

**CUSTOMARY LAW-BASED CO-GOVERNANCE OF NATURAL RESOURCES**

**Of the H're ethnic group in Violak and Vi Klang 2 villages,  
Po E commune, Kon Plong district, Kon Tum province**

**INDEPENDENT EVALUATION REPORT**



The H're youth in Vi Klang 2 and officials from the Natural Resources and Environment Office in a forest survey  
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## I. INTRODUCTION



Over thousands of years, from generation to generation, lives of the ethnic minority groups in general and the H're ethnic group in particular have always attached to forests. They have maintained their valuable tradition in protection, nurturing, conservation and development of natural resources just like of their own lives based on their traditional customary laws. It is one of the fundamental factor in conservation of nature and biodiversity and forestry development by wisdom of our ancestors.

After gaining peace in the Northern Vietnam in 1954 and liberation in the Southern Vietnam in 1975, the Vietnamese government has guided a state-oriented forestry development strategy, under which policies on natural resources management have been implemented in a centralized, top-down manner in forms of State-owned forestry enterprises, forestry cooperatives and Forest Management Boards, etc. Though the numerous remarkable results have been achieved, these policies have shown their shortcomings, namely:

- 1) They have changed the way of governing forest, the way of behavior toward natural resources that have long existed and attached to the ethnic minority groups (i.e. people manage their own community forest based on village community and customary laws). The replacement of indigenous communities that have long been living closely and in harmony with nature with their own local wisdom becoming their own customary law by the State mechanisms and policies in forms of inappropriate top-down organizations has caused weakness and sluggishness to the forestry sector over a long time. Consequently, Vietnam has had to transform from the state-oriented forestry into the people-oriented forestry or community forestry.

2) The natural biodiversity has been lost, the residential and production land and living space of the ethnic minority groups have been narrowed as a result of promotion of the extractive industry, powerplant and irrigation system construction; and displacement of local people from their own ancestral land for building new economic zones, etc. Consequently, the livelihood, cultural and spiritual life of the ethnic minority groups as well as the ecological balance between human and natural resources have been critically affected.

Such shortcomings have prompted the country to implement a policy to socialize the forestry sector and implement forest and land allocation to individuals and village communities, especially for the ethnic minority groups.

However, due to the stereotyped and rigid approach methodology which is not based on specific features and conditions of each locality, the forest and land allocation process implemented by the State in several localities has failed. Kon Plong district is one among them.

Following the government policy on residential land and production land for on-site ethnic minority groups in the Central Highlands under Decision 132/2002/QĐ-TTg of the Prime Minister dated 8 October 2002, the Kon Plong District People's Committee (DPC) had enacted Decision 56/QĐ-UB dated 11 October 2013 on forest and land allocation to 21 households in Violak village and 26 households in Vi Klang 2 village of Po E commune with the total area of 174.6 ha and 230.2 ha, respectively in forms of the land use right certificates (Red Books) for 50 years. The households have been selected according to the criteria set by the district.

Upon receipt of the certificates from the State, these households in two villages felt very confusing as the decision was contrary to the long existing forest ownership features of the villages, i.e. village forest never belongs to any specific household but the entire community. Therefore, these households decided to share their feeling with all the village members and the Elder's Council. Finally, they had come up with a solution: 1) combine the total allocated area of all land title holders into one bigger land area for community use; make 21 land title holders to become 21 leaders of 21 forest management and protection group covering 427 ha of the forest area in Vang Ha Ro (not only 174 ha); 2) On 22 May 2015, Violak had sent a letter to the local government to request: i) the Po E Communal People's Committee (CPC), the Kon Plong DPC and Thach Nham Watershed Management Board (WMB) partially allocate the sacred forests including Vang Y Phu, Vang Ha Lenh, Vang Paro and Vang Ga Hoang to Violak for co-management and protection according to the village cultural tradition, customary law and norms; ii) transform 21 individual land titles for 174 ha of the forest in Vang Ha Ro into one Violak community land title, and iii) allocate the remaining forest areas of Vang Ha Ro to Violak for co-management according to the village customary law and cultural norms.

As for Vi Klang 2, after the village elders and young farmers came back from the conference for reviewing the customary law-based forest and land allocation programme in Violak village, which was organized by the Kon Tum Department of Agriculture and Rural Development on 28 October 2015 in Kon Tum city, the village has hold a meeting and sent a letter to the Po E CPC to: 1) return 26 Red Books granted to 26 households on 28 October 2015 and ask the authority to "transform the individual Red Books into a community Red

Book for the village customary law-based co-management like Violak”, and 2) request the local authority at all levels to recognize Vi Klang 2’s customary law in co-management of the total forest area of 230.2 ha currently managed by 26 households.

