



Case Study on Food Security, Livelihoods and Customary Tenure Recognition in Vietnam

Strengthening regional mechanisms and capacities in engaging, implementing, and adopting customary tenure recognition and free, prior, and informed consent as safeguards in the Mekong region



CISDOMA



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Acronyms and Abbreviations

AFA	ASEAN Farmers Association
ASEAN	Association of Southeast Asian Nations
CEMA	Committee for Ethnic Minority Affairs
CFM	Community Based Forest Management
CISDOMA	Consultative Institute for Socio-Economic Development of Rural and Mountainous Areas
CT	Customary Tenure
EM	Ethnic Minority
FGD	Focus Group Discussion
FPIC	Free Prior Informed Consent
GoV	Government of Vietnam
GSO	General Statistics Office of Vietnam
HH	Household
iSEE	Institute for Studies of Society, Economy and Environment
KII	Key Informant Interview
LURC	Land use right certificates
MOLISA	Ministry of Labor Invalid and social Affairs
MPI	Multidimensional Poverty Index
MRLG	Mekong Region Land Governance Program
NTP	National Targeted Program
NTP- NRD	National Targeted Program for New Rural Development
NTP- SEDEMA	National Targeted Program for Socio-Economic Development in Ethnic Minority and Mountainous Areas
RAI	Responsible Agriculture Investment
UN	United Nations
VGGT	Voluntary Guidelines on Responsible Governance of Tenures
WB	World Bank



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Introduction

Over the past few years, there has been progress in tenure and safeguards at the ASEAN (regional) level, particularly in the Mekong sub-region. Customary tenure (CT) has been recognized as a key indicator in an important guideline for responsible investment in food agriculture and forestry. However, despite these developments, several challenges remain. For customary forest tenure, access and ownership are still conditional and restricted in several cases. Land conflicts remain high. Furthermore, encroachments in customary land and forests threaten customary rights and impede traditional livelihood and customary conservation and resource management practices.

In the Vietnam context, the term indigenous people and CT has not been recognized in any legal documents. This put the EM communities with traditional use and management of land and forests at risk of being compromised during land transition processes, increasing over the last two decades.

This case study is part of the regional project, which investigates the status of CT recognition and implementation in the livelihoods and food security in ASEAN, particularly in Mekong countries. It is envisioned to generate information and learning that can serve as input in the development of ASEAN guidelines and policy on CT recognition to support the region's commitment to delivering on livelihoods and food security goals.

Objectives

The case study presents examples of CT recognition in Vietnam and the impacts on food security in ethnic minority communities.

Main Questions

It aims to answer the following questions:

1. How does CT recognition improve and enhance communities' livelihoods and food security in Southeast Asia, particularly the CLMV countries?
2. How do traditional livelihoods and the consideration for food security enhance/ support formal CT recognition in communities in Southeast Asia?
3. How can CT recognition defend communities against increasing threats to their livelihoods and food security, such as those brought about by the rising demand for land, and climate change impacts, among others?



4. What forms or mechanisms for recognizing CT best support communities' livelihoods and food security?
5. What is the value of a regional or ASEAN-wide approach to CT recognition in supporting peoples' livelihoods and food security?

Methodology

2.1. Desk research

The desk research involves reviewing relevant literature and policies on livelihoods, food security, and CT recognition. During this study, 20 documents were reviewed, including:

- Policy and legal documents and official statistics
- Academic studies, publication, and articles
- Reports from NGOs and academy on the relevant subjects,
- Websites of government agencies and NGOs

2.2. Key informant interviews (KIIs)

The KIIs were conducted using both online and in-person meetings to gather insights/ inputs on the challenges and opportunities regarding food security, traditional livelihoods, and CT recognition in the country with relevant CT stakeholders. Interviewed persons include: three national CT alliance members, two NGOs working on CT, one researcher, and a policymaker.

2.3. Case story collection

Through consultation with experts, CT members in the country, and experienced NGOs working on CT, five villages of five different ethnic groups were selected as the potential subjects for the case study using the criteria suggested in the regional TOR. The priority criteria for the selection of community case studies were:

1. Types/ extent of CT recognition – At least 1 of the community has informal CT recognition, while another has formal CT recognition
2. Types of livelihood activities – FGD respondents should capture the wide array of livelihood activities in areas covered by customary tenure; these livelihood activities may include (i) collection/ gathering/foraging of food, wood for fuel, and medicinal plants, among others (ii) crop farming (iii) livestock raising (iv) handicrafts (v) trading of forestry products



3. Best practices for replications if any
4. Policy options for enhancing CT recognition and livelihoods and food security.

After an initial consultation with the communities, the representatives of two ethnic groups (in Dak Lak and Thai Nguyen province) were not able to join the study due to the restriction of group gathering for Covid prevention and difficulties in the arrangement of communication channels (not comfortable in using online social communication channels). The FGDs were conducted in three villages with three ethnic groups: Hmong in Ha Giang, Thai in Dien Bien, and Ma Lieng in Quang Binh province.

Due to the travel restriction caused by the Covid 19 pandemic, the FGDs were conducted in a mixed modality. The participants met in person, with the support of a local assistant and a national consultant to facilitate the discussion virtually. Follow-up calls for information clarification were made to the key members of the community groups in the study sites. Each FGD consisted of 8-10 participants, and the FGD guide were adopted from the generic set of questions for the regional study.

Results

3.1. Overview of national context

3.1.1. Ethnicity in Vietnam

Vietnam has a population of 96.2 million, which comprises 54 ethnic groups. The major ethnic group in the country is the Vietnamese (Kinh), with 82.1 million people accounting for 85.4%; the other 53 minority groups totaled up to 14.1 million, accounting for 14.6% of the total population (CSO and CEMA 2019). The distribution of the ethnic minority groups is mainly in the northern mountainous areas, central highland, and southwest provinces. These provinces are also the regions with the highest percentage of poor households in the country.





Figure 1. Distribution of ethnic minority groups in Vietnam (GSO, 2019)

The development in EM regions is far behind the national progress. Vietnam is considered one of the best-performing nations in poverty reduction with its successful effort to lift a significant percentage of its people out of poverty (Das, Kaushik et al 2018). With substantial poverty reduction and stable GDP growth, Vietnam graduated from the least developed to a middle-income country in 2011. Nevertheless, the gaps between the ethnic minority and the majority group are evident and widen over time. According to the 2019 survey of socio-economic situation among 53 ethnic minorities conducted by the Committee on Ethnic Minority Affairs, the percentage of poor and near-poor households in ethnic minority-dominated areas in Vietnam is 35.5%, which is 3.5 times higher than the country's average. Specifically, the average income of ethnic minorities reached VND 1,161,000 per person per month. There was a division of 53 ethnic minorities; the lowest income group averaged less than VND 632,000 per person per month in small populations such as Kho Mu, Lo Lo, Van Kieu, La Chi, Van Kieu (CEMA, 2020). The concentration of poverty among EMs and their primary location in mountainous and border areas make poverty synonymous with remoteness (World Bank 2018).



