the farmers. Then, in 1959, to force those farmers into cooperatives, by again following the example of the USSR. An example that had already proved disastrous.(Reform Land Law 197/HL/1953)

From 1960 to 1975, with the country united in war against America, farmers and ethnic minorities were looked upon as heroes of the war effort. During this time, forest where ethnic minorities had been living was the secret cradle to which the national leader escaped and prepared for fighting the war (Central Government Resolution 15/ (01/1959). Accordingly, ethnic minority community self-determination under their own wisdom, custom and knowledge to govern their solidarity economy in the forest were providing a trustable and comfortable condition for national leaders and soldiers living and fighting the Americans. After the War, with the country exhausted, the government looked to the forests where ethnic minorities were living as the natural resources for larger production, and resettled ethnic minorities out from their forest home (Resolution 38-CP/1968) as part of the new initiative for reconstructing the country towards socialism after the war. (Directive 61/1976).

Then, in 1986, the policy of Doi Moi (open door) was introduced establishing in Vietnam a socialist-oriented market economy. Doi Moi overturned the policy of collective agriculture, recognizing it as an obstacle for Vietnam to reach a socialist-oriented market economy. It reduced subsidies and encouraged ‘pre-private contract No.100 (Directive 100-CT/TW/1981) and then continued with contract No 10. (Resolution 10-NQ/TW/1988) for the renovation of the agricultural mechanism. Then open up for long term land use rights for state-owned forest land or agricultural land to individuals, households, and organization, especially to foreigners individually or organizationally access to long term renting. All efforts were aimed at building up Vietnam’s move forward to a socialist oriented market economy (Land law No 24-L/CTN/1993). From then on, it could be said that Vietnam had switched from blindly following the example of the USSR, to blindly following the World Bank, in once more imposing top-down policies without due consideration for the unique natural, social and cultural conditions of Vietnam.

Under Doi Moi, the top-down governance mechanism remained. All natural resources came under the control of State-owned Forest and Agricultural Enterprises as conservation areas, national parks, etc. with many ethnic minority farmers being removed from their land –‘re-settlement’. Their cultures and livelihoods were in this way destroyed and their intellectual capital of ecological natural resource management discarded. By 1990, through the concentration of control over natural resources in state enterprises, the forests had become exhausted. There followed a series of top-down government Directives, Decisions, and Decrees (see below), attempting first to close access to forest, and then allocating management rights over forestland to Forest Service Companies (transformed from State-owned Forest Enterprise), households and organizations. Each new Decision or Decree was an attempt to overcome the problems created by previous Decisions and Decrees. This was the “river of policy” that destabilized the lives of ethnic minority farmers creating conditions of poverty which the government then attempted to alleviate, this time by blindly following the prescription of the World Bank under ‘national reform of politics and economy’, again without any understanding of the nature of ethnic minority livelihoods, society and culture.

The World Bank brought to Vietnam new capitalist understandings of ‘development’ and ‘poverty’, opening up the country to foreign investment, a market ideology and western cultural values. Urban Vietnamese academics were recruited to administer World Bank sanctioned poverty alleviation programs under which poverty was measures in terms purchasing capacity and ownership of commodity goods. No awareness was shown of the self-provisioning capacity of ethnic minorities living on their own land and practicing their own traditional agriculture. Nor was it recognized that wherever poverty existed it was because ethnic minorities had been dispossessed of their land and culture by government policy. In this context, poverty alleviation was simply a mask for the process of transforming independent, self-reliant populations into dependent, exploitable commodity producers and consumers, all in the serving global capitalism. Government policy makers, ignorant of the value to the nation of ethnic minority cultures and farming practices, and with a mind-set of obediently following foreign direction, were openly complicit in this tragedy.

Throughout this time and up to the present, the views of Vietnamese farmers and of Vietnamese ethnic minority working on their behalf have been ignored in favor of those of foreign agents of capitalist development. The result, after three decades of this, has been social and ecological damage, loss of cultural and biological diversity, loss of cultural identity and social solidarity. Farmer wellbeing has been replaced by debt bondage, labor exploitation, conflict and sickness. This is what comes from the top-down imposition of blindly followed foreign models, while failing to understanding the land that lies beneath your feet.

Part 2: Policy Analysis

The history of forest management and land governance in Vietnam can be summarized in terms of five couples of government Resolutions/Decrees/Circulars¹ and Decisions/Programs².

The first couple was Decision 327-CT/1992 and Decree 02/CP/1994. Decision 327³ was to establish a large-scale Reforestation and Poverty Alleviation Program, with Decree 02 setting out the procedure whereby this was to be done. This involved the transformation of State Forest Enterprises (SFEs) from subsidized government agencies into self-funding Forest Service Companies (FSCs), and the contracting of land for reforestation by those FSCs to individuals, households and organization. *Under this couple*, hundreds of thousands of hectares of land, and secondary and primary forest areas formerly belonging to indigenous farmers were appropriated by FSCs, National Parks and Conservation Areas, and centralized under their control for their management and governance, then contracting to local district and commune authorities and household for re-forestation under the national budget of Decision 327, in return for a percentage payment to the FSCs, National Park, Conservation area's for administrative and management costs. This un-transparent system of forest/land management and governance resulted in the dissipation of a large part of the budget, the dispossession of indigenous minority communities, and a situation of social disparities and distrust between *the people*⁴, *the FSCs*, *National parks* and *local authorities*. *The outcome of this first policy couple was a first round of land appropriation.*

The second couple was Decree 163/NĐ-CP/1999⁵ and Decision 661/QĐ-TTg/1998⁶. Decision 661 *continued/replaced* Decision 327 with a *new strategy* to recovering 5 million hectares of land and forest, for which about 15 thousand billion VND was budgeted, and established a new set of state-based ***Watershed Forest Management Boards***⁷ (WMB). These WMBs could be established wherever there was any kinds of forest that could measure up to 5000 hectares⁸. The process involved a *second round of forest and land appropriation* whereby indigenous community Spirit

¹ Providing the legal institutional framework for Forest and Land distribution and allocation

² Providing National budget allocations

³ With a budget of about 2 thousand billion VND

⁴ Farmers who were knowledgeable and had good connection with FSCs or National Park, could access unlimited forest land areas for re-forestation, then re-contracting the land to those farmers in their villages who were disadvantage and poor. This practice resulted conflict and distrust among farmers in highland areas.

⁵ Providing legal framework of Land and Forest Rights

⁶ Providing National Budgeting

⁷ These WMBs representing State Responsibility over the natural resources in Highland areas.