Therefore, from 2014 – 2016, LISO Alliance (including CODE, SPERI and CIRUM), has facilitated and supported research and implementation of an applied project on forest and land allocation to the H’re communities in Violak and Vi Klang 2 villages for natural resources co-governance based on their customary laws, helping them sustain their traditional institutions in natural resources governance. LISO Alliance has gained remarkable achievements from this process. The Kon Plong DPC has finally legalized the H’re’s customary laws and recognized the community’s right to customary law-based natural resources governance in Violak and Vi Klang 2 villages.

This report aims to evaluate, analyze and find out realistic evidence of indicators and factors which demonstrate the practical achievements and political improvements in natural resources co-governance made by the customary law-based and community-based forest and land allocation process of LISO Alliance (CODE-SPERI-CIRUM) to the H’re ethnic group in Violak and Vi Klang 2 villages of Po E commune, Kon Plong district from 2014 – 2016. This report also focuses on evaluation of the possibility of further extending this model to the whole region as well as makes recommendations to future policy making process in the forestry sector.

## **II. PROJECT METHODOLOGY AND IMPLEMENTATION**

### **1. Methodology:**

**a. Overview documents:** i) Reports and documents related to the community forest allocation process in the villages in Po E commune, Kon Plong district, Kon Tum province; Regulations on customary law-based forest management, protection and development of the H’re in Po E commune; ii) LISO’s research and implementation outcomes, such as joint Circular 07/BNNPTNT-BTNMT/2011; documents related to the policy on residential and production land for on-site ethnic minority groups in the Central Highlands; five fundamental rights to ensure a sustainable community development, namely: 1) the right to land, forest and water (basic); 2) the right to maintain spiritual values toward nature of the on-site ethnic groups (unique); 3) The right to practice local wisdom to maintain native species nurseries for the daily livelihood (practice); 4) the right to decide daily livelihood in the living space of the on-site ethnic groups (holistic); and 5) the right to co-manage, protect and benefit from natural resources with neighboring communities (strategic); research of strategy of conservation and enriching forest by native tree species and the H’re’s customs; LISO’s approach steps in forest and land allocation based on customary law of the villages in Po E commune; iii) legal documents on forest and land allocation and relations between statutory law and customary law in forest management and protection.

**b. Interviews:** Interview key officials from Kon Plong district, Po E commune and Thach Nham WMB; interview village elders, Party Secretary and local people from Violak and Vi Klang 2 villages to understand LISO’s approaches to the customary law-based forest and land allocation process, understand customs, thoughts and wishes of the local people in terms of forest management and protection based on the customary law.

**c. Surveys:** Survey field sites with village traditional leaders and key farmers<sup>1</sup> to monitor field indicators and local knowledge in terms of forest and landscape conservation; visit sacred forests and water sources...

**d. Open debates:** Open discussions between Po E CPC's representatives and villagers to learn experience and understand people's thoughts and wishes in terms of customary-law based forest and land allocation.

**e. Seminars:** Seminars with district officials and district functional offices: Justice Office, Office of Natural Resources and Environment, Office of Agriculture and Rural Development, Culture office, Thach Nham WMB and CPC to openly discuss customary – law based forest and land governance and difficulties to be tackled...

## **II. Implementation**

- The evaluator has discussed with staff from CODE, SPERI, CENDI, Kon Plong districts officials and Po E communal officials to study documents and project.

- From 19 – 24 April 2016, the evaluator together with Mr. Tran Quoc Viet, member of the independent evaluation board of the key farmers network – a partner of CENDI, Mr. A.Chon – Deputy Party Secretary of Po E commune, member of the LISO's key farmers network in Kon Plong district and Mr. Le Van Ca – consultant in community-based forest and land allocation, have visited Violak and Vi Klang 2 villages for practical surveys and interviews, having talks and discussions with the officials from Po E commune, Kong Plong district and Thach Nham WMB.

## **III OVERVIEW OF PROJECT IMPLEMENTATION OUTCOMES OF FOREST AND LAND ALLOCATION TO COMMUNITY FROM 2014 – 2016**

### **1. In 2014:**

Under the facilitation and support of LISO Alliance, the Kon Plong district authority has implemented production forest and land allocation in Vang Ha Ro to the community in Violak village of Po E commune for management and use of 56.4 ha, which was earlier managed by the commune. The total of 74 households of 243 people have benefited from the project.