3.1.2. Livelihoods and food security for EM

Livelihoods of EM mainly depend on agriculture, forestry, and low-paid jobs. The 2019 survey on 53 ethnic groups indicated that, of the total number of people with jobs, ethnic minority workers working under the "Simple Labor" occupation group attract the most ethnic minority workers with 68.6%. The majority of the "simple workers" are in the agriculture, forestry, and fishery sectors (92.2%) of "simple workers" in this area. Moreover, 73% of the EM households rely on agriculture and forestry, 14.8% on industry, and only 11.9% on services. While the rate of trained laborers in the workforce for the whole country is 24.6%, this rate among EM is only 10.3%. Among the ethnic groups, La Hu, Xinh Mun, Xtieng, Brau, and Ba Na have the highest nontrained labor force, especially in Pu Peo group where nontrained labor rate accounted for 98.0%. Due to the low level of training and education attainment, those EM working outside agriculture and forestry sectors often work in informal sectors, with low-paid and high-risk jobs.

Significant number of EM are yet to escape from hunger entirely. Vietnam declared achieving hunger alleviation in most provinces. During the ten years of 2000-2010, food availability per capita increased from 445 kilograms (per person per year) to 513 kilograms annually. However, seasonal hunger caused by lack of production resources, market fluctuations, natural disasters, and diseases still exist in remote and mountainous areas. According to the World Bank (2015), "while the statistics on hunger have tended to decrease, the reverse trend was identified in other provinces with a high concentration of EM in the Northwest Mountain and the Central Highlands during 2012-2013 for the last 15 years of implementing millennium development goal of Vietnam. The number of those suffering from hunger increased in Ha Giang, Bac Can, Tuyen Quang, Ha Tinh, and Dak Lak provinces".

3.1.3. National policies on livelihoods, food security

There have been significant investments by the government on livelihoods and food security of EM. Since the 1980s, the GoV has invested intensively in several socio-economic development policies targeting EM areas. There have been 324 legal and policy documents with provisions related to EM. Seventy-five policies remain effective and continue to be implemented or integrated into other programs between 2021 and 2030.



Among these, some of the major policies, in which EMs are the main beneficiary groups, include Program 135 phase 1 and phase 2 ¹, Program 132²; Program 134³; National Targeted Programs (NTP) for poverty reduction, such as Program 30a ⁴. and the National Targeted Program on Sustainable Poverty Reduction for 2016-2020 (NTP-SPR). In 2016, Vietnam officially launched a program called "Whole Nation to Join Hands for the Poor – Leave No One Behind". Furthermore, the National Action Plan to implement the 2030 Agenda for SDGs (SDG NAP) was promulgated a year later, in which 17 SDGs of Vietnam towards 2030 have been set, including 115 specific targets, in accordance with global SDGs. The SDG NAP highlights the importance of EM inclusion in the government's committed effort to implement the Vietnam SDGs. Currently, the government launched an overarching program, the Master Plan for Socio-economic Development in Ethnic Minorities and Mountainous Areas for 2021-2030 (NTP – SEDEMA)⁵. This program is to realize the strategy for EM development and comprehensively addresses the challenges of poverty reduction among EM communities.

3.1.4. Policies on Tenure for ethnic minority

Policies on land and forest to EM

Land and forest are distributed relatively equal to people, including EM. With the principle of "land to tillers," Vietnam prioritized allocating production land and forest to farmers and EM, whose livelihoods depended on farming and forestry. This priority has been stipulated in different legal documents. Article 4 of Forest Law 2017 stipulates that the State shall ensure that people from ethnic minority groups and forest-dependent communities are given forests together with land for combined agro-forestry and fishery production. They are also entitled to cooperate and associate with forest owners in forest protection and development, share benefits from forests, and practice their forest-associated culture and beliefs in compliance with government regulations. The Forest Law 2017 (Article 140) also set principles for the allocation and lease of the forest, ensuring that residential communities' living space, customs, and practices are respected. Moreover, these principles are set to prioritize forest allocation to people from ethnic minority groups and households, individuals and residential communities with forest-associated customs, practices, cultural beliefs and traditions, and village conventions compatible with legal provisions.

¹ Decision of the Prime Minister No.135/1998/QĐ-TTg, dated on 31st July, 1998 and Decision of the Prime Minister No.551/QĐ-TTg, dated on 04th April, 2013.

² Decision of the Prime Minister No.132/QĐ-TTg, dated on 8th Oct, 2002 on allocation of productive and residential land funds for ethnic minorities in Central Highlands of Vietnam.

³ Decision of the Prime Minister No.134/2004/QĐ-TTg, dated on 20th July, 2004 regarding policies on providing the poor and hard-life ethnic minorities with productive and residential land; houses; and domestic water

⁴ Resolution 30a/NQ-CP dated 27th December 2008 on the support program for fast and sustainable poverty reduction in 61 poor districts

⁵ Resolution 120/2020/QH14 dated June 19th, 2020 has ratified the investment policy for the NTP - SEDEMA in the period of 2021-2030.



There are specific legal provisions on the state's responsibility in providing land to EM. The Land Law 2013 and other guiding documents define the state's commitment to ensure the rights of the poor and ethnic minorities to land. Specifically, the state is responsible for allocating residential land and agricultural production land for ethnic minority people.⁶ The law also indicates that the state should prioritize allocating production land to EMs, households and individuals who lack production land, and those who have permanent residence in communes or townships in areas with tough socio-economic conditions.⁷

For the realization of the legal provisions, the government has implemented different programs providing residential, production land, and forest to ethnic minority people. These programs are stipulated in various policy documents.⁸ This includes prioritizing the reallocation of forest and forestry land that the state recovered from the state's own forest enterprises and other land users. Government also supports creating a land fund for residential land and production land to be assigned to ethnic minority households and poor users. Government also supports creating a land fund for residential land and production land to be assigned to ethnic minority households and poor households.⁹ In the current NTP-SEDEMA, there are three important components that have been designed in three projects. These include Project 1 that solves the shortage of residential land, housing, production land, domestic water. Project 6 preserves and promotes the good traditional cultural values of ethnic minorities associated with tourism development. Lastly, Project 9 invests in creating livelihoods and economic development for ethnic groups with lower population, and ethnic groups with many difficulties.



Besides allocating land to EM, the government also has measurements for retaining land with the EM, given the context of high risks of unfair land transfers from EM to other user groups.

⁶ Article 27 of the Land Law 2013.

⁷ Clause 2, Article 68, Clause 2 Article 133 and Clause 3 Article 165 of the Land Law 2013.

⁸ Decision No. 134/2004/QĐ-TTg of July 20, 2004, Decision No. 198/2007/QĐ-TTg of December 31, 2007, Decision No. 74/2008/QĐ-TTg dated June 9, 2008, Decision No. 1592/2009/QĐ-TTg of October 12, 2009, Decision No. 29/2013/QĐ-TTg of May 20, 2013, Decision No. 755/2013/QĐ-TTg of May 20, 2013, Decision No. 2085/QĐ-TTg of October 31, 2016.