⁸ Weakness technical mapping skill associated top-down measure and un-transparent governance system led the 5 million hectares of WMB over Vietnam 'Overlapped

Forest and traditional Watershed Forests were arbitrarily incorporated in the WMB's land claims in order to make up the legal required 5000 ha measurement (CENDI 2016 report – Beyond 07 – annex 1). This forest and land was then contracted to farmers, again for a percentage payment to WMBs for administrative management costs. Decree 163 was designed to overcome the no-limit to the amount of land and forest that could be allocated to households and individuals under Decree 02/1994 by limiting the amount to 30 hectares per household or individual. Recipients of land and forest conspired to overcome this limitation however by claiming land *under the names of different family members*⁹. The Decree 163 also turned the land allocation process into pre-privatization, whereby land-use contracted under Decree 02 were transformed into land rights title with rights to exchange, transfer, lease, inherit and mortgage the land. The effect of this second couple was to give rise to a class of *Vietnamese Kinh landlord/Pre-Capitalists or State-owned Forest Enterprises (SFEs) being transformed into Forest Service Companies (FSCs) which grew wealthy at the expense of indigenous and ethnic minority community landlessness, thereby promoting a new form of internal-colonization in rural areas.*

The third couple was Circular No. 38/2007/TT-BNN¹⁰ and Resolution No. 30a/2008¹¹. These were established to continue to solve the problem of poverty and landlessness¹² brought about by the previous Decrees and Decisions. However, as there was little or no more land or forest left for to re-allocate for 'poverty and landlessness', the budget for Resolution 30a was spent on restructuring rural mountainous area infrastructure, supporting industrial plantations, scaling up wet rice land and secondary forest/midland and highland areas for industrial business sector development for national economic growth. The process involved a *third round of land appropriation into the hands of business corporations for either extractive industry or conventional agriculture for GDP¹³ growth.*

The fourth couple was Circular No.973/TT-TCĐC/2001 associated with Decree12/NĐ-CP/2011. Circular 973 was a statement by the General Cadastral Department of Vietnam cancelling the former UTM mapping system and moving forward to VN 2000¹⁴. Decree 12 also offered Vietnam Youth Union from Central to Provincial and District levels, the opportunity to move to rural highland areas under the 'new rural economic development policy'. Accordingly, a New Form of Youth Association Unit was set up, registered as a key member of the mass organizations – the right hand of the state - who arrived in indigenous ethnic minority regions under multiple strategies: for example, to maintain social security, capacity building for indigenous ethnic minorities in conventional and industrial farming, community healthcare, and so forth, included

⁹ For example, if a family had three sons, each son could receive 30 ha per one land right title under Decree 163 with 6 legal rights, thereby leading to the formation of a new landlord class. See (<https://thuvienphapluat.vn/van-ban/Bat-dong-san/Nghi-dinh-163-1999-ND-CP-giao-dat-cho-thue-dat-lam-nghiep-cho-to-chuc-ho-gia-dinh-va-ca-nhan-su-dung-on-dinh-lau-dai-vao-muc-dich-lam-nghiep-45971.aspx>)

¹⁰ <https://thuvienphapluat.vn/van-ban/tai-nguyen-moi-truong/thong-tu-38-2007-tt-bnn-huong-dan-trinh-tu-thu-tuc-giao-cho-thue-thu-hoi-rung-to-chuc-ho-gia-dinh-ca-nhan-cong-dong-dan-cu-nong-thon-18999.aspx?v=d> (*forest-land/re-allocation/return land from the previous forest/land contracting*)

¹¹ http://nongthonmoilaocai.vn/uploads/news/2017_06/30a_2008_nq-cp_83914.pdf (Quick and sustainable poverty alleviation of 61 poor districts over Vietnam with 25 thousand billion VND, which later on was associated with Decision 2621¹¹/QĐ-TTg/2013 promoting farmers to apply new high yield seed and new conventional mono-cash crops with chemical agriculture).

¹² Re-allocation of land and forest associated with re-poverty alleviation with 25 thousand billion VND

¹³ Gross Domestic Production

¹⁴ Weaknesses of Professional Technical mapping accompanied by an un-transparent governance system caused big problems of conflict later on by grabbing of forest and land while moving from UTM system to VN2000.

re-allocation of forest land¹⁵ to these Youth Units themselves for mono-cash-crop land use, such as Tea, Coffee, and Rubber in order to improve income generation for the Youth Units. Accordingly, Decree 200/ND-CP/2004, articles No.3 & 4, associated with Joint Circular 07/TTLT-BNNPTNT- BTNMT/2011, articles 1, 2, 7 & 8, accompanying Directive 1019/TTg-ĐMDN point 1, took away a huge area of forest land in highland regions and put it in the hands of Youth Units to looking after under the ‘new rural economic development policy’ of Decree 12/ND-CP/2011. The process involved *a fourth round of land appropriation for multiple state owned organizations which later on transferred the forest and land to ‘Rubber Companies and corporations’* (SPERI, 2012 – see Annex 2).

The fifth couple was the Resolution No. 19¹⁶/NQ-BCT/2012 for industrializing and modernizing Vietnam by 2020, and a further series of Decisions and Decrees: Decision 293/QĐ-TTg/2013¹⁷ concentrating on infrastructure; Decree 35/ND-CP/2015¹⁸ focusing on transforming wet rice land into Non-Agriculture land; Decision 48/QĐ-TTg/2016¹⁹ prioritizing infrastructure for conventional agriculture; Decision 1722/QĐ-TTg/2016²⁰ opening up land for industrial corporations; Decision 275/QĐ-TTg/07/3/2018²¹ for economic growth and income generation; and Decree 62/ND-CP/2019²² replacing wet rice land for industrial development planning; with associated Decree 63-ND-CP/2018²³ for public private partnerships based on the exchange of land for infrastructure development in all rural areas.

The outcomes of the Resolution No.19 and its series of Decisions has been to initiate big challenges, suffering and crisis where ever indigenous and ethnic minority populations are living. They are no longer self-reliant, self-determining and living harmoniously with forest and land of great natural diversity and ecological-landscape features. These are now in the hands of corporations, both Vietnamese and foreign. Decision making over land-use has been decentralized to the provincial level, and communes have been offered the opportunity to exchange their forestland or agriculture land for modernized village infrastructure such as roads, bridges, fences, gates, schools etc. But because of the weak knowledge-base and governance capacity of local leaders, decision making has been un-transparent and ill-disciplined, leading to ill-conceived and poorly constructed infrastructure outcomes. Decentralization of decision-making to the provinces has also been marked by an increased orientation toward market relations and private ownership which has allowed commercial companies to lobby for a change in land-use master-planning in

¹⁵ Case study in Pom Om village, Hanh dich commune, Que Phong district, Nghe an province in 2002-11

¹⁶ Industrialized and Modernized all over Vietnam by 2020.