### **2. In 2015:**

- Implemented forest and land allocation of 174,6 ha to 74 households of 260 people in Violak. Earlier, this area had already been allocated to the selected households by the district authority for 50 years, but then were voluntarily returned by these households to the district authority for further allocation to the whole community.

- A Violak's regulation on customary law-based forest management, protection and development has been legalized by the DPC (*Decision 382/2015/QĐ-UBND dated 24 June 2015 of the Kon Plong DPC*)

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<sup>1</sup> One of the success gained from the project implementation process is to establish a group of young people including 25 enthusiastic youths from two villages, who have obtained very good skills in using GPS, drawing maps and identifying forest boundaries between the forest owners, and committed (in writing) to becoming key members of an inter-village voluntary network for post-allocation forest co-management.

- Collected, researched and published a set of documents on the customary law of the H're in Violak;

- Published a book entitled “ Livelihood Sovereignty and Village Wellbeing” of the H're in Violak;

- Initially established an inter-village network for forest management and protection;

- From the model of Violak, other villages in Po E commune have also voluntarily returned their individual land titles to the State for forest and land allocation to the whole community for co-management. They also would like to have their own regulations on community forest management, protection and development legalized by the local government.

### **3. In 2016:**

- The Kon Plong DPC has legalized the Vi Klang 2's regulation on customary law-based forest management, protection and development under Decision 81/2016/QĐ-UB dated 26 January 2016.

- On 2 February 2016, 26 households in Vi Klang 2, who had been granted land use rights certificates, have joined a village meeting with the village Elder's Council and all the village members to send a letter to the local authority at all levels to return their 26 individual land titles (granted on 11 October 2013) and request the authorities to “transform the individual land titles into community land title for their continuation of forest co-management and protection based on the Vi Klang 2's customary law”.

- Accordingly, the Kon Plong DPC has enacted Decision 261/2016/QĐ-UB dated 22 April 2016 on forest and land allocation to the Vi Klang 2 village community with the total area of 215.3 ha that had been voluntarily returned by 26 households for community management according to the village customary law and Decision 81/2016/QĐ-UB dated 26 January 2016.

- Established an inter-village network of 25 key farmers among 4 neighboring villages (including Vi Po E and Vi K'oa) to further develop the project achievements. Especially, an action plan for the inter-village forest governance regulation has been developed.

- Established a network of customary law-based forest management and development linking four villages (Violak, Vi Klang 2, Vi Po E and Vi K'oa) with the Thach Nham WMB and Po E CPC. The parties have made commitments in writing that have been approved by the Kon Plong Office of Agriculture and Rural Development.

- Initially established four native tree nurseries.

Additionally, the project has also achieved some other outcomes, such as: forest planning maps have been published including the H're's spiritual names for locations; names of spiritual forests have been legalized in the official maps; a regulation on protection forest co-governance has been approved by the Kon Plong DPC; a fund for nurturing forest has been set up in each village and come into operation; 25 young key farmer (including 7 females) have been trained to obtain GPS technique in measuring forest volume and quality,

clearly identify boundaries between forest types and forest owners so that they can be able to explain to anyone who come to check. This young people have shown themselves so confident when making presentations on rare and valuable sacred trees. This group has continued to be trained into the future leadership toward the strategy of forest co-governance among the forest owners in Po E commune as well as to further re-train the local people from the neighboring villages in terms of Party and State policies and guidelines for Po E commune.

#### **IV. FINDINGS AND EVALUATION**

***1. The H're's concept of a spiritual ecosystem; long existing system of local wisdom in behaviour toward natural resources; ritual ceremonies and traditional village management style are fundamentally influential indicators to secure the effective implementation of customary law-based natural resources co-governance in Po E commune after forest and land allocation. Moreover, the above factors have been accumulated from one generation to another, reviewed and developed into a village customary law which has been documented and legalized by Po E communal and Kon Plong district authorities. (See Annex 2 & 3)***

The landscape in Violak and Vi Klang 2 villages reflects the lifestyle and living space of the H're which later form their cultural identity. Their landscape, people and people's characters have created their local typical features that can not be found elsewhere.

*- The H're view their living landscape as a spiritual ecosystem which is ruled by the Spirits of Nature and protected and nurtured voluntarily by the village community through their customary law.*

In Violak, for example, people have classified and name locations after the Spirits of Nature: Vang Y Phu, the highest mountain in the village is believed to be the place where the most powerful Mountain Spirit resides. It is considered to be a spiritual cradle of the village entire ecosystem. Vang Y Phu means "Mother Mountain". The Spirit of Y Phu must be worshipped according to the Violak's customary law.