⁹ Decision No. 755/QĐ-TTg of the Prime Minister

Particularly, the government applies restrictions on land use right transfer for those land given to ethnic minority people (if the allocation is within the government support scheme provided to households and individuals who have no land or lack of production land).¹⁰ Specifically, families and individuals being allocated land by the state under the its support policy shall only be able to transfer their land use rights after ten years from the date of the decision on land transfer under the government's regulations.¹¹

Reduction and exemption of land use fee and tax

Since 2001, the government has implemented several policies regarding the reduction and exemption of land use fees and land rents for different user groups. Among these are specific schemes that are applied explicitly for ethnic minority people such as the exemption of land use fee and land rents in using residential land and agricultural production land by poor households. This is also applicable for individuals from ethnic minorities in areas with particularly difficult socio-economic conditions, border areas, and islands.¹² Exemption from land use fee within the residential land distribution limit upon issuance of the first Certificate for land due to the transfer of use purposes from non-residential land to residential land due to the separation of households for ethnic minority households and poor households in communes with particular difficulties in ethnic minority and mountainous areas according to the List of particularly difficult communes¹³, reduce 50% of land use rent within residential land quota for households being ethnic minority households, poor households in areas not within the scope¹⁴, and exemption from land rent and water surface rent for the whole lease term for agricultural production land for ethnic minority people.¹⁵

Forest and forest land allocation to EM

Though EM mainly reside in the mountainous areas and rely on forestry, the forest land areas allocated to EM has a modest proportion. According to data from the MARD, as of December 31, 2018, the state has assigned to families and individuals 2,955,134 hectares (including 1,410,324 hectares of natural forest and 1,544,810 hectares of commercial forests), accounting for 20.3% out of a total of 14,491,295 hectares of forested land nationwide (MARD, 2019). The average size of forested land allocated to each HH is about 1-2, but dramatically varies from localities, ranging from a few hundred m²/household to 4-5ha/household.

¹⁰ Indicated in Clause 2, Article 133 of the Land Law 2013

¹¹ Clause 3, Article 192 of the Land Law and Article 40 of the Government's Decree No. 43/2014/ND-CP of May 15, 2014, detailing a number of provisions of the Land Law.

¹² Clause 1, Article 110 of the Land Law 2013, Clause 1, Article 11 of the Government's Decree No. 45/2014/ND-CP of May 15, 2014 on collection of land use fees.

¹³ Item 2 of Article 11 of Decree No. 45/2014/ND-CP.

¹⁴ Clause 2, Article 11, Clause 1, Article 12 of Decree No. 45/2014/ND-CP.

¹⁵ Point d, Clause 1, Article 19 of the Government's Decree No. 46/2014/ND-CP of May 15, 2014.



Table 1: Forested land allocation by user (MARD, 2018)

	User Identity	Area (ha)	Percentage (%)
1	Management unit of protection and special use forest	5,040,662	37.8
2	Economical organization	1,711,594	11.8
4	Military	198,825	1.2
5	Individual households	2,955,134	20.3
6	Community	1,156,714	7.9
7	Other organization	376,773	2.6
8	Not yet assigned to specific users (managed by commune authorities)	3,094,893	21.4
	Total	14,491,295	100.0

Community has recently been recognized as a legal land use entity, and the allocation of land and forest under community management is very limited. The Land Law 2003, for the first time, formally recognized communities as land users. Currently, the community has been recognized as a legal identity for land and forest allocation in both the two major legal documents, particularly the Land Law 2013 and Forest Law 2017. Despite the legal provision on recognizing community forest management, the allocation of forest and forested land to the community has very slowly progressed. Up to 2019, the land allocated to the community is only 326,831 ha, which accounted for 2.7% (MONRE 2019). Additionally, 1,156,714 ha of forest (7.9%) is also allocated for community management (MARD, 2019). Considering community land/forest is the essential environment for CT practices, the figures indicate minimal space left for CT practices.

3.1.5. Difficulties in realizing the policy

More than half of a million EM households were in shortage of residential and/or production land, according to the statistics of the CEMA from 2002 to 2015. The number of EM households that lack production land was 398,163, and those having no production land were 53,997 households. These figures for residential land were 142,327 and 10,666 households, respectively.



Table 2. Statistics of EM households in shortage of residential land 2002-2015 (CEMA, 2015)

TT	Region	Total	No of HHs	
			Inadequate land	No land
1	Northern Midland and Mountainous Region	51,441	50,959	482
2	Red river Delta	767	767	-
3	North Central	18,835	18,376	459
4	Coastal Central	24,791	23,506	1,285
5	Central highland	26,959	26,153	806
6	South East	5,857	5,857	-
7	Mekong Delta	24,343	16,709	7,634
Total		152,993	142,327	10,666

Table 3: Statistics of EM households in shortage of production land 2002-2015 (CEMA, 2015)

TT	Region	Total	No of Household	
			Inadequate land	No land
1	Northern Midland and Mountainous Region	168,329	160,074	8,255
2	Red river Delta	1,473	1,473	0
3	North Central	47,375	42,259	5,116
4	Coastal Central	61,230	59,434	1,796
5	Central highland	78,997	76,434	2,563
6	South East	24,100	13,430	10,670
7	Mekong Delta	70,656	45,059	25,597
Total		452,160	398,163	53,997

Despite the strong policy direction, the progress of forest and forest land allocation to EM remains very slow. As part of the efforts to create a land fund for allocating land and forest to EM and strengthening the efficiency of the State Own Forest Agriculture Enterprises (SFAE), the government runs a large program on a restructuring of SFAEs.¹⁶ Under this program, 402,612ha of forest land was identified for reallocation. Up to 2018, more than 85% of the 402,612ha identified for reallocation was still held 'temporarily' by SFAEs or local authorities. The key barriers to the land allocating/re-allocation include (i) lack of political will at provincial level and among SFAEs to move forward in allocating land to ethnic minority communities, mostly related to their vested interests in the land; (ii) the lack of capable ethnic minority community representative bodies which have sufficient knowledge and skills to have an effective dialogue with authorities and SFAEs to reclaim customary lands; and (iii) the absence of clear technical guidance for an effective customary land allocating process in law and sub-law legal documents.

¹⁶ The program was directed by the Communist Party's Resolution 30/NQ-TW issued on 12 March 2014 (Resolution 30), the National Assembly's Resolution 112/NQ-QH issued on 27 November 2015 (Resolution 112), and followed by the Government's Decree 118/2014/ND-CP issued on 17 December 2014 (Decree 118).

Customary Tenure in Vietnam

The long-lasting customary systems have faded away with the continuous revolution, wars, and changes in political regimes.

Customary tenure (CT) systems in Vietnam have developed over centuries among the different ethnic groups throughout the country. The CT systems have been heavily impacted by varying influences from the feudalist Nguyen Dynasty (1802 – 1883), the French colonial period (1858 – 1954), and the Communist Party from the 1930s onwards. Prior to 1960, communities' customary systems were only slightly altered by these influences. After 1960 in the North and 1975 in the South, state centralization and collectivization began to seriously influence customary management systems (MRLG 2017). Despite all of these changes, the geographical isolation of many ethnic minority communities has meant that customary practices have persisted in practice while severely weakened by law. In many communities, these practices play a more significant role in regulating community access to land and resources than state law (FAO and MRLG 2019). Currently, CT systems persist mainly among communities living in forest areas in the upland regions of the country, where the vast majority of Vietnam's ethnic minorities are found (MRLG 2017).