¹⁷ Focused on rural infrastructure for 23 poor districts

¹⁸ <https://thuvienphapluat.vn/van-ban/Bat-dong-san/Nghi-dinh-35-2015-ND-CP-ve-quan-ly-su-dung-dat-trong-lua-271072.aspx> (transforming wet rice field land into long term industrial plantation);

¹⁹ <https://thuvienphapluat.vn/van-ban/tai-chinh-nha-nuoc/quyet-dinh-48-2016-qd-ttg-von-ngan-sach-trung-uong-ty-le-von-doi-ung-giam-ngheo-2016-2020-328072.aspx?v=d> (sustainable national poverty alleviation 2016-2020 focused on infrastructure);

²⁰ <https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Quyet-dinh-1722-QD-TTg-Chuong-trinh-muc-tieu-quoc-gia-Giam-ngheo-ben-vung-giai-doan-2016-2020-321229.aspx> (national sustainable poverty alleviation with the aim of increasing household income generation and economic growth 2016-2020 by open up land for welcoming industrial agricultural corporation)

²¹ <https://thuvienphapluat.vn/van-ban/van-hoa-xa-hoi/quyet-dinh-275-qd-ttg-2018-phe-duyet-danh-sach-huyen-ngheo-va-huyen-thoat-ngheo-376277.aspx?v=d> (sustainable national poverty alleviation aiming for income increasing 2018-2020);

²² <https://thuvienphapluat.vn/van-ban/Bat-dong-san/Nghi-dinh-62-2019-ND-CP-sua-doi-Nghi-dinh-35-2015-ND-CP-ve-quan-ly-su-dung-dat-trong-lua-418633.aspx> ((re-forming Decree No. 35/2015 to Decree 62/2019, transforming wet rice farming land to long term industrial plantation, then to Non-Agriculture land with legal register and revenue!)).

²³ <https://thuvienphapluat.vn/van-ban/dau-tu/nghe-dinh-63-2018-nd-cp-dau-tu-theo-hinh-thuc-doi-tac-cong-tu-347401.aspx?v=d> PPP (Public-Private- Partnership/land resource based exchange for industrial infrastructure and industrial agriculture)

order to re-purpose Spirit and Watershed forests so that primary forest can be cut down and replaced by long-term industrial plantations, hydropower, conventional agricultural and extractive industry. As a result, millions of hectares of Sacred and Watershed forest belonging to indigenous communities are being taken over by companies, and in place of the security of livelihood, culture and identity once enjoyed by indigenous farmers, now-landless indigenous farmers in the highland areas are being offered the opportunity to be exploited as low-wage workers by the companies that now own their land. (For merging of key farmer network action and requirement for debate, see Annex 3)

The consequence of the above fifth couples of Government Decrees, Resolutions and Decisions is that millions of indigenous people living in the highlands now had too little forest land for farming, no Spirit Forest for practicing their religion, and no Traditional Watershed Forest for saving water for their daily livelihood. Their traditional practices of rituality, ceremony and community solidarity economic, their belief and behavior toward nurturing nature and their wellbeing have been undermined, they are in crisis and feeling lost. They do not know where to go! Many outside Vietnamese Kinh free traders with “mobile truck markets”, have free access to the village for selling un-healthy fast foods, fruit, and drinks, and cheap, frivolous fashion items from the cash they received by the whole year waiting for harvest and payback cassava to free trader at the gate of their village for previous month advanced cash.

Part 3: ‘Transformation’: Which way?

In this time of social and ecological crisis, the word ‘transformation’ is commonly used. In Europe, it is used in ‘social-ecological transformation’ to describe the changes needed to deal with the multiple economic, social and ecological crises facing the world today. In this respect it is now internationally recognized by all the major scientific bodies that the major cause of the present crises facing the world is the **environmentally destructive effects of extractive industrial agriculture**, and with regard to world agriculture “Business as usual is no longer an option”. There now need for an urgent transformation of industrial agriculture to more ecologically and socially sustainable forms of agriculture. In Vietnam, however, the government is *currently promoting a transformation from traditional ecologically sustainable forms of agriculture to environmentally and socially destructive industrial forms “as quickly as possible”*. That is, the Vietnam government is moving in a direction **completely counter** to that which has been scientifically proved to be necessary if the world is to avoid complete and devastating environmental collapse. Furthermore, it is likely that as agricultural corporations in *Europe come under pressure to transition toward more ecologically sustainable forms of agriculture they will be exporting environmentally damaging forms of agriculture to non-European countries*, such as Vietnam. In other words **‘externalizing’** the *environmental costs of industrial agriculture onto other countries while pocketing the profits for themselves*.

We need to recognize that there are important differences between Europe and Vietnam affecting the possibilities of a transformation of agriculture toward more ecologically sustainable forms. Whereas *in Europe traditional ecological agriculture has long been eliminated, and the cost of transitioning back to it will be great*, in *Vietnam traditional ecological agriculture is still alive and well, being practiced by millions of ethnic minority people in upland forested regions of the country*. Yet these are exactly the regions of the country that are being specifically targeted for extractive industrial agricultural development by the government. In doing so, Vietnam is **systematically destroying** the major social and environmental assets that give it an advantage over

other countries, and our aim in this research is to point out to the Vietnam government the **environmental and social costs** of its current policy direction toward industrializing agriculture, especially in the forested highland regions of the country. Because of our limited resources we aim to do this by focusing on one commune in one district of one province of one region, i.e., on Po E Commune in Kon Plong District, in Kon Tum Province in the Central Highlands of Vietnam (see field evident finding analysis: dtkien@speri.org and pvdung@speri.org)

At the national level, the policy of the Vietnam government is to **modernize and industrialize** by 2020 so as to take its place in the globalized capitalist economy. But when this high-sounding national policy is directed top-down to the provinces, districts, communes and villages what are its effects? *Our aim is to find out what its effects are at the commune and village level, and to report the real situation of the daily practical suffering of the people as they come under pressure to transform their traditional ecological agriculture into environmentally and socially destructive extractive industrial agriculture.* While we are focusing only on one commune in one district in the Central Highland of Vietnam, the same policy is being forced upon highland ecosystems elsewhere, such as in Upland Northwest Vietnam and Upland Central Vietnam where the most important natural resources of the entire nation are stored in vulnerable slope-land areas, and where due to the imposition of extractive industrial forms of agriculture (with their accompanying chemical pollutants needed to feed artificially bred industrial hybrid seeds), are in danger of being **lost forever**.

From our observation so far, what we have discovered is that when extractive industrial agriculture and its technologies is imposed onto highland ecosystems, the effects are: 1) Loss of native biodiversity of valuable local seed varieties; 2) Loss of the top humus layer of the soil which is the foundation of all life on Earth by poisoned and erosion; 3) Flows of the poisonous elements of chemical inputs down from the upland to the rivers, streams and valleys polluting the water and poisoning fish, crabs, snails, and buffalos – important protein sources for local populations – and also poisoning the people themselves. No longer is there community solidarity economy or self-determination of the ethnic minorities. Development of highland farmer lose – lowland people gain. There is a need to open up for debate vertically and horizontally! (See the national policy reviewed by central government officer provided: viethna@gmail.com)

The impacts are **ecological, economic, and social** as well-both material and spiritual, and are driving local communities to crisis. In Kon Plong, the adoption of industrial cassava planting has produce economic stresses never before experienced as cassava is planted and harvested only to pay back money and materials advanced by cassava free traders²⁴, with little or nothing remaining for the planters themselves - many even finding themselves deeper in debt. The seasonality of traditional food crop production and the enduring forms of village solidarity associated with it have been disrupted. The traditional belief system expressed through seasonal cycle of agricultural ritual and ceremonies is under strain as the landscape spaces for their practice are taken over by soulless industrial mono-cassava and crops.

