

Chapter 1

BUILDING LIVELIHOOD SOVEREIGNTY FOR THE MEKONG REGION

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Highlights

- Indigenous ethnic minorities in the Mekong region maintain the local values and rights for livelihood sovereignty.
- The sustainability values of the indigenous peoples, which have been degraded in many parts of the world, need to be preserved and supported.
- Government support for legalizing the voluntary, community, and customary law-based administration of natural resources by the local people needs to be rallied through intricate advocacy and facilitation.
- The key to building the rights-based approach was developing strong networks of “Key Farmers” to act as effective speakers in farmer-to-farmer and farmer-to-authority workshops.
- A significant achievement was noted with the passing of Vietnam’s 2017 Law on Forestry, which now stands as a springboard for a new series of actions by NGOs on behalf of indigenous ethnic minority communities in Vietnam.

Introduction

The Livelihood Sovereignty Alliance (LISO) is an alliance of three Vietnam-based civil society organizations: the Social Policy Ecology Research Institute

(SPERI), the Community Entrepreneur Development Institute (CENDI), and the Culture Identity and Resource Use Management (CIRUM). Each of these is dedicated to working toward the livelihood sovereignty of indigenous ethnic minorities in the Mekong region (see APPENDIX 1.1.).

“Livelihood Sovereignty” is defined¹ here as the right of people to their land, religion, culture, knowledge, and system of governance. Livelihood sovereignty can be considered “a holistic and ethical alternative solution,” which consists of five inter-related rights: 1) the right to land, forest, and water, clean air, and natural landscape, 2) the right to maintain one’s religion, 3) the right to live according to one’s own way of life and values of happiness and wellbeing within one’s own natural environment, 4) the right to operate according to one’s own knowledge and decide what to plant, initiate, create, and invent on one’s own land, and 5) the right to co-manage or co-govern natural resources with neighboring communities and local authorities.

The Region’s Community Spirit Forestlands

Community spirit forestlands are spaces in which villagers practice and maintain their religious values toward natural spirits via traditional rituals. This land (Figure 1.1.) has been recognized over many generations as being owned by the whole community; its management and protection are closely associated with the traditional practices and ideologies of the community, and with the roles of the elderly, prestigious people, and clan heads who voluntarily implement its management.

In addition to its spiritual purpose, these forestlands provide resources to ensure the livelihood of households in the community for cultivation, housing, firewood, herbal medicines, and food. From the perspective of the villagers, these community forestland areas have always belonged to them, having been transferred to them by previous generations. Local communities still lack rights under the law to manage and use these areas.

¹ This definition was created through consultation among SPERI and traditional healers, spiritual leaders, and ordinary farmers.



Fig. 1.1. Map of community spirit forestlands preserved by LISO efforts

Central Challenge

LISO sees the central issue facing indigenous ethnic minority peoples in the Mekong region today as two-fold. Firstly, that of preserving spiritual beliefs and values that are embedded in their relationship to their traditional lands, and forming the basis for their customary laws for governing their land-use practices. This is particularly challenging today because these beliefs, values, and practices are different from those that are being promoted globally by large transnational corporations, international financial organizations, and nation-states. However, as the devastating environmental, social, and political consequences of unbridled capitalist development becomes clear to everyone, the search for an alternative set of values for relating to both humans and

nature is becoming increasingly urgent. We believe that the values preserved by indigenous peoples around the world are those that we need to adopt to sustain natural forest landscapes.

We recognize, however, the way the often-destructive beliefs, values, and practices of corporations, financial organizations, and nation-states are so opposed to traditional forms of governance, meaning that these traditional forms have suffered and changed a lot. Communities are also changing as a result. In order to deal with this new context, traditional governance systems need to evolve, adapt, and stand up against this destruction. This would include traditional governance strengthening its voice and becoming better able to resist overwhelming efforts to change and ‘modernize’ them.

At the next level, one major obstacle to achieving customary law-based land governance is that government land law does not recognize community rights to land; it recognizes only individual households’ and individual community organizations’ rights to land.

