

Summary of LISO's opinion contributing to Law on Forest Protection and Development (Forest Law) to be submitted to the National Assembly Council of Ethnic Affairs on October 19, 2017 and the Compiling Committee

I. Forest Law should address the following concepts:

- Living space**
- Spiritual forest of residential communities**
- Water protection forest of residential communities**
- Cultural and belief practices attached with forest;**
- Border forest...**

General contents proposed for amendment to the 2004 Law on Forest Protection and Development:

1. The State recognizes, respects and secures common rights of all citizens including ethnic minorities:

- Ensure forest-dependent ethnic minorities to be allocated forest attached with land;

Note: This article affirms the necessity of allocation of forest and land to ethnic minority people, which is a step forward in comparison with Article 27 of the 2013 Land Law that merely stated that the State creates favourable conditions for the ethnic minorities to have land for agricultural production.

- Ensure publicity, transparency and participation of households and residential communities in forestry activities, planning and allocation... with no discrimination in religion, belief and gender...

- Recognize residential community... as a forest owner;

- Recognize and respect living space of villages;

- Recognize village community forests...: Recognize spiritual forest as the type of special-use forest, and water protection forest as the type of protection forest;

- Households shall be ensured to be provided budget to protect protection forests;

- Residential communities shall be ensured to be provided budget to protect special-use forests and protection forests;

- Households and residential communities are entitled to be consulted upon the planning.

2. Rights of households and residential communities:

- Residential communities are entitled to be allocated spiritual forests, water protection forests and production forests;

- Residential communities are entitled to be guided on agro-forestry-fishery production, under-canopy farming, cattle grazing in accordance with forest management regulation; to be supported to develop forestry economy, restore forests with forestry native species;

- Households and residential communities are entitled to organize, cooperate and link with organizations or individuals, or let them lease forest environment to launch business in eco-tourism, relaxation and entertainment services inside the forests (special-use forests, protection forests and production forests);

- Residential communities are entitled to own forest trees planted by themselves...

3. Other contents should be recognized in the revised law:

- Recognize border forest as the type of protection forest;

- Do not change purposes of use of natural forests into other purposes, except for important national projects, projects for national defence and security, and other vital projects approved by the Government.

- Chairmen of People's Committees at all levels are responsible for forest fire, deforestation and loss caused by law violations in forest management and protection within their scope and location of management.

Specific articles and contents should be addressed in this Law
(Italic and underline in red)

1. Article 2: Interpretation of terms

8. *Spiritual forest is the forest attached with beliefs, customs and practices of forest-dependant residential communities.*

9. *Forest owners* are organizations, households, individuals and *residential communities* that are allocated and leased forest, and allocated and leased land by the State for reforestation; forest restoration and development; transfer, donation and inheritance of forest from other organizations, households and individuals in accordance with Law.

24. A *residential community* consists of the community of Vietnamese citizens residing in the same geographical location including *village, hamlet, groups of people living on the same street, or similar residential quarter sharing the same customs and practices.*

2. Article 3: Principles of forestry activities

4. *Ensure publicity, transparency and participation of relevant organizations, households, individuals and residential communities in forestry activities.*

3. Article 4: State forestry policies

6. *The State ensures that ethnic minority people and forest-dependant residential communities shall be allocated forest attached with land for agro-forestry-fishery production; co-operate and link with forest owners to protect and develop forests, and be shared benefits from forest; practice cultural and belief activities attached with forest* in accordance with Government regulations.

4. Article 5: Forest classification

2. Special-use forests are mainly used to preserve natural forest ecosystem and forest species genes, conduct scientific researches, preserve historical, *cultural and spiritual* sites, and scenic landscapes in combination with the providing of eco-tourism, relaxation and entertainment services, except for restricted zones under strict protection; and provide environmental services, which include:

d) Landscape protection areas include forest for preservation of historical and cultural relics, and scenic landscapes; *spiritual forest*; forest for protection of rural environment, industrial parks, processing zones, economic zones, and high-tech zones;

3. Protection forests shall be classified based on levels of importance, mainly used to protect water sources and soil, prevent erosion, landslide, flood and desertification, mitigate natural calamities and regulate climate, and contribute to protection of environment, national defence and security in combination with the providing of eco-tourism, relaxation and entertainment services, and environmental services, which include :

a) Watershed forests; water protection forests of residential communities, and border protection forests;

5. Article 8: Forest Ownership

6. Residential communities

6. Article 10: Principles and basis of forestry planning

1. Forestry planning must strictly comply with rules of law on planning and principles as below:

d) Ensure the participation of agencies, organizations, residential communities, households and individuals; ensure the publicity, transparency and gender equality;

7. Article 12: Planning, consultation, reviewing, approving and adjusting national forestry planning

2. Consultation:

a) Ministry of Agriculture and Rural Development is responsible for gathering opinions from relevant State agencies, organizations, households, individuals and residential communities; synthesizing and receive opinions for further explanation;

b) Consultation on forestry planning shall be conducted publicly through mass media, in forms of official letter or organization of workshops and conferences;

c) The consultation time shall be within 60 days from the date when the competent State agency decides to conduct the consultation.