In other regions as well, **forests**, the primary sources of nutrition for total landscapes are being replaced industrial mono-crops of rubber, palm oil, sugar cane, bananas, pineapples, and coffee. Other whole upland landscaped are being covered by greenhouses utilizing chemical-based hydroponic technologies designed for entirely different climate conditions. So whereas 10 or 20

²⁴ Story of Ms Lan – Free Trader in Po E. (CENDI report 2019)
Forest & Land Policy Review in Vietnam
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years ago, highland populations harvested from their forests and **upland gardens** edible herbs for their daily food and medicines as free gifts from nature, these resources and the pharmaceutical knowledge that goes with them are now being lost. In highland **valleys** where wet rice is grown, the rivers, streams and paddy fields have traditionally been the home of fish, crabs and snails and so forth - an important source of protein for local villagers. But these are now being poisoned by the down-flow of chemicals from upland industrial plantations, particularly industrial cassava and rubber.

Much of the **intimate relationship between nature, culture and livelihood** in indigenous highland societies that we have come to understand through long-term participatory research is not known to researchers, scientists, policy makers and authorities who never spend enough time in the villages and are not patient enough to understand the logic of the traditional ways of living and being in close association with nature and without having, owning or control it. But someone who does pay attention enough and is patient enough can see clearly how these societies apply their wisdom by living harmoniously in their ecosystem. When we do pay attention, we can see that upland space is the school, hospital, pharmacy, garden, and space for contemplation, meditation and the many artistic forms expressed in everyday handicrafts - knowledge of which is handed down through the generations via the practical skills of planting, harvesting, processing of nutritional gifts from nature. A general condition which we have named an 'Ecological Livelihood and Communal Economy' is maintained interdependently by nature and society to enrich peoples' lives and wellbeing.

Nor is the **communal social structure** of indigenous upland societies well understood by those who impose rural development policies upon them. We mean here the invisible patterns of behavior of being and sharing that are embedded in the customary laws that maintain the harmony and solidarity of village life. Customary laws that are flexible and periodically updated with the participation of all families in the village and all villages sharing the one ecosystem or geographical area, in order to maintain harmonious relations with a changing social and natural environment. This system of governance that maintains the wisdom and beliefs and sustainable way of living is today at risk of being lost in the transformation of sustainable traditional livelihoods to unsustainable industrial developments.

Part 4. The Situation of Indigenous Ethnic Minorities Today

What the historical process described above has left behind is many livelihood problems for 16 million IEM people: 1) Internal conflicts caused by un-transparent top-down policy and weakness of the professional governance system; 2) Distrust within communities and between community and outside; 3) Loss of forest and land leading to loss of daily livelihood; 4) Loss of livelihood sovereignty by being forced to work for outside companies or wealthy landlords in and out their own community; 5) Transformation of their communities from a livelihood based on sustainable ecological farming practices and a culture of community solidarity and sharing, to one of environmentally and socially destructive extractive industrial production and selfish greed.

The result is that the young have lost direction and fly to the city, or anywhere where they can earn money for daily living, because if they stay in the village there is no way to survive, except by becoming a slave to a company or wealthy landlord. In leaving the village for the city they become influenced by city styles and tastes, drug abuse, and addiction to modern fashion. Only to return to the village when they become jobless, bringing all the bad influences of the city with them - a

commitment to money values instead of community values, a commitment to industrial livelihoods instead of traditional livelihoods, a commitment to industrial farming with seeds and chemicals purchase on credit provided by the company, instead of maintaining ecological farming with local seed varieties, spiritual rituals and ceremony.

By borrowing money from the company or bank instead of relying of traditional voluntary exchanges within the community, the community solidarity economic structure of the community is broken down opening the way for all the malign influence of the market economy to enter the village – even the selling of ancient musical instruments and other cultural treasures in order to buy plastic rubbish. With no forest and land for traditional economic and spiritual sustenance, food, fruit, vitamin, and edible forest products, fiber for textile handicraft, bamboo for weaving, and medicinal plants, for treating illnesses, everything is now being commercialized by buying and selling via daily Vietnamese Kinh free traders. Money has become god, and the villagers have become slaves to money, opening up the society for penetration and exploitation by companies of all sizes.

This is life that about 70% of the 16 million IEM people are living now. Only about 30% are still strong and confident to maintain their territories and their own customary laws. This is loss not only for minorities themselves, but for the whole nation after about three decade of so-called ‘development’. Everything now is priced for buying and selling. No longer is there trust between the people and the outsider, and there is conflict among people and between farmers and businesses over land for survival.

Part 5. Forest Law 2017

With the passing of the Forest law No 16/QH14/2017, a milestone was reached in the 24 year history of the Livelihood Sovereignty Alliance organizations named LISO. Seventeen articles²⁵ of the new forest law, containing six important new concepts were the result of decades of struggle for legal recognition of the rights of Indigenous Ethnic Minorities to community land ownership and customary law governance of their own natural resources as being crucial for their social, economic, cultural and spiritual wellbeing.

The six new legal concepts legalized by **Article 2** of Forest Law 16/QH14/2017 are: 1) **‘existence space’** – natural landscapes within which 16 million IEM people can practice their own culture and livelihood. 2) **‘community sacred forest’** – areas of forest inhabited by nature spirit guardians of IEM communities and essential to their spiritual wellbeing, now given equal status for protection as government categorized ‘Special Forests’. 3) **‘customary law’** – the laws of IEM peoples by which they govern their own communities and natural resources (Sacred Forests, Traditional Watershed Forests, Natural Resources Forests) for daily livelihood, now legally recognized. 4) **‘native species’** – native forest species that must now be recovered on whatever category of forest land. 5) **‘community ownership’** of sacred forests, watershed forests and production forests. 6) **‘border forests’** with a strong watershed function, now to be strictly preserved with no transfer of ownership or selling.

²⁵ Livelihoodsoverignty.org/info/tin-tuc/17-articles-provided-by-liso-that-have-been-included-in-the-new-forest-law-no.16-2017-qh14-of-the-vietnamese-government-281.html for details of the 17 articles of new Forest Law legalized by the new Forest Law 2017.