Strategy

Our efforts are directed toward ensuring that indigenous ethnic minorities in the Mekong region retain or recover their rights to their land and that this land continues to be governed according to their customary laws. In this way, the traditional spiritual beliefs and values associated with the land can be preserved as the fundamental guiding principles governing land use. Community land ownership has not been achieved everywhere—individual household ownership is in some cases all that will be allowed by the state; but in all cases, whether the land is granted for communal or individual household ownership, we have ensured that it is governed according to local customary law. We pursue this strategy through a process of “participatory customary law-based community land allocation.”

LISO has been able to facilitate accommodations between state legislation and local customary law. Here local communities have been able to ensure that all their land is governed according to local customary law by institutionalizing their customary regulations for land management and having these legitimized by local government authorities. Contrary to some widely

held views, indigenous peoples' customary law is not rigid. It is flexible and adaptable to changing circumstances, situations and needs. Some indigenous groups (e.g., Hmong) have regular ceremonies for adjusting their customary law to new circumstances.

LISO appreciated that relationships between the indigenous peoples are intimate in terms of shared philosophy, history and personnel. Eventually, more than twenty years of engagement with indigenous ethnic minority communities in the Mekong region defined LISO's added value².

Methods

These activities aim to persuade local government authorities of the superior knowledge and land management practices of the local villagers, as well as to gain their support for legalizing the voluntary, community, and customary law-based governance of natural resources by the local people. The first Step in this process involves extensive and in-depth community-based research to understand the intimate connection between a people's beliefs and values and their relationship to the land (See APPENDIX 1.2.). The next Step involves engaging local village elders in surveying and categorizing the landscape of their villages according to their traditional wisdom, knowledge, and customs. The third Step is to empower local villagers as spokespeople and presenters of their indigenous land management practices at farmer-to-farmer and farmer-to-local authority meetings.

Achievements

The LISO Alliance has over twenty years of experience working with highland indigenous ethnic minorities in the Mekong region. During this time, it has built up a very strong network of "Key Farmers"³ to act as effective speakers in farmer-to-farmer and farmer-to-authority workshops. They help explain the possibilities, benefits, and advantages of community-based land ownership and

2 One major achievement has been LISO's success in lobbying and influencing the government to make changes to 16 articles of Vietnam's draft Forestry Law, including Article 86, confirming legalization of community ownership of Spirit Forests, Watershed Forests and Production Forests.

3 See APPENDIX 1.1. for a discussion of the role of Key Farmers in SPERI's efforts to address structural poverty through sustainable development.

customary law-based natural resource management. Positive impacts achieved through the methodology of using farmers as speakers, trainers, and facilitators include the building of farmer confidence and the strengthening of solidarity both within and between villages, thereby enlivening their determination to preserve their culture of living harmoniously with nature.

Another positive impact has been the change in attitudes of local authority staff. It comes as a bit of a shock to them to hear ethnic minority farmers presenting their wisdom and practices of natural resource management and knowledge of the environment, and to see with their own eyes how effective customary laws are for natural resource protection. These shocks have caused them to change their attitudes, from seeing ethnic minority farmers as 'backward' and 'superstitious' to seeing them as very knowledgeable and capable. The outcome is that local authorities gain complete confidence in the ability of the local people to manage their natural environment effectively according to their knowledge and customary laws. This in turn greatly facilitates the smooth transfer of land titles from state organizations and private individuals to whole communities.

Since 1995, the LISO Alliance, and its predecessor organization, Toward Ethnic Women (TEW), advocated for the allocation of land/ tenurial rights to 62,673 hectares of forestland areas to indigenous ethnic minority households and community organizations in Vietnam and Lao PDR. This includes 44,274 hectares allocated to 8,268 ethnic indigenous minority *households* in Vietnam, and Lao PDR and 18,390 hectares allocated to 77 ethnic community *organizations* in Vietnam and Lao PDR.

