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4/3/85
WORKSHOP IN POLITICAL THEORY
AND POLICY ANALYSIS
513 NORTH PARK
INDIANA UNIVERSITY
BLOOMINGTON, INDIANA 47408-3186
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COMMON PROPERTY IN THE HIGH PLATEAUS
OF CENTRAL VIETNAM

Dr. Pham Quang Hoan

INTRODUCTION :

The High Plateaus which are located in the South-western part of Vietnam, border on Laos in North West, and Cambodia in South West. They have a total land area of 5.527.000 hectares, and comprise 4 provinces (Kontum, Gia Lai, Dac Lac and Lam Dong). They have a varied topography which, in the main, is made up of forests, mountains and plateaus : high hills like the Ngoc Linh range in the Northern part, 2598m; Chu Yang Sin mountain range in the South, 2406m; lower mountain ranges below 2000m and plateaus with elevations from 300m to 1000m.

The High Plateaus have two distinct seasons, dry and rainy, each lasting for 6 months. The rainy season usually starts from May to October (Gregorian calendar year), while the dry one from October to April.

The High Plateaus are known for their rich fauna and flora, with tropical forests as the most important source of wealth. Yet, wanton deforestation and several other reasons have brought about soil erosion, depletion of valuable plant genetic resources, droughts, floods and climatic degradation.

The indigenous population of the region comprises 12 ethnic groups belonging to 2 language families : Mon-Khmer language (Austro-Asiatic linguistic family) and Malayo-Polynesian language (Austronesian family), with a total number of 790.630 inhabitants (1989 census), accounting for 34% of the local population and 10% of the population of the ethnical minorities in Vietnam. Speaking the Mon-Khmer language are the Bahnar, Sedang, Mnong, Jehtrieng, Ma, Koho, Brau, Romam ... ethnic groups, while the Malayo-Polynesian language family is spoken by the Ede, Jarai, Chu Ru, Raglai ... groups.

The low socio-economic level of development of the indigenous ethnic groups in the High Plateaus is marked by widespread slash-and-burn agriculture, boring the soil with a stick

and filling it with seeds; heavy reliance on nature; little intensive agriculture and low productivity; strong vestiges of the collecting, grabbing and hunting economy; rigorous division of labour in accordance with sex; equalitarian distribution of labour products; barter exchange of products ...

Accordingly, their traditional society is based on the village (buon) as a basic institution formed by clans. All activities associated with their communal life are governed by customary laws.

1. TRADITIONAL COMMON PROPERTY REGIME

In the late 19th and early 20th century, all indigenous inhabitants of the High Plateaus lived in the villages, their lives closely linked with mountains and forests, with predominantly slash-and-burn fields and very few wet paddy fields.

Villages were the basic social institution, and were called as PLEI or PLOI, PLOI by the Sedang, Bahnar, Jarai, Cho Ru, Raglai ethnic groups, as BON by the Ma, Kohor, M'nong groups, as BUON by the Ede, as SRUE by the Brau, as DE by the Romam group etc ... Each village had a territory of its own with natural boundaries delineated by hill tops, hills, rivers and brocks, big stones, old big trees etc... and agreed upon among various villages. Unintended or deliberate violations of these boundaries were subjected to punishment and led to disputes. These boundaries were passed on from one generation to another and its was the responsibility of all members of the village to protect them at any price.

The common property regime may vary in specific details depending on each group. For tribes of Mon-Khmer language, and particularly in areas inhabited by the Ma, Kohor, M'nong... groups with their migratory slash-and-burn fields, all the lands, forests and mountains, rivers and brooks and their various resources were the common property of the village. And this collective ownership right was concentrated in the hands of the village heads. In delineating the boundaries between

various villages, the village heads were in fact affirming the ownership rights of each village over the land and resources within the confines of these boundaries. In fact, the delineation of boundaries between neighbouring villages often involve religious ceremonies in which people swear to respect them, that is to strengthen them and make them long lasting. It was the duty of the village heads to lead and supervise the villagers in preserving the territory of each village. The significance of territory to the lives of villagers is clearly reflected in the indigenous name of the word "territory". For example, an ethnic group, Ca Dong, dwelling in the North-Western part of Kontum province, refers to village territory as "GONG DAK KHAT CHONG CHA" which literally means "forest, mountain, land and water for producing and living". Thus, there was a clear concept of common property in a determined territory : the village was the collective owner of its territory and all wealth therein, either provided by nature or created by human beings, belong to the village.