Recognition of CT

Vietnam's legal frameworks do not recognize individual ownership or customary tenureship over land, but land and forest community management is legally granted. The current Constitution of Vietnam (2013) regards land, forest, water surface as all belonging to the whole people. The state is the authorized representative to manage the land, while other actors are only given land use rights. This definition of land tenureship sets overarching principles in the legal system regarding land governance. The whole peoples' ownership of land indicates that there are no actors eligible to the full land ownership, but only as "land users" and entitled to certain rights over the land they are using. The land use right of a certain entity is legally recognized by the issuance of the Land Use Right Certificate (LURC). Depending on the category of land and type of the entity, 'land users' are given different rights on the land allocated to them. The entity, 'land users' are given different rights on the land allocated to them. The 2003 Land Law, for the first time, formally recognized communities as land users eligible for allocation of forest land. The first legal recognition of CT is in the Law on Forest Protection and Development 2004, which gives some limited recognition of community tenureship.



In this law, communities are eligible to file applications to District Peoples' Committees "to be assigned forests they are managing or using efficiently, or which hold water sources in direct service of the communities or other common interests or forests which lie in the areas adjoining villages, communes or districts" (Art. 29). The Law on Forestry 2017 (Article 86) also stipulates that communities are assigned faith forests, protection forests, and production forests with specific forest use rights. The Law on Forestry provides the allocation of forests and forestry land to communities, predominantly ethnic minority communities that rely on forests.

3.1.5. Challenge in CT recognition

Limits and inconsistencies in the legal framework make it difficult to obtain community tenureship over land and forest. As discussed earlier, the legal frameworks in Vietnam do not recognize individuals or community ownership over the land. This also applies to the cases of customary tenureship. Any form of CT recognition would not be the recognition of land ownership, but recognition of a certain set of rights on land use. There are two major legal documents concerning CT recognition, particularly the Land Law 2013 and Forest Law 2017. These legal documents have inconsistent provisions. For example, in the Land Law 2013, spiritual land consists only of land with communal/clan temples, shrines, pagodas, and churches (Art. 160), while in the Forest Law 2017, the spiritual forest is a forest associated with beliefs, customs, and practices of forest-dependent communities. Thus, the concept of 'spiritual forest' in association with 'spiritual forest land' is broader than that of 'spiritual land' as defined in Land Law. This inconsistency makes it difficult for the communities when allocated with the spiritual forest, but not entitled to use the forest land (outside the temples, shrines, pagodas, churches). There are other inconsistencies regarding allocation of special-use forests to local communities, specifically the belief forest managed and used traditionally by the communities. The inconsistencies among the two laws limit communities access over a large part of land that the communities depend on and use. The gap in legal provision also disadvantages communities from financially benefiting from their forests and protecting their land. Moreover, the unclear status of tenureship does put communities at great risk of not being compensated when the forests are recovered and reallocated by the State to other entities, particularly private companies (MRLG 2019).

Forest and land under CT have not been recorded and legalized/formalized, thus putting EM with CT at risk of their land rights being compromised during land transitions.



The Land-use rights of land users in Vietnam are officially recognized through the issuance of Land use right certificates (LURC). As CT practices have not been documented in the land use information system, it remains very difficult to obtain a LURC for a plot of land that was created by forest clearing. Land Law 2013 also allows the government to acquire individual land use rights for "socio-economic development for national and public benefits." EM with a CT system that has not been recognized with LURC is at higher risk that their CT land and forest will be expropriated without thorough consultation and fair compensation. The recent draft of a decree on agriculture land accumulation and concentration (for public consultation) includes a provision that the government can take over the land if there are no adequate conditions for granting LURC.

Economic development and the pressure on natural resources bring about significant challenges to maintaining CT. According to FAO statistics in 2018, Vietnam has an average agricultural land area per worker of only about 0.5 hectares, almost the smallest in Southeast Asia. During the last two decades, rapid industrialization and economic growth have put increasing pressure on land tenure in Vietnam. Land inequality is predicted to be widening further in the region with the structural changes toward industrialization and the reduction of agriculture's share in the national economy (Ingalls et al, 2018). There is also a competing dynamic between economic-driven production modality and customary system within the community's daily practices. The allocation of forests and land to individuals and companies for commercial purposes has weakened communal tenure. In some cases, this has caused severe economic hardship for communities and led to serious conflicts with forest protection officers. In many provinces, severe land conflicts between SFEs and local residents are ongoing (FAO and MRLG 2019).

Inappropriate perception towards CT. For the past 50 years, the predominant view has been that ethnic minorities' customary practices, such as shifting cultivation, are backward. These groups need to modernize and "catch up" with the majority culture (Salemink, 2003). This has often resulted in inappropriate policies and programs that have tried to change the cultures of minority groups; forms of development and adaptation based on ethnic minorities' own culture and customs have been disregarded. In general, shifting cultivation is not encouraged because it is believed to destroy the forest. Presently, few examples of indigenous communal right-holding systems in Vietnam remain, except in very remote villages or as part of a new modality of community forestry. The widely present view that ethnic minorities and customary resource practices need modernization contrasts with the revaluation of these as being well adapted and well-tailored to difficult environmental conditions (MRLG 2017).



Limited community awareness of their rights and the weakened vitality of the CT. There is a saying among the EM people that "Land belong to the State." Although the Constitution and the Land Law state that "the whole people own land" and "managed by the State" (rather than "owned by the State"), this legal provision has been misunderstood by many people. Due to the unclear propaganda, plus the poor level of education, many ethnic minorities genuinely believe that the land today is already State's property. In many cases, their fear/respect for the law or state power may be used by some to take over the land from EM people (Hoang Cam et al, 2021). Besides, the recognition of CT depends very much on the vitality of customary itself, which indicates the level of its influence within the community and the level of inheritance of the future generation. In most EM communities, the vitality of customary has been weakened due to various factors. For those EM groups that have a strong cultural and social foundation with recognized language, there is more possibility that their CT could be documented and recognized. For other smaller EM groups with no (written) language, their CT would be at high risk of being undocumented, and unrecognized.

The mobility and cultural exchange have been diluting CT practices. The interviews with the community showed that CT practices are highly respected in the communities of a single ethnic group. This was also confirmed by the other researchers and policymakers interviewed. In recent years, there are more and more penetration of "outsiders," resulting in the diversified composition of the ethnic groups in various communities. In such conditions, the internal recognition of CT among community members is much weaker and in a harmonized population. In recent years, there has been increasing exposure of EM to different cultures. An example is the mobility of EM youth to other locations in seeking jobs or for studying. These EM people will adapt to the new environment, and get used to the new culture and norms. When they return to the community, they will bring together new beliefs and living styles. For the majority of these returned EM, their belief in CT will be weakened and less compliant to the CT norms and practices.



3.1.6. National commitments/declarations relating to international instruments regarding livelihood, food security, and CT recognition.

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forest (VGGT).

Though Vietnam is an early signatory of many international instruments, it has not ratified the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Vietnam does not recognize any groups of the community as indigenous people. Consequently, there is no legal provision that mentions "indigenous people" but only the term "ethnic minority."

Vietnam endorsed the VGGT as part of the 7th Berlin Agriculture Ministers' Summit of the Global Forum for Food and Agriculture (GFFA) 2015 (Landportal website). In addition, Vietnam has engaged in dialogue to improve governance of tenure within the framework of the VGGT as part of the Mekong Regional Land Governance Initiative. It implemented a multi-stakeholder workshop to discuss the implementation of the VGGT, and used the VGGT to identify challenges and opportunities for recognizing and protecting customary tenure systems in Vietnam.