The above listed new legal concepts have enormous significance for the practical living of 16 million indigenous ethnic minority citizens of Vietnam. IEM people should now be able to maintain their own value systems and governance logics of voluntarism, solidarity, and community ownership, with no selling of land and forest. This is the most effective solution to the problem of livelihood vulnerability. It also restores trust between IEMs and the government, providing an indigenous solution to the problems caused by earlier misguided ‘poverty alleviation’ programs.

Article 86 of the new Forest Law confirming legalization of community ownership (community rights to community of Spirit Forests), and a further 15 other articles in the new Forest Law, are aimed at re-defining and regaining as well as recovering a situation of livelihood security and wellbeing for around 16 million IEM people in Vietnam, based on the logic of their own traditional knowledge and customary law-based community forest governance and nurturing.

Article 108 of the new Forest Law requiring Provincial People’s Committees to re-monitor and re-inventory the total natural forest areas of their provinces in order to re-identify and re-categorize those natural forest areas into 3 determined forest categories: 1. Special Forest; 2. Watershed Forest; and 3. Production Forest within 12 months started from the 1st day of Valid Forest Law will enable the discovery of how many hectares of Spirit Forest and Traditional Watershed Forest belonging to the community have been encroached on by the above described Decision/Decree couples. Visit. livelihoodsovereignty.org/info/tin-tuc/17-articles-provided-by-liso-that-have-been-included-in-the-new-forest-law-no.16-2017-qh14-of-the-vietnamese-government-281.html for details of the 17 articles of new Forest Law legalized by the new Forest Law 2017.

The Enlightening Effects of Forest Law No 16/QH14/ 2017

The passing of the Forest Law 2017 allowed for a different approach to community land right allocation, in that there was no longer a need to lobby local authorities about community ownership of spirit forest, watershed forest and livelihood forest. This has now been accepted in law. This does not mean, however, that the allocation of community land is now a simple and straight forward process. Rather, the legacy of three decades of un-transparent and top-down forestland policies that has seen the customary forestland of 16 million IEM peoples transferred out of their control and into the control and ownership first of government owned SFEs, then moved to FSCs (Forest Service Company), then individuals, households, organizations, and finally privately owned business companies has made the process of returning forestland to community ownership extremely problematic. It involves a processes of first mapping the areas of forest designated by the people a ‘spirit forests’, discovering who the current ‘owner’ or contending ‘owners’ are, and then negotiating for the return of that forest to its traditional owners, the IEM community. Despite the legal backing of Forest Law 2017, the difficulty of this process cannot be overstated. For having successfully allocated forests in Po E, Mang Canh and Dak Nen communes to community ownership, we now find the preservation of these forest is threatened by a new development policy: namely the governments drive toward “New Economic Criteria Village”, example in Po E commune, this has meant a drive to transform its traditional ecological agricultural system to

environmentally destructive extractive industrial agriculture²⁶ in the form of large-scale industrial cassava growing.

Luckily, in Kon Plong district there is some light. **Viable ecosystems**, though damaged, still exist and can be recovered. Through our research into the comparative advantages of traditional ecological agriculture over extractive industrial agriculture we can see the way forward to *a truly sustainable future for highland indigenous rural populations and for the preservation of the nation's priceless and irreplaceable natural resources by restoring and rejuvenating the interdependent ecological relationship of peak forest (Rừng), upland fields (Rẫy), and valley rice fields (Ruộng) as the natural highland ecosystem and National Heritage*. Both government and people must action this to preserve the last vital ecosystem heritage of Central Highland Vietnam. (See field video evidence and stories: npbinh@speri.org and nguyenlinhm101@gmail.com).

²⁶ Opening up forest and land for various corporations: 200 ha forest land for Korean Cow Company for Meat Processing; around 200 ha for TRUE MILK Cow Company; 2000 ha for VinEco, Green house agriculture, 1,200 ha for FLC resort, and business enterprise applied under 'Israel High Tech-Agriculture'.

Annex 1. The two sides of Circular 07/2011/TTLT (CENDI report/Beyond 07)

There were two sides to Circular 07/2011. Ninety percent of it was in support of private and state owned companies because they were the only entities able to complete the administrative procedures in time (there were 10 annexes of instructions on the process of getting ownership title to land). Perhaps 9 percent of it was in favour of rich and knowledgeable farmers who were skilled enough to pursue claims themselves, but there was only 1 percent opportunity for indigenous ethnic minorities to apply for forest and land rights and even this one percent was reduced to zero by the Directive 1019 requiring all procedures to be completed by the end of 2012 (*it normally takes longer than two years for information on government policies to reach ethnic minority communities*). However, SPERI saw that if they could present sufficient evidence on the unworkability of the Directive 1019 deadline, the 1% opportunity provided by Circular 07 for indigenous communities to claim forest and land ownership could be effectively used. In the light of this opportunity, two pilot projects were proposed to facilitate the claims of two ethnic minority communities to community ownership of their customary forestland: the Hmong community of Lung Sui, in Simacai District, Lao Cai Province, and the Black Thai community of Hanh Dich in Que Phong District, Nghe An Province (for Hanh Dich case, see Annex 2 below).

Hmong Group case in Lung Sui commune, Northwest of Vietnam

Lung Sui was chosen because Simacai district is 95% deforested and the 5% of forest that remains does so because it has been preserved by the Hmong people as *Nao Long* ('Spirit') Forest. From having worked in Simacai since 1999, SPERI knew that most of this forest was under the management of the government's Watershed Management Board (WMB) and therefore likely to be claimed by them under Circular 07/2011. SPERI also knew that the WMB managed this land by contracting its maintenance to local farmers, and in this form of 'co-management' local farmers had to do with the land what the WMB instructed, such as planting commercially valuable but environmentally destructive exotic tree species. Meanwhile the Hmong customary system of natural resource management, based upon traditional cultural beliefs, is what preserved the remaining natural forests. This forest and the cultural values and identity to which it was integral was now at risk because of its overlapping boundaries with land claimed by the WMB. The SPERI project was aimed at having the overlapping/conflicts between the Hmong community and the WMB in Simacai resolved, and the forestland re-mapped, re-allocated, and re-distributed according to the customary regulations of the Hmong people. Detailed evidence of the problem of overlapping boundaries, and guidelines for resolving this difficulty would then be disseminated to the different provinces and regions of Vietnam as a solution to the problems raised by Circular 07/2011.

Another reason for choosing Simacai was that SPERI had been working in Lao Cai province since from 1994 to 1998; first in Sapa District with women handicraft and healer networks in co-managing natural resources, then shifting to working with the traditional healer and key farmer network via three thematic approaches: 1) Customary law in natural resource management; 2) Herbal wisdom in community health care and bio-cultural diversity preservation integrated with women's textile handicrafts; and 3) Ecological farming in land use planning for livelihood security from 1999 to 2004; then in 2004 opening a Farmer Field School in Simacai and up to today (2016) involving young indigenous farmer activists from different nearby districts in network action. From working with traditional healers and key farmers in different communities in Simacai SPERI was

well aware of the situation of the overlapping of traditional forests with lands claimed by the WMB. The third reason for choosing Simacai was that over the time of working in Lao Cai, SPERI had developed very good relationships with the local authorities and the Ethnic Minority Council in Parliament. SPERI had also during this time developed a strong key-farmer network in Simacai. The ingredients that enabled SPERI to work effectively in Simacai were: 1) trust in the ability of the local people to define and solve problems according to their own cultural values, and 2) the trust of the local authorities that SPERI would work in the interests of all stakeholders.