Vang Ha Lenh (Ha Lenh stream) is where the Water Spirit resides. The spiritual and material life of the Violak's people has been rooted from and nurtured by this stream, where the villagers practice their ritual ceremony to welcome the sacred water to their sacred room. According to the customary law, the ritual ceremony is communally celebrated by every family in the village and a water container will be worshipped for 12 months of the year.

Water rice cultivation brings the most important source of income to the H're in Violak. Vang Y Phu and Vang Ha Lenh nurture water rice fields of Vi Nong and Vi O Lak. According to the H're, the relations between Vang Y Phu, Vang Ha Lenh and Vi Nong, Vi O Lac are covered by Yin and Yang. Vi Nong and Vi O Lac rice fields produce rice to worship the Natural Spirits and provide livelihood to the villagers. Therefore, according to their customary law, only local rice species are planted in the fields, pesticide or fertilizer are not permitted, and only one crop is cultivated in the field each year. This is the long existing wisdom of the indigenous people that has been accumulated and applied in production, in sustaining and protection of natural resources. They also leave the land fallow

for sometime in order to restore the soil fertility and to kill pests and weeds without using pesticide or fertilizer... It is clear that the customary law is very useful and necessary for clean food and foodstuff production, natural resources and biodiversity protection.

- *The H're believe that their village living space and its surrounding natural ecosystem are arranged and guided by "Yang".*

In what direction should the village face in relation to the sacred mountain and stream? How houses should be arranged in relation to the sacred room of the grandparent's house, according to Yin and Yang philosophy and Feng Shui in relation to the Mother Mountain, Mother Stream, Field Spirit, Land Spirit, Village Spirit and other Spirits residing in the sacred trees? Where to build the buffalo house? Everything in this ecosystem is arranged and led by Yang. From the scientific perspective, this is an application and accumulation of experience of the indigenous people based on the harmonious relations between the ecosystem, landscape and human in building villages and houses...

- *Ritual ceremonies are integral part of the H're spiritual and material life.*

Annually, the H're organize a series of the ritual ceremonies based on their yearly crop calendar in order to make offerings to worship the Spirits. They are: buffalo house cleaning ceremony, Water Spirit ceremony, rice planting and rice harvesting ceremony, rice store ceremony, rat ceremony, the ritual of Ghe wine, buffalo sacrifice...

The evaluation shows that the local wisdom, wise and harmonious behavior of the H're people towards nature have long been accumulated and selected to become norms in production, life and behavior between human and human and between human and nature. The local wisdom has been preserved, shared and passed down to the next generations through village customary law and ritual ceremonies.

Wet rice cultivation generates the main income for the H're, hence, water buffalo is so vital to them. The H're often organize the buffalo house cleaning ceremony every February to renovate the house and make it clean. They believe that by doing so, their buffalo will become much stronger to work more, breed more and bring more fruitful crops to them. From the spiritual viewpoint, this ceremony means that people have worshipped Yang and prayed for good luck.

Followed the ceremony of welcoming the sacred water to the sacred room is the rice planting ceremony. The elder - the most prestigious person in the village will decide which day in March they are to open the rice stores for planting rice. It indicates that the elder is experienced and prestigious enough to observe the climate and weather condition through the year as well as to consider the crop factors so as to choose the best day for the whole village to practice the ceremony to make sure that rice will grow and develop well.

- *"Elder" – the traditional spiritual leader of the H're is a person who is most respected by the whole community by his own prestige, which is built by his individual moral values, talent and leadership skills rather than by "power".* Moreover, in addition to the elder, the H're also set up an **Elder's Council**. That is a right decision as it reflects a high level of democracy of the H're's traditional leadership that can not be found in the other ethnic groups.

The H're's traditional leadership includes the Elder's Council, which consists of 12 members and headed by the "Elder", who is the most prestigious person in the village. The Elder and the Elder's Council base on the customary law to resolve the village issues.

The H're's customary law is not a tool to sustain the social dominance, but a tool to adjust and harmonize the social relationship between individual and individual, between individual and family or clan and between individual and village, society, nature and supernatural forces as well... in order to stabilize a social order in favour of the whole community. It includes the detailed moral and behavioral norms toward natural resources and other legal and social norms to create the traditional and spiritual values of the Po E's villages. It is a combination of regulations related to beliefs and implementation of the whole community, which is accepted naturally by both the executor and the obeyer with no doubt. It is also recognized as the ownership and inheritance of generations. The mysterious rituals are an integral part of the customary law enforcement process. All violations against the customary law are considered the violations against the Spirits.