A recent comparative review of land policies in Vietnam and the VGGT guidelines showed that there is a high level of similarity in terms of prioritizing land to small holding farmers and disadvantaged groups, such as the provisions on limiting land ceiling, and prioritizing land allocation to those directly working on agriculture and forestry and EM. However, there is a lack of a mechanism for recording and recognizing CT in a land information system. There are also rooms for CT in conflict resolution and local mediation mechanisms but only a little mechanism for CT in disputes (CISDOMA and Agroinfo, 2020, unpublished). Another study conducted by FAO and MRLG also found that Vietnamese laws and regulations diverged from VGGT principles in a number of places (FAO/VAFS, 2016). This mainly concerns aspects of consistency of laws, transparency of decision-making, and the participation and/or consultation of stakeholders. (FAO and MRLG 2019).

The application of the fundamental principles of the VGGT could assist in strengthening the recognition of customary tenure rights and their registration by ethnic communities. In this sense, the new law brings positive elements as it addresses these challenges by strengthening the recognition of ethnic communities' customary rights related to forests.



Responsible Agriculture Investment (RAI)

The agriculture sector in Vietnam has been characterized as small size, family-based farming. The majority of the farmers are smallholding, with 81% having less than 2 ha of land and 63% having even less than 0.5 ha. Agro-economists often attribute this small size of landholding as an obstacle to achieving the optimal economics at the scale of agriculture commodities.

The policymakers on agriculture investment in Vietnam now is at the crossroad. On the one direction, the relatively equal distribution of limited agricultural land has been considered a tool to ensure poor farmers' food security and social safety. The other direction is the need for the modernization of the agriculture sector toward global market demand with high-value commodities.

Recently, there has been increasing influence from classical economists and the private sector advocating for the concentration of land into larger-scale possession by the private sector, with the rationale of modernization of agricultural production. In contrast, another pool of experts argued that land fragmentation is only one of many factors that constrain Vietnam's agricultural sector, including weaknesses in the markets that distribute agricultural inputs and the limited investment by the government (To et al., 2019). Another concern is that concentrating land for companies might increase productivity, but only at the cost that many farmers would lose access to this crucial production means.

As a member state in ASEAN, Vietnam is committed to adopting the RAI and ASEAN RAI in its framework for Agriculture and forestry investment. Though there has not been any comprehensive review of RAI in the Vietnam context, there is a clear opportunity to take (ASEAN)RAI as a useful tool for advocacy and policy influence. Vietnam is now reviewing the Land Law 2013 and revisiting the investment strategy in the agriculture and forestry sectors. In this process, the guiding principles and recommendations in the ASEAN RAI are a helpful reference for advocates and policymakers in setting up the policy direction and instruments to ensure that investments in agri-forestry will bring mutual benefits to smallholding farmers, EM, and other actors involved.

Sustainable Development Goal (SGD)

Following the adoption of the Sustainable Development Goals (SDGs) in May 2017, Vietnam was one of the first countries in the Asia–Pacific region to issue a National Action Plan to implement the United Nation's 2030 Agenda for Sustainable Development (Development Asia). Though the country has made encouraging progress with various SDG indicators, EM groups are often far behind in the progress of achieving SDGs.



A recent survey on 53 ethnic minority groups conducted by the CEMA showed that up to 40% of EM women are illiterate, while more than 80% of EM groups face difficulties meeting the SDG target on the illiteracy rate of EM women by 2020. The report also shows that the illiteracy rate of EM women remains high and is much higher than that of EM men. Only nine EM groups have a literacy rate below 20% and four EMs below 10% - which are the SDG targets by 2020 and 2025 (CEMA and CSO 2019).

3.2. Community Case Studies



Figure 2: The locations of the case stories on the map

3.2.1. Ma Lieng community in Quang Binh province

The Ma Lieng people belong to the Chut ethnic group in Quang Binh province of Vietnam, mainly distributed and inhabited at the foot of the Giang Man mountains in Ha Tinh and Quang Binh provinces, with a total population of about 1,200 people. In the Lam Hoa commune, Ma Lieng people focus on living mainly in 03 villages. These are Ke village with 62 households comprising more than 265 people, Cao village with 54 households containing 170 people, and Chuoi village with 37 households comprising 146 people. The living of Ma Lieng people is still in a tough situation. They are quite self-deprecating and lack the opportunity to access science and technology and exchange goods and services with the external market.



Long time ago, the Ma Lieng community practiced shifting cultivation and nomadism lifestyle. People lived in temporary shacks that were set up next to the land they cultivated in the forest and practiced these customs regularly. Ma Lieng people in general and the people in Lam Hoa Commune in particular believe that the forests have spiritual life. People are very reverent and pay sincere worship to forests, especially the ones that are directly linked to the community. These are some of the several customs related to forest and natural management

Among these is the tradition of worship to the Forest God. Every year in the New Year ceremony, Ma Lieng people often gather at the site in the forest, which is a few hundred meters from the village, for the community ritual of offering to the forest god. Each family contribute their own items as simple yet sincere offerings to the Forest God. An important part of the offering recounted by the village elder is the "report" of the results of the impact on forest resources in the past year, the number of violations to the forest, harm to the forest, and asking the forest god for forgiveness.

Another custom is the Early season offerings (Filling holes or offering bees). This ceremony is a ceremony to seek forest God's permission to go on to the forest, and kick off the activities in searching and collecting non-timber products in the forest. During this ceremony, people also pray for a good harvest and have favorable, safe conditions for harvesting the products. The event is also a way to remind people to adjust behavior when entering the forest, avoid exploiting this product without control, and increase the cohesion in the community.

The new rice offering ceremony is carried out on the 10th day of the 10th lunar calendar month. Like the above ceremonies, people often contribute the products they have collected in the past season, such as newly harvested rice, sticky rice cake, chicken, pork, and wine bottles. In this ceremony, people pay appreciation to the Gods for the favorable condition with the rain and the wind that enable them to get the products from cultivation.

For the Ma Lieng people, forests protects and provides human beings with the resources. Therefore, with great respect to the forest and the Gods, people only cut the trees when they really needed to set up a shack, or now for building houses or animal cages. They usually choose not to cut massive trees, and only cut small and medium-sized trees just enough for use. In order to get permission for cutting trees in the forest, the family must ask the village elder, and inform the village. The family must only cut down the tree when they are given permission to. Before cutting down the tree and bringing it home, people also must perform a spiritual ritual to ask permission from Forest God. This ceremony is small and very simple.



In 1998, forests were handed over to organizations and individuals to manage according to the space allocated by the state. The allocation of forest and land disregards the customary practices of Ma Lieng community. Many of the forest users came from somewhere else. After being allocated to individuals, there was a rapid expansion of planting for economic purposes.

As the LURCs were given to individual HH, some of the villagers wanted to sell out their land, leading to the exploitation of forests by outsiders. As consequence, forest resources were seriously affected, especially perennial native trees. Some forests become planting areas with single a tree. This modality of plantation reduced diversity, caused erosion, landslides, and threatened biodiversity, reduced the availability of non-timber products in the forests; and directly threatened people's livelihoods. Ma Lieng community faced difficulties practicing their traditional ways of harvesting NTFP for livelihoods and practicing spiritual rituals to the forest.