To achieve the project objectives, the different local provincial, district, and communal authorities and department specialists, including WMB official staff, worked together with local elders and key farmers in identifying boundary overlaps caused by the top-down bureaucratic mapping of the government over the previous 13 years since WMB occupied the forest according to Decision 661/QĐ/1998, then re-mapped and re-classified the forest using traditional Hmong categories of “*Nao long*” spirit forest, clan forest, watershed forest, herbal forest, and community forest. This was the second time in the history of forest and land law in Vietnam that the customary categories of forest use had been legalized by district authorities for the purpose of forest mapping (the first time was supervised by TEW²⁷ in On oc village (Hmong), Muong lum commune, Yen chau district, Son la province in 2001 which was lobbied successfully the *Article. 29* of Forest Law 2004). The customary laws of Hmong were then used to develop a common set of regulations for forest monitoring. This also was the second time in Vietnam that customary laws defined by the local people had be used in this way. Finally, the forest and forestland was re-allocated to the communities and their land title procedures completed. Each step in this process involved training, conferences, and study tours in order to strengthen capacities, raise awareness and publicize the issues. The result was a wider public awareness of the problems and possibilities of the 07/2011 circular and the complete unworkability of the 1019/2011 directive.

The lessons learned from this process in Lung Sui were latter written up as “*30 unique steps²⁸ methodology in claiming forestland rights for ethnic groups*” detailing the ways the administrative process for claiming land ownership under Circular 07/2011 could be followed.

²⁷ TEW stands for Towards Ethnic Women established in January 1994 - the grandmother of SPERI

²⁸ See 30 steps at www.speri.org/ www.cendiglobal.org

Annex 2. Black Thai Ethnic Group Case in Hanh Dich commune: Landless Action²⁹ under Circular No.973/2001/TT-TCDC associated with Decree12/ND-CP/2011

Hanh Dich, a Black Thai community in Nghe An Province is another community with which SPERI has had a long engagement since 2000 via supervision of three thematic networks: 1) Customary law in natural resource management; 2) Herbal wisdom in community health care and bio-cultural diversity preservation; and 3) Women and credit through textile handicraft, and this enabled the same level of mutual trust and bottom-up participatory action as was possible in Lung Sui. However, circumstances in Hanh Dich were different from those in Lung Sui, and this required a slightly different approach. For the Hanh Dich community, claiming ownership of their forestland under Circular 07/2011 faced a major obstacle. Under the government's top-down "New Economic Development Policy for Youth Associations" (Circular 973/2001 and Decree 12/2011) which was applied in all mountainous areas in Vietnam in 2001, there were 6,163.5 ha of forest and land of Hanh Dich had been top-down mapped according to Decision No. 3192/QĐ-UB dated September 14, 2001 by the Nghe An provincial president in order for the Que Phong Youth Association to operate a commercial enterprise. This was done without informing the village or the Hanh Dich Communal Peoples' Committee leaders. After 3 years of conflict between the villagers and the Youth Association, from 2001 to 2004, this top-down program had failed in its enterprise, and legally the land should then have been returned to the Hanh Dich community. But instead it remained legally under the name of the now dormant "Nghe an Youth Association", and in 2011 (7 years later), under a new Industrial Development Policy, the 6,163.5 ha of forest land of Hanh dich commune and (included 2,232 ha of forest and land in Tien Phong commune and 1,369 ha of forest and land in Muong Noc commune, neighboring communes of Hanh Dich) was transferred by the Decision No. 917/UBND-ĐT 02/03/2011 signed by Vice- President of Nghe an Provincial People Committee (Mr Nguyen Dinh Chi) to the Que Phong Rubber Joint Stock Company. The danger for the Hanh Dich community now was that if this land could not be recovered, by the end of December 2012 all 9765.7 ha of the three communes of Hanh Dich, Tien Phong and Muong Noc would automatically become the property of the Que Phong Rubber Company. Such would be the logical outcome of the joint operation of Circular 07/2011 and Directive 1019/2011 with direct support of Resolution No. 19-NQ/TW dated 31/10/2012 which pushed for the implementation of both Joint Circular 07/2011 & Directive 1019/2011 to hastily complete the granting of ownership titles of all remaining forest and land into the hands of big corporations which had been formed out of the original State Agriculture and Forestry Enterprises, and which now included newly registered foreign investors.

These were the circumstances in which SPERI entered into the Hanh Dich community to maximize the 1% opportunity provided by Circular 07/2011 for that community to secure ownership of its forest land. The challenge was to resolve the conflicts between 5 stakeholders: 1) the Youth Association; 2) the Rubber Company; 3) the Former President of Nghe An Province; 4) the current President of Nghe An Province; and 5) the Black Thai people of two communes.

A pilot model was begun in Pom Om village with multi-actor involvement to ensure that the process was transparent and that conflicts were resolved completely. The primary actors were local

²⁹ There were 6,163.5 ha of forest and land of Hanh Dich had been top-down mapped according to Decision No. 3192/QĐ-UB dated September 14, 2001 by the Nghe An provincial president in order for the Que Phong Youth Association under 'new rural economic development', then later in 2011 handed over to Rubber Company of Que phong/ Decision No. 917/UBND-ĐT 02/03/2011 signed by Vice- President of Nghe an Provincial People Committee (Mr Nguyen Dinh Chi) to the Que Phong Rubber Joint Stock Company

Black Thai people of Pom Om and neighboring communities. Other actors were the district and communal authorities, technical staff and the border army station. Village meetings were held to discuss and devise a work plan and to study of local customs of forestland use. The traditional healers and key farmers, especially female healers and handicraft designers, went together with army station staff and official technical staff from Que Phong district to make transects through the different forest categories in Pom Om bordering with other villages, especially those of Tien Phong commune. These field trips revealed astonishing mapping overlaps and cases of *land grabs dating back to Decision No. No. 917/UBND-ĐT* which corruptly transferred land from Hanh Dich commune to the “Nghe An Youth Association” under the New Economic Development Policy for Youth Associations in 2001.