*The explanation above serves as an important basis to prove that LISO Alliance is right to choose and implement the project "customary law-based co-governance of natural resources" in Po E commune, Kon Plong district, Kon Tum province that has truly reflected the nature and wishes of the H're people in the long existing harmonious relationship with forest. It is an appropriate approach to the cultural and economic features and living concepts of the H're in Kon Plon district.*

***2. There has been differences between the concept of "co-management of natural resources" directed by the Government and the concept of "Customary law-based co-management and co-governance of natural resources" promoted by LISO Alliance.***

*Under the Government regulation, forest co-management is a form of management in which a community engages in forestry activities such as protection, taking care, regeneration and planting of forest in role of contract worker and receive their benefits based on their commitments in the contract.*

Traditionally, for the ethnic minorities groups whose's lives have long attached to forest, forest belongs to the entire community spiritually that provides water for living and production and space for exercising local wisdom. Forest is where the Mountain Spirit, Water Spirit and Natural Spirit reside, rule and protect the people's lives, They, therefore, have responsibility to protect their forests and mountains based on their customary laws. When the State has planned their forest space into protection forest, special-use forest and established Forest Management Boards, the real forest owners have turned into the contract workers. Their right to spiritual ownership, to worship forest and materially benefit from forest have been critically affected.

It can be said the State's form of natural resources management is stereotyped and top-down without taking into account the customary law and spirituality of the ethnic minority groups.

*The model of "customary law-based management of natural resources" facilitated by LISO/CENDI in Po E commune, Kon Plong district to protect the watershed forest is described as follows:*

- Management, protection and development of forest and natural resources should be implemented by the village community under the support of the local authorities and relevant organizations based on their village customary law. The customary law needs to be compliant with the statutory law;

- Local authorities recognize the village customary law in natural resources management by approving the community's regulations and recognizing their rights to natural resources management by their own institutions;

- Local authorities intervene as an arbiter in case of conflicts over land and natural resources with outsiders.

The table below shows the differences between co-management and co-governance of natural resources

<b>TT</b>	<b>Content</b>	<b>Co-management</b>	<b>Co-governance</b>
1	Planning for forest protection and development; Plan implementation	Top-down, imposed by administrative orders	Democratic with community involvement, comes from needs of the community. Each community member is entitled to be informed, discuss and make decision.
2	Role of community and people in natural resources management	Contract workers, passive	Owners of the spiritual space, create livelihood (by protecting forest vegetables and insects for food)
3	Benefits	Upon contracts, provided by the State budget	Upon work performance, equal and democratic in the principle of benefit sharing; Collect forest products upon permission of the Forest Spirit and according to the village customary law.
4	Basis for Implementation of natural resources co-governance	Based on statutory law, upper level guidelines (imprompt, impractical); Sometimes people don't clearly understand the statutory law, they implement unvoluntarily.	Based on traditional customary law and local experience, role and prestige of traditional leaders; Sacredness and worship towards the Spirits. Everybody well understands their customary law and consider it as moral and behavioral norms; People implement voluntarily.
5	Agencies to resolve conflicts	Judicial agencies at all levels – unfamiliar and don't understand much about the customary law.	Elder and the Elder's Council – spiritual leaders who are prestigious and respected by the villagers by their own moral values and capability.

*From the table above, we see that customary law-based natural resources co-governance and forest management and protection that has been implemented by LISO Alliance in Po E commune comes from the practical and objective needs to sustain the livelihood in harmony with nature, respect nature, and it has met the wishes of the local people. Obviously, it has brought much higher effectiveness in comparison with the currently Government-directed forest co-management as it secures that the people's ownership of natural resources governance has not been imposed.*

***3. For the ethnic minority groups living along the Truong Son mountains in general and the H're in Po E commune in particular, legal regulations are likely too general to go into the specific fields of community's lives and natural resources management. Therefore, the application of a good customary law in substitution for the statutory law ensures high sustainability and effectiveness in the natural resources co-governance***

Strict and complicated regulations on different types of ownership to different subjects of the Civil Law would become impractical and unfamiliar to a community when production materials mainly belong to the community while simple living and production materials belong to a certain clan or family.