Within the limits of the village territory, the village head determined the land areas that villagers could cultivate, and land areas that they were not allowed to cultivate. With respect to cultivated land areas, each family was a user unit and not the owner, as the land was collectively owned by the community. The amount of land used by each family depended on the number of its members and labor hands. After two harvests, a plot of slash-and-burn field was usually left fallow for 12 to 15 years before it could^{be} cultivated again. While the village was the common owner of all land areas, a piece of land that had been cultivated by a family would be under its direct control with the right to transfer or give it to another person, but buying or selling was prohibited. When that particular piece of land was left fallow, another person or family from the same village could seek the right to cultivate it provided agreement was given by the user family. But no such privilege was given to members of a different village. In fact, no outsider was allowed to cultivate the land of a

village unless specific agreement was given by the village. Otherwise, such an act of transgression would be fiercely opposed by the villagers as a serious violation of their abode, their right of common property and, graver still, an offense to their "earth spirit". Therefore, outsiders who wished to reside or cultivate land or buy land in a certain village, must seek the permission of the village head concerned. This also applied to fishing, hunting, collecting activities. In such cases, the right of common property of the village found reflection in the customary law whereby a part of the products collected by the outsiders on the territory of the village must be surrendered to the village concerned. For example, if a wild beast was shot dead on the territory of another village, half of the beast must be offered to the village concerned. Villages inhabited by members of the Bnoong tribe, required that people of Vietnamese origin who came there for fishing and for exploiting forestry products must annually buy a number of buffaloes and offer them to the village concerned.

In Mon-Khmer language speaking groups, the village head was empowered to manage the common property of the village. But in villages of Malayo-Polynesian language, particularly those of Ede and Jarai ethnic groups, a special official called Polan or Land Chief was appointed to look after the boundaries and the land of the village. Previously, each Ede clan had a territory of its own with clear-cut boundaries, and the land of the clan was managed by a female POLAN whose functions were hereditary but strictly confined to the female sex as the Ede society was a matrimonial one. If the mother, a POLAN, died, her eldest daughter would take over her functions ... and the process would go on until the youngest daughter came of age and could perform the same duty. The amount of land managed by the POLAN of Ede and Jarai groups and their powers depended on the number of inhabitants in their groups. Some POLAN managed land belonging to many villages. In other cases, a POLAN could manage only the land of one or two villages. According to certain accounts, a POLAN

of the Nie Blo clan in Dac Lac managed the land of 9 villages (Buon Kuang, Buon Dut, Buon Puan, Buon Krong Buk, Buon Krai, Buon Kla, Buon Jat, Buon Kmrong, Buon Pan, Buon Ea Phe).

In addition to managing territory and land, the POLAN also ensured the preservation of customary laws, the principles of marriage. For example, to members of ethnic groups, acts of incest would dirty the land and infuriate the Earth's spirit, and this would bring about bad harvests, floods, droughts etc ... Therefore, in accordance with traditions, the POLAN usually went on inspection once every 7 years to find out whether incest had been committed in the land areas under her control. She would order all those guilty of incest to perform religious ceremonies, to be presided by herself, in order to implore the forgiveness of the Earth's spirit and clean up the land.

According to Ede customary laws, no one had the right to occupy and own land, water, forests. Each villager had the right to cultivate land in areas designated every year for such purposes by the community. They could fish in all rivers and brooks of the village, and take honey from all beehives located in the trees of the village except for the K.Jar K.Jong tree. The customary laws also provided specifically that villagers must not cultivate land and extract forest products in areas marked as belonging to other villages.

The Jarai ethnic group called the land areas open to cultivation as "ha ma", as different from "De ta na, lon" which were land, forest land that people were not allowed to cultivate. In Jarai parlance, "Ha ma" comprised many categories : "ha ma rung" are land areas to be used as slash-and-burn plots, "ha ma kaor" as plots of land left fallow following a few harvests, "ha ma ia" as wet paddy lands. Jarai customary laws strictly forbade any violation of "ha ma", and those guilty of such acts would be subject to various punishments ranging from compensation to laboring as servants (H'lun) for the village head (Khoa loi).

Thus, in the traditional society of the indigenous people of the High Plateaus, it was the village, represented by the village head or the Land Chief which held the right of common ownership over the land, forests and mountains. Only members of the village were entitled to use, cultivate and exploit the land and forests and enjoy the products available in the territory managed by the village, and this right was provided for in the customary laws of the ethnic groups. The land area of each village or clan was clearly determined by concrete boundaries which had a traditional character and were inviolable.