In both Vietnam and Lao PDR, land (including agricultural and forestland) is owned by the population as a whole and administered by the state on the people's behalf. Individuals and organizations are granted access to land through land-use rights. Communal tenure, which is customary for indigenous communities, is not formally recognized by law. LISO, however, works within these restrictions to bring about formal recognition of indigenous customary law-based land-use practices at the local government level and facilitates the legalization of regulations for the communal customary law-based governance of allocated land. In this way, LISO has been able to ensure that land use rights are defined and allocated in a way that conforms to indigenous values

of communal tenure. Once the land has been allocated according to customary land use beliefs and practices, communities draw up their land use regulations, which are then officially recognized by local government land management authorities. This allows communities to maintain their own successful ecological land-based livelihoods without fear of outside commercial interventions or land grabs.

The next Step is to use the successful case studies of “participatory customary law-based community land right allocation” to lobby the central government for changes in the national law. In this respect, LISO as a Vietnam-based organization has been successful in pushing for the reformed Vietnam Law on Forestry (2017) to recognize community ownership of spirit forests, traditional watershed forests, and traditional production forests. The strategic importance of this achievement is that the 2017 Law on Forestry now stands as a springboard for a new series of actions by NGOs on behalf of indigenous ethnic minority communities in Vietnam. The full backing of the law greatly strengthens the hand of the NGOs and indigenous ethnic minority farmers to act openly in pursuit of their cultural, religious, and livelihood rights.

External Factors

LISOs’ work is aimed at bringing about a fundamental change in government attitudes toward indigenous ethnic minority peoples and land management practices. While entrenched attitudes and policies are major obstacles, certain external factors and circumstances have helped in achieving the goal of community land titling and customary law-based land management. Primary among these is the crisis of confidence on the part of local government authorities as to how to protect forests and natural resources from exploitation and degradation. Much of LISO’s success has come from being able to supply government authorities with a workable solution to their problem, and one that is desired by and acceptable to the local people.

Obstacles

Not all customary law-based land allocation projects go smoothly. When working with indigenous ethnic minority communities, unexpected things can

happen, and unexpected situations can suddenly arise that necessitate a change of action plan. Unfortunately, some donor organizations are insensitive to the need for flexibility when dealing with these situations and may become obstructive or even refuse to cooperate altogether. When this occurs, it is LISO's policy to put the needs of the farmers first and take the necessary actions, even if it requires bearing costs. Efforts, therefore, need to be made to re-educate donor organizations as to the need for greater flexibility in their funding arrangements to deal with these situations. In this respect, donor organizations, as well as local government authorities, become the target groups for necessary changes in attitude.

Vision

LISO continues to work to preserve and enhance its regional network of Key Farmers and young indigenous leaders that has been built up since the early 1990s by its predecessor organizations—Toward Ethnic Women (TEW 1994), Centre for Human Ecology Studies of Highlands (CHESH, 1999), and Centre for Indigenous Knowledge and Development (CIRD)—and which extends from Vietnam to Laos and Thailand. Our vision is to expand this network to the whole of Southeast Asia and beyond. Connections already exist with Thailand, Laos, Myanmar, Cambodia, Bhutan, Philippines, Indonesia, Europe, and Brazil.⁴

References

Livelihood Sovereignty Alliance. 2017. *From Community Forest Land Rights to Livelihood Sovereignty and Wellbeing*. Hanoi: Knowledge Publishing House.

4 Toward Organic Asia, Thailand; Hmong Association of Luang Prabang, Laos; Royal College of Natural Resource Management, Bhutan; MASIPAC, Philippines; GRAIN, Tropical Rainforest Farming, Indonesia; NatureLife International, Germany; Instituto Políticas Alternativas, Brazil.

APPENDIX 1.1.

The dynamic process of facilitating NGO movement to support indigenous ethnic minority people in the Mekong region

This process began in 1994 with the establishment of Toward Ethnic Women (TEW), one of the first NGOs to be established in Vietnam. TEW's main focus was upon 'Women's Rights' and it oriented its activities toward improving the situation of indigenous ethnic minority women in Vietnam, a section of the ethnic minority population that was most disadvantaged due to the negative prejudices and stereotypes that were held in Vietnamese society in general, by government officials in particular, and even among ethnologists and sociologists, that ethnic minorities were 'backward', 'ignorant' and 'superstitious'. In contrast, TEW valued the inherent strengths of ethnic minority women who live close to nature and gain their identity and wellbeing from nature via their wisdom of medicinal herbs and textile handicrafts to provide for their families' livelihoods. TEW engaged directly with the women to consolidate their strengths and promote recognition of their capabilities, and thereby change community, policymaker, and academic attitudes toward them.