Legal regulations on rights to use natural resources, use and transfer land and manage and protect forest... would hardly be acceptable by the communities who are living in harmony with nature, whose livelihood is much dependant on the village natural space in forms of hunting, collecting forest vegetables, animal raising and upland cultivation like the H're in Po E commune. In the context that the village ownership and production relationship has still been existing among the different village communities through the use of land, water and meadow... (as the Mountain Spirit and River Spirit reside in the mountains and rivers shared by villages), their customary law may substitute the statutory law to adjust the social relations.

The fact that young people (21 from Violak and 26 from Vi Klang 2) in Po E commune felt confused upon receipt of the land use right certificates (Red Books) for 50-year has proved that they have so far viewed forest as a communal asset of community ownership, and the concept of "individual forest ownership" never exists. It also proves that *the statutory law may not truly reflect the social development anytime and in any field*. Furthermore, this fact also shows that the local authorities of Po E commune and Kon Plong district have only performed their management work at general level without deeply understanding the real life of the villagers.

At the interview, a question "when the households have been granted Red Books for 50 years, why don't they sell, transfer or mortgage the Red Books but insist on transforming their individual land title into the community land title?" was asked to the Elders and village heads. The most common answer the evaluator has received from them is: "Up to now, for the H're people, forest is where "Yang" resides to protect the whole village. We, therefore, self understand our responsibility to worship

*“Yang” through village ritual ceremonies and respect “Yang” by well protecting our forest. Every year, our villages perform rituals in the forest to worship and express our gratitude toward “Yang” for protecting us for the year round. Without forest protection, we do not have a spiritual space for rituals. Moreover, the rituals must be based on the village customary law that allows the whole village community to worship the forest and receive gifts from it. Gifts from the forest should be distributed to the village as a whole, not to any individual household. If forest has been allocated to the households for 50 years, our next generations would have no common forest space to worship and receive gifts from the forest according our culture. And without practicing these rituals, why could we live peacefully? If the forest becomes a community forest, it will belong to the community forever, and our next generations will continue having the spiritual space for worshipping the forest and receiving gifts from it”.*

We assess this is a very human and practical philosophy which is far different from the statutory law on forest and land that too much promotes and focuses on individual ownership over land, forest and mountain that is only suitable for the lowland and urban areas.

The facts that the households have continuously refused their benefits from granted individual land title since 2015 by returning the Red Books (as mentioned in part III of this report) and the signing of inter-village agreement for forest protection between 4 H're's villages (Violak, Vi Klang 2, Vi Po E and Vi K'oa), the Thach Nham WMB, the Po E CPC and the Kon Plong Office for Agriculture and Rural Development have reflected the strength and nature of the H're's customary law.

*It once again demonstrates that “customary law-based natural resources co-governance” is an appropriate way of forest management and protection which has met the wishes of the people and have been voluntary implemented by them, and that customary law can be able to substitute the statutory law in natural resources governance as promoted by LISO Alliance.*

***4. Indicators of the project implementation outcomes and results of surveys and interviews conducted in the Po E's villages, with the CPC, districts offices and officials have indicated that “the Po E's villages have implemented the natural resources management based on their customary laws, and that the project has demonstrated the sustainability and possibility of extending to the whole region***

From the project implementation outcomes and based on the practical requirements, the Kon Plong district authority has noticed the important role of the customary law in the forest management, protection and development as well as in the governance of natural resources in the Po E's villages, where only the application of customary law can effectively resolve the social relations issues while the application of statutory law is impossible at the moment. Therefore, the authority has recognized and legalized the customary laws in natural resources co-governance of the villages.

In 2014, the Kon Plong district authority had allocated production forest and land of Vang Ha Ro to the Violak community for use and management over the area of 56.4 ha (earlier managed by the commune) based on the village customary law. Then in 2015, the DPC has issued Decision 382/2015/QĐ-UBND dated 24/6/2015 on approval of the *Regulation on customary law-based forest management, protection and development of Violak village, Po E commune*. Accordingly, the total area of 174.6 ha of forest and land has been allocated to Violak for protection based on the village customary law.