A project on community forest management was piloted in 2012 to address the severity of deforestation and the risks to community livelihoods. With positive impacts on forest and efforts from the community, an area of 4.7 ha of forest was re-allocated to the village as community forest in 2015. Since then, the community established a community forest management board elected by the people, who will be responsible for patrolling, monitoring, managing, and protecting forest resources. People also developed community regulation on forest management, which combines both customary norms and legal requirements.

With the combined regulation, those who want to cut down the forests' trees must comply with both community regulation and state-regulated forestry laws. In addition to the permission from the village elder, the decision-making process must also comply with the requirements pf the law. According to the new management mechanism, when a family needs a small amount of wood, they will have to inform the community forest management board, the village chief, and announce the village elder's permission to carry out the activities. In cases of larger exploitations, such as building a house, the family will have to follow full procedures prescribed in the community regulation. Particularly, they first must seek permission from the community forest management and the village chief, and then they will notify the village elder. The village elder will then hold meetings to ask for the community's opinion if necessary. After obtaining the community's consent and having the consent paper, the applicant will go to the Commune People's Committee, the official entity that confirms support allowing them to cut the allowed amount of wood.



The regulations also set mechanisms for the punishment of wrongdoing. Those who do not have the consent but arbitrarily exploit or over-exploit, will be named in front of the community and punished by the community in various forms depending on the level and nature of the violation. In addition to the punishment applied by the community, violators will be held accountable before the legal judgment and provisions in the forest law.

Since being assigned to Ban Ke community, under the combined regulations of customs and legal provisions, the forest has been better protected, creating favorable conditions for people for dual purposes of protecting and benefiting from forest resources. For the Ma Lieng community in Ban Ke, this good result is partly attributed to the blessing of God, which gives them a better life. The maintenance and implementation of the traditional practices, customs and rituals of Ma Lieng community have contributed to building trust among the community for better protection of culture, beliefs, and improved management of forests and natural resources. With the better protection of the forest, they can also maintain the livelihood of their own communities, and uphold a spiritual life associated with forests.

The regulation is highly respected and complied to by the community members. Local authorities, and those living nearby the forested area of the Ma Lieng community also respect their customs. District and communal authorities often participate in the inauguration ceremony, in some events of rituals together with the community according to the customs of the villagers and encourage the preservation and maintenance of these customs. Significantly, the government legally recognized the community management of the forest and issued LURC assigning forests to Ma Lieng community.

Part of the practice of Ma Lieng customs has changed over time after almost 30 years settling down in the fixed residential location, and the exchanges with other ethnic groups, specifically Kinh people. However, the traditional customs on forest management of Ma Lieng community in Ban Ke has been retained. The maintenance of customs of the Ma Lieng community, in combination with the compliance of current legal framework, has resulted to good management of natural resources, protection and development of the forests, and maintaining livelihoods for the community.



The cooperative group of bamboo shoot production in Ban Ke, Ban Cao and Ban Chuoi were initially formed with the participation of more than 20 households. In these cooperative groups, people harvest the bamboo shoots from the forest and supply fresh bamboo shoots to the cooperative groups, under the coordinating board's coordination. The board will coordinate the processing of fresh bamboo shoots to dried bamboo shoots. The bamboo harvest season often last for two months. The total volume of new bamboo shoots supplied by the member households is about 2500 kg. This brings the revenue of 22,500,000 VND (9,000 VND/kg of fresh bamboo shoots), and the average income of each household is 1,125,000 VND. For the processing of the cooperative groups, the total product was about 200 kg of dried bamboo shoots, equivalent to VND 56,000,000. The net profit was VND 33,500,000 after subtracting the costs of electricity, water, labor, firewood, depreciation, and a deduction of 5% to contribute to the forest protection fund of the community. With these profits, it brings additional income of VND 2,000,000 per person for the five members of the Coordination Board.

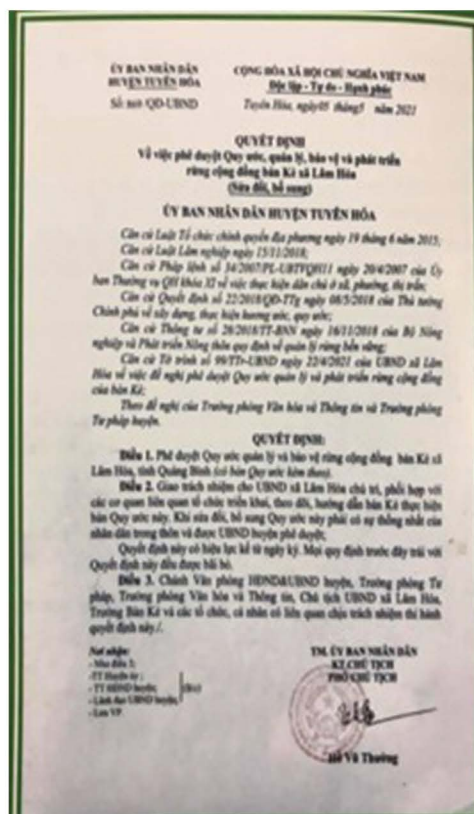


Figure 3: Letter of district government endorsing community regulation on CFM



Figure 4: Initial processing of the bamboo shoots by Ma Lieng people.

3.2.2. Thai community in Điện Biên province.

Ban Lieng of Noong Luong commune of Dien Bien district is a village inhabited by a Thai ethnic group, living around Huoi Hia stream, running green water flow all year round. This stream is the main water source for the whole community for a long time. The village has a total number of 78 households comprising 345 people.

Ban Lieng of Noong Luong commune of Dien Bien district is a village inhabited by a Thai ethnic group, living around Huoi Hia stream, running green water flow all year round. This stream is the main water source for the whole community for a long time. The village has a total number of 78 households comprising 345 people.

Among these, the number of poor households is 14 households containing 52 people. The economic modality of most families in Ban Lieng is the self-sufficient basis. The primary sources of livelihood are family raising of cows, pigs, chickens, fish, and crop cultivation such as rice and green vegetables. Moreover, people also get harvests from different kinds of non-timber forest sources harvested from the community's forests. In addition, some households in the village earn revenue from labor wage working or small businesses as a major source of income.

Like any other Thai village, the life of Ban Lieng community is closely associated with a stream or a river. This is where Thai people get water into fields, ponds, bring water for their vegetable gardens, and fishing, washing, and even cooking. Thai people in Ban Lieng are also associated with a small stream called Huoi Hia. The small stream provides just adequate water for the whole village to use in daily activities, making fish ponds and irrigating rice fields.

As their lifestyle closely links to the water body, Thai people are well aware of the importance of the upstream forest on water sources. They considered the forest sacred, where the Gods and other evil spirits inhabited. These spirits also guard the forest, and will punish anyone harming it. Besides, the forest is also the place to provide the people with a rich number of vegetables, food, and fuel from non-timber products. In order to keep the water in Huoi Hia always fresh, people are not allowed to cut down large trees, do any type of husbandry grazing, or cultivate on the upstream forest. It is only possible to pick bamboo shoots, naturally growing forest fruits and vegetables, and get dry firewood. Regardless of the person's status, every Thai is conscious of preserving the water source. No one dares to violate the community norms on protecting the community's upstream forests.