In 1999, in the face of government policy of displacing ethnic minority communities from their traditional lands for industrial development (a policy that had a devastating effect not only upon indigenous culture but also upon nature), TEW established the Centre for Human Ecology Studies of the Highland (CHESH) to promote those communities living harmoniously with and nurturing nature through their customary beliefs and practices in their daily livelihood activities. The following year (2000), TEW established the Centre for Indigenous Research and Development (CIRD) to focus upon the rights of indigenous people to live on their traditional land and practice their livelihood according to their indigenous knowledge. From 2000 to 2005, TEW, CHESH and CIRD formed a united front in support of Women's Rights, Nature's Rights and Indigenous Rights to confront the appropriation of indigenous people's natural resources by commercial and political interests.

In 2005, to provide a more concerted focus for lobbying government policy for indigenous rights to land, TEW, CHESH, and CIRD were merged

into the Social Policy Ecology Research Institute (SPERI). SPERI combined the results of action research undertaken in different ethnic minority communities with policy analysis to provide an evidential basis for lobbying government for policy changes. Major actions were also taken in advocating for a Civil Society Law in Vietnam and in lobbying against Bauxite mining in the Central Highlands of Vietnam.

In general, the direction of SPERI's work has been to oppose the commercial appropriation of indigenous peoples' land and natural resources to defend the cultural and biological diversity of the Mekong region. At the same time, one team of senior members from TEW and CIRD established CIRUM (Culture Identity and Resource Management) to concentrate on Forest and Land Rights for vulnerable groups, and on networking for self-sufficiency development. Then in 2007, CODE (Consultancy on Development) was established from SPERI's Lobby Department as an independent consultancy to focus on bridging and strengthening Public-Private-Civil Society relations in lobbying policy on mining, hydropower and extractive industries. In its action against Bauxite mining, CODE united 17 independent intellectuals to provide technical evidence on the social and environmental impacts if Bauxite mining was to go ahead. All three organizations share the same philosophy and Founding Board and cooperate extensively.

TEW's solution to this problem of structural poverty was first to break down the feeling of isolation. TEW did this by building up networks of "Key Farmers" throughout the whole Mekong region (Vietnam, Laos, and Thailand). Key Farmers are knowledgeable, prestigious farmers willing to learn, do experiments, share, and debate based on their knowledge and integrated and adaptable technologies. They are pioneers in setting up pilot models of farming, animal husbandry, agro-forestry gardens, and use their farms as practical forums to share their experiences and ideas with villagers from different communities, the media, researchers, and policymakers. They engage not only in awareness-raising but also in lobby and advocacy activities for land rights for the community and villagers.

Following its *"Nine-Step approach to structural poverty reduction and sustainable development"* (see APPENDIX 1.3.), TEW brought indigenous ethnic minority Key Farmers together in study tours, workshops, and conferences

where they could learn from each other and discover that their experiences of being isolated and marginalized were experiences that others shared as well. The next Step was to build up the confidence of Indigenous Ethnic Minority Key Farmers to speak out about their concerns. To achieve this, TEW held national conferences at which the farmers could speak about their grievances directly to high-ranking government officials. After this, the Key Farmers gained the confidence to lobby the government for recognition of their ownership of their traditional land, culture, and identity.

As a result of this work, there emerged a powerful and articulate body of indigenous ethnic minority Key Farmers who were able to take up the process of Organizational and Institutional Development on their own. As Key Farmer Coordinators and Key Farmer Board Members, different Key Farmers became actively involved in planning and decision making at the commune, district, and provincial levels. In collaboration with local progressive authorities, and with expert advice from eminent personalities and the support of sympathetic media, they came to play an active and often leading role in lobbying government policy at both the local and national levels on behalf of indigenous minorities, especially inland area, and forest rights. Some of the Key Farmers recognized and promoted by TEW became local authority officers at different levels of the official system and were able to introduce the TEW/SPERI method of bottom-up participation into the formal governing system. Some have become parliamentarians, and some have become community entrepreneurs.