On 2 February 2016, 26 households in Vi Klang 2 who have been granted land use right certificates joined a village meeting with all the village members and the Elder's Council, and finally sent a letter to the authority at all levels to unanimously return their individual land titles (granted on 11 October 2013) and to request the local government to “transfer their individual land titles into a Vi Klang 2 community land title so that they could continue to co-govern and protect their forests based on their village customary law”. Then, the Kon Plong DPC has approved the Vi Klang 2's Regulation on customary law-based forest management, protection and development under Decision 81/2016/QĐ-UB dated 26 January 2016. Accordingly, the Kon Plong DPC has issued 261/2016/QĐ-UB dated 22 April 2016 on forest and land allocation to the Vi Klang 2 community with the total area of 215.3 ha (returned by 26 households) for protection based on the village customary law. A network of 25 key farmers linking four neighboring villages (Violak, Vi Klang 2, Vi Po E and Vi K'oa) has been established to further develop the project results, especially an action plan of the regulation on inter-village forest governance. A *Minutes of Understanding on cooperation in forest management, protection and development in Po E commune signed between the district Agriculture and Rural Development Office, Thach Nham WMB, Po E CPC and communities of the villages is commitments of co-responsibility of the parties to the forest management and protection*. According to this document, it is noted that many issues have reached agreement, such as scheduling forest monitoring plans of the stakeholders based on the H're's ritual schedule for “forest visiting”.

In parallel with the above activities, a Fund for nurturing a cultural ecological young generation of the H're and Fund for inter-village forest management and protection in Po E have also been established and come into operation from 5 May 2016.

The results of lobby and implementation of the project have helped the Kon Plong authority realize *inappropriateness* of forest and land allocation to the households in the H're communities and finally has changed their decision by transferring the individual forest and land ownership to the community ownership.

*These results have positive impacts on the surrounding villages and other villages in Po E that also would like to voluntarily return the granted individual forest land titles to the State for further allocation of forest and land to the community*

*for co-management, and to have their own regulation on management, protection and development of community legalized by the local authorities. Their wishes also serve as an important factor proving the appropriateness of the customary law-based management of natural resources.*

*Local authority at all level has strongly supported and closely coordinated in the project implementation.*

The DPC and its relevant offices have proactively supported the implementation of the Joint Circular 07/2011 (land allocation attached to forest allocation), realizing its spirit by closely collaborating and actively supporting the commune functional offices, village communities and CODE-SPERI-CENDI in granting community Red Books to two villages over 445.3 ha from 2014 – 2016; supporting in recognition of good regulations/customary law and local wisdom of the H're community in management, use and development of forest resources. Accordingly, over the past 2 years, the regulations/customary laws of two villages have officially recognized by the DPC.

The district offices have been flexibly, dynamically and appropriately implementing the Government programs and policies, such as Program 30a (contract with households, especially the poor) for the production forestland; collaborated with the Thach Nham WMB for forest protection contract with the households and supported forest and land allocation to community (according to the Joint Circular 07/2011).

The CPC has created all favourable conditions for the village communities and CODE-SPERI-CENDI to conduct measurement, planning, mapping, completing records of forest and land allocation in order to grant the Red Books to two villages for 445.3 ha; recognized good regulations/customary law and local wisdom of the H're community in forest and land management, protection and development,

*Wishes to transform the individual land title to the community land title; increasing number of the allocated area, active engagement of the local authority at all levels in forest and land allocation to community, recognition of the village customary laws; establishing funds and inter-village teams for forest protection and development are indicators acknowledging the implementation of the customary law-based forest management of the H're. They have also asserted that the project is sustainable and can be extended, because the people's wishes to apply this model come from their intrinsic beliefs and good customary law without any pressure from outside.*

To further prove this assessment, we would like provide more evidence: Through the field observation, we have noticed that the commune-managed forests that have been contracted with the poor households under the Government Decision 30a have been destroyed for casuarina cultivation, while it has not happened with the

other forest areas that have been managed based on the customary law and granted community land use right certificates under the facilitation of LISO-CENDI.

*At the interviews, the local people explained that those forest land areas had long been managed by the village by its culture and beliefs. Therefore, they should be allocated to the village for management based on their customary law. Contracting with the households is contrary to the customary law, making them hard to protect forest. They also said that if the commune authority withdraws these areas to allocate to the village, they will voluntarily protect them better based on their village customary law.*

#### ***5. The results of the project implementation have positively affected on the local government's attitude and policy implementation***

The fact that the local people have responded to the State's granting Red Books to the households for 50 years and classifying community sacred forests and spiritual forests as protection forests to be managed under the protection forest regulation in Po E commune has shown that: the State Law has yet reflected the local situation, and the local authorities in Po E commune and Kon Plong district have yet got close to the real life of the people, resulting to their poor understanding of the H're's customs and wishes.