8. Article 14: Principles of forest allocation, lease and change of forest use purposes and withdrawal

2. Do not change purposes of use of natural forest into other purposes, except for important national projects, projects for national defense and security, and other vital projects approved by the Government.

7. Ensure publicity, transparency and participation of local people; no discrimination in religion, belief and gender in forest allocation and lease.

8. Respect living space, customs and practices of residential communities; Priority in forest allocation shall be given to the ethnic minority people, households, individuals and residential communities that practice customs, traditional and cultural beliefs attached with forest, that have their own regulations and rules in accordance with Law.

9. Article 16: Forest Allocation

1. The State allocates special-use forests without collection of forest use fees to the following:

d) Residential communities with spiritual forests which they have been managing and using traditionally;

2. The State allocates protection forests without collection of forest use fees to the following:

d) Residential communities with forests that protect their water sources

3. The State allocates production forests without collection of forest use fees to the following:

a) Households, individuals and residential communities that legally reside within the communal territory with forests; military units

10. Article 53: Scientific researches, teaching, internship; eco-tourism; relaxation and entertainment services, except for restricted zones under strict protection within the special-use forests

4. Forest owners organize, co-operate and link with organizations and individuals, or let them lease forest environment to launch business in eco-tourism, relaxation and entertainment services in special-use forests, while ensuring not to affect the preservation of natural ecosystem, biodiversity, landscape and other functions of the forest.

11. Article 56: Scientific researches, teaching, internship; eco-tourism, relaxation and entertainment services in protection forests

4. Forest owners organize, co-operate and link with organizations and individuals, or let them lease forest environment to launch business in eco-tourism, relaxation and entertainment services, while ensuring not to affect the preservation of natural ecosystem, biodiversity, and other functions of the forest.

12. Article 60: Agro-forestry-fishery production; scientific researches, teaching, internship; eco-tourism, relaxation and entertainment services in production forests

4. Organize, co-operate, set up joint-ventures and link with organizations and individuals, or let them lease forest and forest environment in accordance with the forest owner's rights to launch business in eco-tourism, relaxation and

entertainment services.

13. Article 81: Rights and obligations of households and individuals allocated protection forests by the State

1. Households and individuals allocated protection forest by the State have the rights:

b) To be provided budget by the State to protect and develop forest;

14. Article 83: Rights and obligations of households and individuals leased production forests by the State

1. Households and individuals leased production forest by the State have the rights:

b) To be shared benefits from forests based on lease contracts; to own plants, animals and other property attached with the planted forests invested by forest owners.

15. Article 86: Rights and obligations of residential communities allocated spiritual forests, protection forests and production forests.

1. Residential communities allocated spiritual forests, protection forests and production forests have the rights:

b) To be provided budget by the State to protect and develop special-use forests and protection forests allocated to the residential communities;

c) To be guided on agro-forestry-fishery production, under-canopy farming, cattle grazing in accordance with forest management regulations; to be supported to develop forest economy, restore forests with native forestry species;

d) To exploit forestry products available in special-use forests being spiritual forests as specified in Article 52, protection forests as specified in Article 55, natural production forests as specified in Article 58, and planted production forests as specified in Article 59 of this Law, and to be shared benefits from forest in accordance with State policies; to own plants, animals and other property available on the planted forest land invested by forest owners.

2. Residential communities allocated spiritual forests, protection forests and production forests have the obligations:

a) To fulfill obligations as specified in Article 74 of this Law;

b) To complete and implement regulations and rules on forest protection and development in line with this Law and other relevant laws;

c) To secure the allocated forests;

d) To not allocate forest areas to members of the residential community;

e) To not transfer, lease or donate forest use rights; not to mortgage or contribute capital with the value of forest use rights.

16. Article 102: State management responsibilities of People's Committees at all levels

4. Chairmen of People's Committees at all levels are responsible for forest fire, deforestation or loss caused by law violations in forest management and protection within their scope and location of management.