Thai people pay solemn respects to the sacred forest. This is a forest near the village, with many ancient trees. This forest is home to the Gods, who bless the community. Once every year, the people will organize offerings and rituals for the God in this forest. On normal days, no one is allowed to hunt and gather in this forest, because it is considered a disturbance to the tranquility of the Gods, and the Gods may turn to disturb the people.



Thai people bury human remnant in the forests, believing that burying the remnant in the forest will create quiet surroundings for the peaceful rest of the spirits in the eternal world. Therefore, Thai referred to the forest for burying as the sacred forest, which is old, quiet, and near the stream. According to Thai belief, this place is a small version of the village for the souls of the decedents. No one dares to enter this forest to exploit trees or cultivate this forest land.

Thai people view old trees in the sacred forest as the house of the Gods and spirits. If the ancient tree is cut down, the devil will come back to harm the man who cut the tree and harm the whole village, putting the people at risk. Anyone who violates the rules and harms people will have to give sacrifices to the village and ask the gods and evil spirits for forgiveness. The offering consisted of a pig, a chicken, a dozen liters of wine, and enough rice for the whole village to eat during the ceremony. This punishment will cost quite a lot to the violator, so no one dares to cut down the old tree. Besides the spiritual value, in Thai's indigenous knowledge, the ancient trees are the source of the forest seedlings. This is because the ancient tree has many fruits that birds eat, causing seeds to spread to other places to green the homeland.

Customarily, Thai people choose only trees of the right size to cut when planning to build a house. The Thai also only cut an adequate amount of wood for homes, not to sell for money. When someone needs to cut down trees to build a house, the people in the village will gather to help, from cutting down trees until the house is finished. Before cutting down each large tree (such as a tree for the pillar), the person who cut the tree must pray to the Gods seeking Gods' permission and wish for the blessing of the community, from the children to the elderly, to be healthy and safe.

Thai do not harm the forest despite treating the forest as common property, and reaping benefits from it. They also try to maintain the forest for long-term harvest such as when a person goes to harvest bamboo shoots at the beginning of the season, hunt birds and animals, and pick delicious mushrooms and fruits. People always give one another a little proportion of the harvests or a bowl of cooked food. Besides maintaining respect based on the belief in sacred forest, Thai people also have many proverbs and folk stories about the good benefits of the forest, about gathering fruits and vegetables, and reminders on protecting the forest. These proverbs and stories have been taught to children and passed on from one generation to the next. This makes the children more aware of the importance of forests, and builds the children's love for the forest.



In 2002, the government allocated all the forest area of 49.7 ha to people in Ban Lieng, with LURCs given to individual households. The allocation of LURCs to individual HHs has created conflicts among the families. The conflicts emerged from the uneven forest quality, type, and size of the trees, and unclear boundaries. The conflicts also lead to potential forest degradation due to uncontrolled exploitation by the households. And consequently, affect the water source which commonly used by the whole village.

In such the context, the Thai people in Ban Lieng discussed together and decided that they would jointly manage the forest according to their community norms, though the LURCs were given to individuals. For collective management of the forest, villagers elected the community-based forest management board consisting of the village elder, village head, and the party secretary. The regulation for forest management combines both legal provisions and community norms. Any decision relating the management of the forest and harvesting from the forest will be carefully discussed along with the consensus of the villagers. People are only allowed to cut the tree for very justifiable purposes agreed upon by the community. Besides, they also must complete getting permission from local authorities.

According to the villagers, the legal system is the compulsory mechanism that controls people based on the fear of being punished. However, if there is no monitoring, people may break the rules. On the other side, community norms are based on the customary belief, which the people voluntarily respect; therefore, they will not commit a violation, as any of the action will be witnessed by the Gods. The benefits from the payment for forest environment service was also divided equally to the HHs, although the government consolidates it in the names of each HH.

After 20 years of regeneration, under the management of the community, the forest has been well preserved with good coverage. The water flowing in the stream has also been maintained. The community also enjoys solidarity, maintaining their culture and responsibility to protect the forest. Thais in Ban Lieng believe that their customary practices have contributed to building a good life for villagers, better management of natural resources, and compliance with forest protection law and state regulations. Admitting the positive impacts of community management of forest, the government recently legally recognized the land use right of Thai people in Ban Lieng by reissuing the LURC to Ban Lieng village as community forest.





Figure 5: Ban Lieng in the map (left) drawn by villagers and Thai's dance (right).

3.2.3. Hmong ethnic in Yen Bai province.

Na Hang village, located in Che Tao commune, Mu Cang Chai district of Yen Bai province, is a community belonging to Hmong ethnic group. The village has 31 families with 181 people. Almost a half of the families (15 HHs with 78 people) are poor. In Hmong's belief, the Tho Thi (Thour thiv/Thawv thim), is the God who protects the community and people. From the ancient time, Hmong people pay worship to Gods, including the mountain God, the tree God or the cave God. The God could be seen in the forms of a giant rock, under which people can hide, or a huge tree with large shade. During the spring season, people bring their offering item to the ritual ground to conduct the offering ritual. The offers of from the villagers could be chicken, pigs, wine, and papers. In this event, people express appreciation of the God's blessing, and pray for being protected. This offering ritual is also practiced if there is a human and animal disease that occurs for a long time but could not be cured.

For a long time in history, the Hmong practiced nomadism living style. They kept moving from one to another place. Whoever came to the place first would have the right to govern the land and would be the one whose voice will be complied to, and respected by others. The person is also considered as the elder, or the leader in the village. Anyone who wants to harvest or cultivate in that land, from picking a beehive to planting a rice parcel, must have the leader's permission. If any family violates, they will be punished by giving a pig (large or small depending on the case), a jar of wine, and ten kilograms of paddy. With the shifting cultivation, Hmong people only plant rice in a plot for two to four seasons. When the soil becomes less fertile, people will move to another plot. During this time, all the families in Na Hang village encountered food shortage for three to five months every year.

During 1990s, Hmong people settled on fixed residential land. Since then, they no longer move from one to another. They are also not allowed to practice shifting cultivation, but only in the fixed parcels that have been allocated to them.

This is because the production land has been allocated to specific land users. Moreover, if the land is to be left for more than 12 months without cultivation, it would be considered non-cultivated and will be taken back by the government. With the changes in the living condition and cultivations modality, Hmong people in Na Hang village has also changed their lifestyle and farming. At the beginning, Hmong people did not get along well with the new modality of cultivation. But with the technical support from government agencies and different organizations, Hmong people gradually adapt to the new cultivation methods. Instead of burning the forest to sow upland rice in the hill, people now make terraces for the paddy and plant new types of rice. This way of cultivation brings a more stable yield of paddy. Hmong people also learned to plan herbal trees under the forest shading, which is allocated to the household and community.