In the process of colaboration for the project implementation, the authorities have realized the advantages of the customary law-based natural resources co-management, therefore, they have made positive changes in policy implementation, such as: i) legalized the village customary laws; ii) transformed the individual land title into the community land title; iii) signed the Minutes of Understanding on customary law-based management of the watershed forest; 4) recognized the H're ritual cycle of worshipping nature and based on it to work out the schedule for forest monitoring and assesment; v) included the spiritual names of location in the official forest planning maps; vi) recognized the operation of the funds and inter-village forest protection organization; vii) established native species nurseries in replacement of the industrial species nurseries...

*Through the talk with Mr. Nguyen Van Lan, chairman of the Kong Plong DPC, we have learnt that: the district has highly appreciated the project achievements gained under the support of LISO. The project has helped the district authority obtain experience and technique to better implement the policies in terms of forest management, protection and development. Currently, Kon Plong district has over 10,000 ha of forestland under the management of the commune. Hence, the district authority would like to extend this model so that this forest area would find its real owner – the village community. Their management, protection, development and enjoying benefits from forest based on the village customary law will, at the same time, sustain the cultural identity of the ethic minority groups in the Central Highlands.*

In summary, from the assessment above, below is the summary of key results the project has achieved in customary law-based of natural resources co-governance:

*- First, the H're view their living space and its surrounding lanscape a spiritual ecosystem arranged by the Spirits and sustained and nurtured voluntarily by the entire village community through their customary laws. Given their current education level and lifestyle in harmony with nature, their customary law can be able to substitue the State law to adjust the specific social relations and the relations in terms of forest and natural resources co-governance. Therefore, forest and natural resources co-governance is an adaptable and suitable model to the villages in Po E commune.*

*- Second, as the model of customary law-based forest and natural resources co-governance facilitated by LISO comes from the practical needs to sustain livelihood in harmony with nature and respect for nature, it has met the wishes of the people, therefore it secures much higher effectiveness in comparision with the government-directed forest management. Because with this model, people can take the ownership of the co-governance process without top-down and out-in imposition.*

*- Third, for the above reasons, there is basis to ensure the sustainablity and possibility of extending the project as it comes from the intrinsic wishes of the people which are based on their spiritual beliefs and good customary law without any pressure or impact from outside.*

*- Four, implementation of customary law-based forest and natural resources co-governance ensures five fundamental rights of people's livelihood: i) the right to land, foest and water; ii) the right to sustain beliefs and religion; iii) the right to sustain and preserve local wisdom and living experience being the cultural identity; iv) the righ to practice and decide; v) the right to co-govern natural resources.*

*- Five, the project implementation process has received a strong support from the local authority at all levels. Its achivements have positively impacted on the local authority all levels, changing their awareness and action in policy implmentation and law enforcement.*

## **V. RECOMMENDATIONS**

### **1. To the Government**

a. Recognize the existence of the customary law and consider it as part of State law. The customary law performs the function to adjust the social relations on behalf of State law, but only valid for a certain field of the locality. There should be a close inter-relation between customary law and State law: State law only resolves the local issues when customary law can not; or State authorizes the locality to build and enact a customary law-based village regulation to stipulate certain issues that are only valid within a specific residential unit.

b. Supplement Articles 135, 136 and 137 of the 2013 Land Law with the content that State allocates production forests land being the natural forests, watershed forests and special use forests to households, village communities and organizes the forest protection. At the moment, the Land Law stipulates not to allocate production forests being the natural forests, protection forests and special use forests to residential

community, which is not appropriate to the practical situation and customary laws of the ethnic minority groups, thus affecting their spiritual life, livelihood and practice of the long preserved local wisdom

c. While planning of protection forests and special use forests, it is necessary to clearly understand that the purpose of use of forest area is for protection or special use, but the State should not allocate that whole area to the Forest Management Board. As for the protection forests and special use forests being the sacred forests, herbal medicinal forests and water protection forests, the State should allocate to the village community for use and ownership.

d. Organize national conferences on customary law-based forest management, protection and development of the ethnic minority groups.

## **2. To the Kon Plong district**

a. Review and learn lessons so that villages in the district would learn and replicate the model for better management of over 10,000 ha of forest now under the management of the commune.

b. Document good customary laws in natural resources management of villages in the district and legalize them so that the local people could better govern forest and natural resources.

## **3. To LISO and other NGOs**

a. Continue to support Po E commune to extend the model in order to transfer the forest area currently managed by the State to the village communities for customary law-based management, protection and development.

b. Provide a technically support to assist the Government to organize national conferences on customary law-based forest management, protection and development.

c. Research and recommend amendments to the unreasonable points in the current Land Law, Law on Forest Protection and Development and Civil Law.