The Regional and National Key Farmers Networks established by TEW developed and expanded across national borders to become Mekong Community for Ecological Trading (MECO-ECOTRA), a regional network of traditional elders and Key Farmers and a grassroots foundation for traditional Civil Society Organizational and Institutional Development across national, ethnic and political borders.

In the period from 2005 to 2010, SPERI focused on supporting MECO-ECOTRA, with its 6 thematic approaches (1. Customary law-based community governance of natural resources; 2. Community ownership of spirit forests for bio-cultural diversity preservation; 3. Ecological farming for sustainable land use and livelihood security; 4. Herbal wisdom for community healthcare and

biodiversity preservation; 5. Traditional textile handicraft for daily livelihood; and 6. Farmer fields school for traditional indigenous knowledge and leadership training)

MECO-ECOTRA places serious attention on capacity building, young leadership development and pilot actions at 4 levels: 1) household agro-ecological farming enterprising (after a community has received legal Land Right Titles); 2) communal agro-ecological co-governance based on customary law; 3) inter-community curriculums for exchanging and training of young leadership; and 4) inter-national curriculum for young leadership empowerment and enrichment. Monitoring and evaluation has shown that wherever people over the last 20 years have been devoted to and engaged in their indigenous ways of life living harmoniously with their surrounding nature, worshipping spirit forest, mountain, and water, they have far higher levels of community wellbeing and happiness.

In order to protect indigenous communities' land from encroachment by commercial interests, *strong community entrepreneurship, community enterprise and community sovereignty* needs to be developed. In order to aid this development, a strong intellectual/eco-agricultural movement is needed to demonstrate to local and national government authorities the benefit for all, in terms of biodiversity preservation and environmental protection services, of continuing that land in indigenous community ownership and management.

More recently, MECO-ECOTRA and its six thematic networks were facilitated to focus more concertedly upon **Young Indigenous Ethnic Minority Leadership Development Strategy (YIELDS)** for **AGro-Ecological Enterprising (AGREE)**. The YIELDS-AGREE strategy will operate at 5 levels with 1) Household Eco-Farming Activists; 2) Community Entrepreneurs; 3) National Intellectual Civil Society Activists; 4) Continental Independent Intellectual Activists; 5) Global political-ecological activists, with a focus upon promoting local agro-ecological enterprises for community-based livelihood sovereignty for indigenous communities. It was to undertake this transformation that the latest of the LISO Alliance organizations, the Community Entrepreneur Development Institute (CENDI), was established in 2015.

APPENDIX 1.2.

Thirty-Step method for claiming forestland rights for ethnic groups

1. Conduct research, together with local people, on the reality, causes and consequences of landlessness, and find ways for the local people to retrieve land and forest which has been occupied by outside actors.
2. Facilitate briefings and training of key persons and traditional leaders to improve their capacity to negotiate with local authorities and land occupiers.
3. Provide training for Key Farmers on laws and sub-laws relating to forest land rights, pointing out errors and shortcomings in the current bureaucratic process.
4. Facilitate community-based planning for negotiations, focusing on the role of customary laws, and informing land and forest occupiers of the environmental, social, cultural, moral and religious outcomes and consequences of the process of land and forest grabbing.
5. Seek consent from land occupiers and local authorities via processes of direct negotiation and criticism.
6. Organize study tours, sharing experiences of methods of community-based land and forest allocation and customary law-based conflict resolution, as illustrated by successful pilot models in Vietnam and Lao PDR since 1995.
7. Facilitate the selection of Key Farmers, village elders and youths to represent the community, cooperating with professional land and forest technicians and local authorities to participate in training courses and discussions on overlapping land boundaries and conflict.
8. Establish an advisory board for land and forest allocation, which involves traditional leaders, Key Farmers, representatives of local authorities and professional technicians.
9. Support this advisory board to work closely with the community to set up regulations, scheduling plans and solutions to the land and forest border overlapping, occupation and conflicts.
10. Establish a district-level leading board for land and forest allocation, which involves traditional leaders and Key Farmers, to create opportunities for mutual learning and understanding between formal and traditional systems.