The question then arose as to how SPERI was to deal with this. At this point the key actor that should have been involved was Tien Phong Commune, which had lost 2.232 ha to the Que Phong Rubber Company; so to decide what to do SPERI had an informal meeting with some progressive local authority members, one the Vice-Chairman of Que Phong District responsible for agriculture and forestry and another the head of natural resource management, to get their advice. There were two options: 1) if SPERI was to go ahead and involve Tien Phong Commune in kicking out the Que Phong Rubber Company in order to get back their land for the farmers it would be very dangerous. One possibility would be that SPERI would be kicked out of the area because Que Phong is an area of political, economic and strategic sensitivity because of it bordering with Laos; 2) if SPERI ignored the 2.232 ha of land grabbed under *Decision No. 917/UBND-ĐT* and continued to supervise Hanh Dich, at least the pilot of applying Circular 07 for recovering land for indigenous ethnic minorities could go ahead and its achievements contribute to the policy making process. These are the type of difficult decisions SPERI is often faced with, and after careful consideration and analysis SPERI decided to give up the Tien Phong commune in order to concentrate on Hanh Dich.

The next step was to call for a series of meetings for healers, key farmers and female handicraft specialists to connect directly with local authorities and professional staff at different levels of government for constructive open dialogue on the historical journey of Hanh Dich since 2001 up to today under the three thematic networks. Forests and field were surveyed and measured and training was provided in resource management for communal and village leaders; mapping conflicts were resolved and community regulations set up for forest management. A land allocation profile was then submitted to the district authority. This was approved by the Que Phong District people’s Committee in June 2012 and land certificates were granted to the Pom Om community in September. The project was then replicated in four other villages in Hanh Dich commune.

One very important outcome of these meetings was that after a survey and training courses Que Phong local authorities fully supported the return to Hanh Dich of about 4,7 ha of spirit forest named Tang Bia and Nhoi Hoc located at the top of the mountain which had been grabbed by the Que Phong Rubber Company. This was duly returned legally by the Que Phong District authorities to Hanh Dich commune as ‘spirit forest’ of the Pom Om community.

After this Pom Om called a meeting for all traditional healers, key farmers and handicraft specialists to come together over three days to map and document all of their customary laws for categorizing their spiritual landscape, pointing out that Tang Bia and Nhoi Hoc spirit forests should be regarded as ‘religious land’ according to Article 160 of Land Law 2013. SPERI submitted to the Prime Minister, the Minister of Natural Resource Management, Agriculture, Justice, the

President of Vietnam, the President of Parliament calling for a change in Article 160 according to which religious land was defined only as land on which there were temples, graves and houses of worship. This definition caters only for the majority Vietnamese Kinh population and discriminates against the 16 million indigenous ethnic minority population for whom mountains, forest, rivers, streams, rocks and stones are respected spiritually as they are found existing naturally in the environment without any alteration by human hands”.

Wider impacts to central highland of Vietnam and National discourse on forestland rights

By holding forums and Conferences at communal, district and central government levels with the interactive involvement of multi-stakeholders such as villagers, local authorities, technicians, researchers, activists, Parliamentarians, General Rubber Corporation and media/press, the actions of SPERI in Lung Sui and Que Phong created a critical national discourse on forestland rights of ethnic minorities in upland areas of Vietnam. At the grassroots level, there was a movement to request the government to re-allocate forest and land to ethnic minorities. At the local authority level, requirements were being placed to improve the formal processes, guidelines and procedures in forestland allocation and mapping through 30 unique steps applied 07/2011 to the indigenous ethnic community in order to figure out the overlapping, especially for resolving conflicts between local residents, companies and the state in a transparent, fair and peaceful way. At the central level there was lobbying for amendments to the 2013 law on land via co- conferences with legislative committee of national parliament and Ho Chi Minh National Political Academy. The latter concentrated on *Article 43*. Point 2 Directory a), b) and c) on Grassroots Participation in Master Land Use Planning; *Article 137*. Special Forest Category where sacred/spirit forests belonging to indigenous communities for a hundred years must be integrated with *Article 160* Religious Land³⁰. This article defines religious land only for Vietnamese Kinh as land on which Temples and Churches are built, ignored the sacred trees, rivers, stream and mountains which indigenous people have voluntarily preserved for a hundred years. Nationwide, there was involvement of media/press in broadcasting these issue of forestland rights for ethnic minorities.

Grassroots movement for community forestland and Customary Law Rights

Because of the linkages, sharing and exchanging between pilot communities and existing networks on customary law in watershed forest governance earlier facilitated by SPERI, the issue of community forest land rights became expanded to other localities, resulting in 96 villages in Simacai district and 87 villages in Que Phong district asking their district authorities to re-allocate forest land from state and economic entities to local communities. Ethnic minority groups in other provinces (Quang Binh, Kon Tum, Lang Son) also successfully requested local authorities to grant title over community spirit and productive forestland, or to return productive land occupied by companies or taken for development programs.

³⁰ See SPERI recommendation No.128 Dated November 1st, 2012 to legislative committee annex 1
Forest & Land Policy Review in Vietnam
ttlanh@speri.org/www.co2justice.org

**Annex 3. National Conference on Landless and Solutions sent to the National Assembly
Congress November 2012**

Social Policy Ecology Research Institute (SPERI) ----- <i>Number: 128/ c/o recommendations on Resident Land and Farming Land for Indigenous Ethnic Minority People in Mountainous Area</i>	Socialist Republic of Vietnam Independence-Freedom-Happiness <i>Hanoi, dated Novembre 1st, 2012</i>
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To:

- Chairman of National Assembly of Vietnam;
- Chairman of Nationality Council of National Assembly;
- Members of National Assembly, 4th Session, 13th Term, 2012

Recommendation from the Landless Conference

*Resident Land and Farming Land for Indigenous Ethnic Minority People in Mountainous Area
(La Thanh hotel, Hanoi, November, 1st, 2012)*

On November 1st 2012, the Social Policy Ecology Research Institute (SPERI), the Consultancy on Development (CODE), and Culture Identity and Resource Use and Management (CIRUM), co-organized a Conference on ‘*Resident Land and Farming Land for Indigenous Ethnic Minority People in Mountainous Area*’. Participants consisted of 1) representatives of farmers who face serious shortages of land coming from mountainous ethnic communities of Northern, Central and Central Highland regions, provinces of Lao Cai, Son La, Bac Can, Lang Son, Nghe An, Ha Tinh, Quang Binh and Kon Tum ; 2) communal and district officials coming from Hmong, Thai, Tay, Nung, Van Kieu, Bana, Ro Ngao and Kinh ethnic communities; 3) representative from the National Assembly office; 4) representative from the Nationalities Council of the National Assembly, 5) the Economic Committee of the National Assembly, 6) the Committee for Education and Propaganda of the Party’s Central Committee, 7) the Government Office, 8) the Bureau of Forestry, 9) the Land Research Institute of the Bureau of Land Management, 10) the Fund for Participation and Accountability, 11) the Department of Policy and Legality, Bureau of Land administration, 12) Vietnam Paper Corporation, 13) Vietnam Forestry Corporation, 14) Representative from Ministry of Agriculture and Rural Development, 15) Representative from Ho Chi Minh National Academy of Politics and Public Administration, 16) representative from Norwegian People's Aid (NPA), 17) Bread for the World (BfdW), 18) Website of Vietnam Communist Party, 19) Politics and Social television - VTV1, and 20) the media, television, Radio of Vietnam.

