

No. 128/ recommendation/SPERI

*c/o recommendations on solutions for land use and
management in mountainous ethnic communities*

Hanoi, dated novembre 1st, 2012

- 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 workshop

Land use and management in mountainous ethnic communities
(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 workshop on ‘land use and management in mountainous ethnic communities’. 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 recommendaions of the Workshop 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.¹ 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 biodiversity 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 measure, 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 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

¹ 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.

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.

**Social Policy Ecology Research Institute
(SPERI)
Founding President**

c/o :

- 1. National Assembly, 4th Session, 13th Term, 2012 ;*
- 2. Drafting team of Land law 2013 ;*
- 3. Ministry of Natural Resources and Environment ;*
- 4. Ministry of Agriculture and Rural Development ;*
- 5. Storage at offices of SPERI, CODE and CIRUM.*

Mrs Tran thi Lanh