With the new settings, many customary practices have been fading away. However, there are some customary practices maintained. These include the worship of the forest Gods, and early rice offering rituals. For Hmong people, the ancient customs and practices have contributed to the preservation of natural resources, economic development, and increased income and food availability for the community's daily life. Until now, community norms are still applied in many aspects, such as defining regulations on village boundaries and production zone boundaries between households in the village. Another is coordinating the villages works such as exchanging labor for farming, cutting wood for houses, collecting firewood, digging canals, and making terraced fields among households in the village. The village coordination has a positive impact on economic development and contributes to increasing the love of people to the village.



In terms of forest management, 2,500 ha of protection forest that assigned to different groups of households. Within this assigned forest, people coordinate themselves to monitor the protection of forest. Community regulations have been applied with some integration of traditional norms. Government agencies are also monitoring forest protection.



Recommendations

4.1. Best practices for replication

- **Allocation of forest and forest land to the EM.** Forest and land are the essential resources to ensure the livelihoods of EM, and serve as the environment for their customary practices. All the three stories in this paper presented good examples of the land and forest allocated to the community. This enables the community to practice customaries and maintain traditional livelihoods.
- **Recognition of CT.** The recognition of customary tenureships could vary at different levels. For example, in the Ma Lieng community, the government fully recognized the legal status of community tenureship by issuing the LURC to the community. In the Thai community, though the government does not legalize the community tenureship, the community themselves decided to apply the collective management modality in which customaries have been the foundation mechanism for governance of the forest, in combination with the legal requirements. The community has also respected this mechanism and supported by the government.
- **Awareness raising and organizational support.** In all the stories of the three EM groups, the community organizations and internal governance mechanism is a foundation for them to claim their LURC and gain the credit for their customary. The community-based forest management mechanism cooperative groups formation in Ma Lieng community requires intensive capacity building, awareness-raising, and organizational support.
- **The combination of customary norms and legal regulation work hand-in-hand.** On the one hand, customary norms resulted in voluntary forest protection compliance. On the other, the strict legal regulation will provide clearer guidance on proper forest management and provide a backup for dealing with cases of violations that go beyond the scope of customary.
- **PFES provides additional income to the EM.** This could be a suitable mechanism for incentivizing EM in forest protection. It also can serve as an initial fund for the community when they want to.

4.2. Policy options for enhancing CT recognition and livelihoods and food security

- Government should pay more effort to survey, define, and document existing customary tenureship and practices. This information should be well reflected in the land/forest information systems, and considered in the zoning and land use planning and during the reallocation of land.



- The government should provide a legal framework with very specific provisions to enable recognition/legalization of CT and/or customary practices appropriate to the specific nature of CT and fitting into the legal frameworks.
- When the CT has not been properly documented and registered, the government should have mechanisms to protect EM from the risks of their CT being violated due to conflicts such as unfair land transition/acquisition.
- Vietnam is revising its Land Law 2013, together with revisiting the investment strategy in agriculture. Policy options will set direction for the land-use strategies at this point of time. In this context, the guiding principles in VGGT and RAI are helpful references to both the policymakers and advocates. More efforts from international actors and CSO would be needed to bring these principles to the attention and consideration of policymakers in the coming time.



References

CEMA (2020). Press Release on the Results of the 2019 Survey on 53 Ethnic Minorities' Socio Economic Situations <http://www.cema.gov.vn/thong-bao/hong-cao-bao-chi-ket-qua-dieu-tra-thu-thap-thong-tin-ve-thuc-tran-g-kt-xh-cua-53-dtts-nam-2019>

CEMA and CSO, 2019. Final report on the Overview of socio-economic status of 53 ethnic minorities.

CEMA, Irish Aid, and UN Women (2017). Figures on Ethnic Minority Women and Men in VietNam 2015. Based on the Results of the Survey on the Socio-economic Situation of 53 Ethnic Minority Groups in Viet Nam 2015. Hanoi: UN Women.

CSO and CEMA 2019. Social economic survey of the 53 ethnic minority group.

Das, Kaushik, Diaan-Yi Lin, Anu Madgavkar, Kevin Russell, Jeongmin Seong, Kevin Sneader, Oliver Tonby, and Jonathan Woetzel (2018). Outperformers: Maintaining ASEAN countries' exceptional growth. Discussion paper. McKinsey & Company.

Das, Kaushik, Diaan-Yi Lin, Anu Madgavkar, Kevin Russell, Jeongmin Seong, Kevin Sneader, Oliver Tonby, and Jonathan Woetzel (2018). Outperformers: Maintaining ASEAN countries' exceptional growth. Discussion paper. McKinsey & Company.

Decision No. 09/2011/QĐ-TTg dated 30/1/2011 of the prime minister. A household is classified as below poverty line if the annual income per persons is equal to or less than VND 400,00; VND 500,000 for rural and urban cities respectively.

Decision No. 59/2015/QĐ-TTg dated 19/11/2015 of the prime minister. A household in rural areas is classified as below poverty line if the annual income per persons is equal to or less than VND 700,00 or having income from VND 700,000 – 1,000,000 but not adequately access to 3 among the 10 essential services. The income figures for urban residents are VND 700,000, VND 700,000 – 1,300,000 respectively.

FAO and MRLG. 2019. Challenges and opportunities of recognizing and protecting customary tenure systems in Viet Nam. Bangkok, 12 pp. Licence: CC BY-NC-SA 3.0 IGO

Hoang Cam, Nguyen Thanh Tung, Nguyen Bao Ngoc, Nguyen Vu Hai, giao dat giao rung vavan de huong dung dat dai vung cac toc nguoi thieu so o Vietnam hien nay. Isee, 2021.



IUNC and Recoftc, 2011. Community forest management in Vietnam: Summary of initial analysis of processes and outcomes, June 5, 2011.

Mardsen, E., Le Duc, C., Nguyen, P., & Thoday, K. (2022, April 25). Improving SDG implementation in Viet Nam. Development Asia. Retrieved May 28, 2022, from <https://development.asia/case-study/improving-sdg-implementation-viet-nam>

Mbuya, Nkosinathi V. N., Stephen J. Atwood, and Phuong Nam Huynh. 2019. Persistent Malnutrition in Ethnic Minority Communities of Vietnam: Issues and Options for Policy and Interventions. International Development in Focus. Washington, DC: World Bank. doi:10.1596/978-1-4648-1432-7

Mekong Development Research Institute. 2020. Multidimensional inequality in Vietnam.

MRLG 2017. The Recognition of Customary Tenure in Vietnam. MRLG Thematic Study Series #6. Vientiane: MRLG.

Quyết định số 2908/QĐ-BTNMT ngày 13 /11/ 2019 của Bộ TN&MT phê duyệt và công bố kết quả thống kê diện tích đất đai năm 2018

Quyết định số 911/QĐ-BNN-TCLN ngày 19/3/2019 của Bộ NN&PTNT công bố hiện trạng rừng toàn quốc năm 2018.

To, P. X., Huu, T. N. and Zagt, R. (2013) Forest Land Allocation in Vietnam: Implementation Processes and Results. Tropenbos International Vietnam. Hanoi.

Vietnam - context and land governance. Land Portal. (n.d.). Retrieved May 28, 2022, from <https://landportal.org/book/countries/vietnam-context-and-land-governance>

World Bank (2017). Program Appraisal Document. National Target Programs for New Rural Development and Sustainable Poverty Support Program (NTPSP) Program-for-Results.