11. Support a taskforce for land and forest allocation in the field, which includes members of the advisory board and the district leading board. This taskforce helps to set up regulations, which correspond to both statutory and customary requirements, aiming at retrieving community traditional land and forests in a peaceful and amenable manner.
12. Organize meeting between local people, experienced Key Farmers from successful pilot models of land conflict resolution, and occupiers of land and forest.
13. Facilitate a taskforce for land and forest allocation to work with local people (who are selected as household representatives) to survey the land, identifying errors in the maps and borders between households, communities and enterprises caused by overlapping occupation.
14. Organize training workshops for local people to share evidence of overlapping occupation of community land, traditional sacred forests, watershed forests, herbal forests, and clan forests, and to share experiences from successful pilot models, and find solutions.
15. Organize practical training to assess the capacity of different types of forests on the basis of local knowledge, people's participation and suitable technology. This Step is done before the official measurement and other land allocation procedures.
16. Inform the district chairperson of the reality of land management, overlapping and land occupation.
17. Set up an action plan for the taskforce in the field for lobbying local authorities to make decisions on the allocation of the land affected by overlapping and occupation.
18. Organize training workshops for local people to discuss their rights and obligations in using land and forest allocated by the local authorities.
19. Set up detailed action plans, procedures, land use plan, for forest management in the field, together with local people, representatives of local authorities and technicians.
20. Set up a new set of maps describing borders, land use, and forest management after completing legal procedures and technical, official works.
21. Organize a training workshop for the entire community to help them understand legal decisions, community rights and obligations in the implementation of a land use plan and the governance of different types of forests.

22. Facilitate discussion among community members on community regulations for the implementation and supervision of land use plans and forest management. This regulation is made on the basis of consent among the entire community and the surrounding communities.
23. Submit a draft of community regulations to the communal authority for monitoring before sending to the district authorities for approval.
24. Document the whole process of land and forest allocation and distribute this among households, communities, and relevant functional offices at district and communal levels.
25. Process data on land zoning, land use planning, forest management, land rights, and forest co-management rights, to register and establish archives at the relevant functional offices at district and communal levels.
26. Organize a ceremony for granting land certificates and rights to the co-management of forest to households, individuals and community.
27. Support and advise the community management board to set up sign boards with diagrams and regulations on land use and forest co-management, and to clarify border landmarks.
28. Organize workshops at regional and national levels to share the methodological Steps for land and forest allocation. Participants in the workshops should consist of local people, local authorities, the media, policymakers, community development organizations, functional technical agencies, and relevant neighboring enterprises and companies.
29. Review and compile records of discussions and analysis from the workshops to arrive at recommendations to send to members of the National Assembly and policy makers dealing with drafting land law. Recommendations are simultaneously updated and posted on SPERI website.
30. Document research and policy analyses of land use and co-management of forests, and socio-economic, environmental, cultural, religious, and political impact indicators, in which land use rights and co-management of forests are the underpinning strategy aimed at strengthening people's confidence, self-determination and securing their livelihoods on their own land and forests. Integrate documentation of policy analysis of land use plan and co-management of forests into rural development policies, so as to continue lobbying for the land and forest rights of the indigenous ethnic communities in Mekong region.

APPENDIX 1.3.

Nine-Step approach to community empowerment and institutional and organizational development

1. Learn the culture of the local people.
2. Bring the traditional leaders and local authorities together to encourage dialogue.
3. Bring the elders of different ethnic groups together in conferences and workshops.
4. Set up interest groups for bottom-up organizational and institutional development.
5. Build up Community Based Organizations and Community Based Institutions to become more professional.
6. Build a system of self-monitoring between interest groups.
7. Offer a platform for Key Farmers to present to policymakers their own rights-based solutions to problems.
8. Consolidate Community Based Organizations and Community based Institutions for Organizational and Institutional Development.
9. Search for new partners to expand knowledge exchanges and network connections.