The following main contents and recommendations of the Conference are collected by the organizers and sent to the ongoing 4th Session of 13th Term National Assembly regarding Resolution No. 438/NQ-UBTVQH 13 dated January 12th, 2012 and Detail Plan No. 152/KH – DGS dated May 25th, 2012 of the Standing Committee of the National Assembly on the supervision of

‘the implementation of policies, legal document on residential land, production land for ethnic minority peoples’:

Firstly, Shortage of residential land and production land.³¹ Ethnic minority peoples of some localities even do not have production land, lose sacred forests for worshipping their ancestors, and lose land for practicing management, worshipping, and nurturing nature according to belief system of ethnic groups. Losing spiritual forests, herbal forests, and clan forests means losing existence spaces for multi-generational traditional culture of ethnic peoples. Shortage of production land signifies insufficient vital foundation for maintaining livelihood security of mountainous ethnic peoples, and its outcome contradicts the orientations of the Party, such as Guideline No. 29 in 1983, Resolution No. 26 of the 7th Plenum of 9th term Party Central Committee in 2003, and the 6th Plenum of 11th term Party Central Committee in this October. Though mountainous areas contain vast areas of land, there remains land distribution inadequacy, low use efficiency, and messy exploitation. This phenomenon causes serious degradation of bio-diversity of land and forest and the erosion of cultural identity of ethnic groups, that becomes an unacceptable paradox for the country’s current development process;

Secondly, this paradox has been a focal point causing contradictions and conflicts reaching the level of complaints, denunciation and insecurity in mountainous society, and potential social unrest. If there is no sufficient synchronous measures, there will explode spontaneous selection of state power by the people;

Thirdly, since 1983, Guideline No. 29, then Resolution No 26 the 7th Plenum of 9th term Party Central Committee in 2003, and the most recent 6th Plenum of 11th term Party Central Committee, all reflect highly the political will for solving problems. Political will is the most significant foundation for implementing solutions and pilot models dealing with ethnic peoples’ shortage of residential and production land. The remaining issues are the realization of this will in the entire political system and attitude in implementation on the basis of people, community participatory democracy, co-responsibility with involvement of local people, so as to stabilize soon peoples’ spiritual and material life.

Fourthly, It is necessary to revise land law towards : 1) Provide specific policy to ethnic minority peoples ; 2) seeing that specialized-used and protection forests are not only allocated to subsidized salaried state management boards, but also to local ethnic communities for their own protection and management under a specific, suitable policy, which has regard to and is based upon ethnic people’s land and forest valuing perception and practice of voluntary ‘natural worship’ without government salary payment. For instance, traditional water protection forests, herbal forests, clan forests should be considered as protection forests. Sacred forests, spiritual forests should be seen as special-use forests. The state should enact policy that accepts various distinctions and respects every ethnic customs and their perception of forest and land. Specifically, legal

³¹ Inadequacy, inequality of residential land and production land between farmers and officers/ worker of enterprises: each officers/ worker of enterprise has 113.36 ha of forestland. Each mountainous farmer household has only 0.62 ha of production land. Average land per resettled household is merely 400 m² of land.

framework should be provided to enable ethnic people to maintain their religious practices towards this type of land and forests. 3) Rearrange and withdraw major portions of the most favourable production land from state enterprises and companies to allocate to ethnic peoples. The system of state forestry and agricultural enterprises should be reformed towards services for inputs and outputs of forestry production. Responsibilities and obligations of forestry enterprises should be as equal to those pertained to the mountainous households. This is the most efficient measures for utilization of land and forest resources, while at the same time promoting the strength of 15 million mountainous people. Ethnic people should have rights to pay taxes direct to state budget instead of through such intermediaries as forest enterprises or companies. Do not allow the existence of disguised land renting and getting taxes from that. This is a critical issue in the transitional period, whenever a considerable amount of forest enterprises and companies become intermediary actors to separate authorities from peoples and make people misunderstand the nature of a state of the people. 4) Reorganize the forest protecting force to become an actual force of the people, to combine people's forest protection to the ethnic people's monitoring and supervision, so as to ensure holistic efficiency of forestland use;

Fifthly, regarding state management: 1) Strengthen and build up communal administration to be strong enough with sufficient personnel and resources to deal with strict and effective local land management. 2) Readjust and complete communal land use planning with a strategy of implementation, supervision, management of land use planning in a disclosed, transparent and democratic manner. 3) Soundly implement democracy principles which have regard to respecting customs, traditional cultures, and perceptual values of each ethnic identity. 4) Strengthen people's supervision capacity at communal level, enhance forest and land management and administration skills for people and community after land allocation, so as to assure the build-up of a forestry society of self-reliance, self-responsibility, civilization, stability, and charms of cultural identities of each ethnic group;

Sixthly, Administrative power of all levels should become a central position to assemble social forces to involve in a solution to the mentioned paradox, of which communal level should be a foundation for initiations;

Seventhly, Respect resolutions of land overlapping, recalling adjacent forests and land from management boards of protection forests on the basis of ethnic people's ethics and participation; replicate and extend successful pilot models of community customary law-based land allocation in combination with forest allocation according to Joint-circular No. 07/TTLT/2011 in provinces of Son La, Lao Cai, Lang Son, Nghe An, Ha Tinh, Quang Binh. Special attention should be paid to pilot models of 'community rights towards spiritual forests, herbal forests, traditional clan forests, watershed forests' on the basis of integration between customary laws and statutory laws with advice from Social Policy Ecology Research Institute (SPERI) and Culture Identity and Resource Use and Management (CIRUM). Their efforts in land allocation in combination with forest allocation have been made upon 38,000 hectares of community forestland, production land, based on customary laws, Decree 163/1999/ND-CP and Joint Circular 07/TTLT/2011 and the

instructions of land use planning towards ecological farming by the mentioned organizations in the above mentioned provinces;

We wish for the National Assembly members good health and would express our deep sincere appreciation of your interests for the sake of secure, sustainable livelihood sovereignty of mountainous ethnic minority peoples in Vietnam./.

c/o : <i>1. National Assembly, 4th Session, 13th Term, 2012 ;</i> <i>2. Drafting team of Land law 2013 ;</i> <i>3. Ministry of Natural Resources and Environment ;</i> <i>4. Ministry of Agriculture and Rural Development ;</i> <i>5. Storage at offices of SPERI, CODE and CIRUM.</i>	Social Policy Ecology Research Institute (SPERI) Director <i>Signed and Stamped</i> Professor.Dr.Khong Van Dien
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