2. CHANGES IN THE COMMON PROPERTY PRIOR TO 1975

In the early 20th century, the French set foot on the High Plateaus and thereafter a number of decrees were issued by the colonial administration in 1923, 1925, 1939 ... concerning land in this region. The August 25, 1939 Decree, in particular, contained concrete stipulations regarding the transfer of land from the ethnical minorities under the administrative supervision of the Commander of French military posts if the land area involved was less than 30 hectares and under the administrative supervision of the French Resident if the land area involved was above 30 hectares of land. These decrees were designed to encourage the French colonists to set up plantations in the High Plateaus while discouraging people of Vietnamese origin to settle there. At first, French tea, coffee, rubber plantations were established around Bao Loc, Di Linh towns (Lam Dong province), Buon Me Thuot (Dac Lac province) and Pleiku... and near a number of highways ... From the 20s to the late 30s, land grabbing became even more vigorous. In 1920 alone, there were nearly 30 applications for setting up plantations involving a land area of over 200.000 hectares.

In 1939, an agricultural research centre was established in Bo Lao (Bao Loc district) for studying the possibility of expanding plantations of tea, coffee, rubber and other industrial crops in the basalt soil areas of the High Plateaus and in the Eastern part of South Vietnam proper.

Thus by making use of the role of indigenous village chiefs, Land chiefs and Forest chiefs and other means, the French colonists took away the land of the ethnical groups in the High Plateaus in order to establish big tea, coffee and rubber plantations and turned a number of tribal people into plantation laborers. In doing so, the French brought about the first changes in the common property regime in the region. Their action also came up against the strong resistance of the ethnical minorities, as reflected in the birth of FUIRO, a liberation organization fighting for the autonomy of indigenous people in the High Plateaus.

Yet, land grabbing, in violation of the ownership rights of the ethnical minorities in the High Plateaus, for setting up plantations and for other purposes, continued unabated during and after the first Indo-China war. In particular, of the 715.000 Vietnamese who migrated from the North to the South in 1954-1955, some 58.651 persons were settled in the High Plateaus. On April 20, 1957, the Saigon Administration launched a two-year programme, from 1957 to 1958, to set up two agricultural settlements in Buon Me Thuot (8 villages) and Pleiku-Kontum (16 villages) for accommodating 35.000 migrants from Central Vietnam (15.860 persons from Quang Nam - Da Nang province; 10.882 persons from Quang Ngai province; 2.279 from Thua Thien province; 5.722 from Binh Dinh province; 623 persons from Quang Tri). These migrants were allowed to occupy land, without any regard for the ownership right of the indigenous villages.

On December 12, 1958 President Ngo Dinh Diem issued a decree stipulating that all transactions in land between the indigenous people, the Vietnamese and foreign residents in the High Plateaus must be subject to the agreement of the President. Further, a note No 918/BTC dated May 28, 1959 addressed by the Saigon Ministry of Finances to the Ministry of Land Affairs stated in no ambiguous terms that the ethnical minorities had no right of ownership but only the right to use land, fields and gardens, and therefore all land deeds existing so far had

no legal value. The sole aim of all these regulations of the Saigon regime was to legalise the expropriation of the land of the ethnical minorities and to set up plantations of industrial crops in the High Plateaus. Many new plantations were subsequently established around townships and cities in the region.

Thereafter, Decree No 1034/67 dated August 29, 1967 laid down stipulations on the private ownership rights regarding sedentary and migratory agricultural lands : each family could have an illimitable amount of sedentary agricultural land but only a maximum of 10 hectares of migratory agricultural land. Taking advantage of this, many people wantonly took possession of large patches of forest and cultivated land areas. Along with the emergence of land transactions and mortgages between people not belonging to the same village, also came into being the practice of tilling lands in villages other than one's own, an act completely alien and taboo to the old traditional society. More important still, the traditional structure of many villages of ethnical minorities was broken with the emergence of new administrative units comprising several old villages with different ethnic groups having different customs and habits, and different levels of socio-economic development. Also, people of the same ethnic group could no longer live together in a village, and had to live in different places, far from one another. These economic transactions and deep changes in dwelling places ... compelled the ethnical minorities to break with their old traditions and deprived them of the ownership rights of their communities over land and natural resources. Also, long years of war seriously devastated the forests.

3. MIGRATION AND COMMON PROPERTY AFTER 1975

Let us examine the following table relating to the population in the High Plateaus over the past 30 years (1).

<u>Year</u>	<u>Population</u>	<u>Year</u>	<u>Population</u>
1956	530.000	1979	1.482.781
1960	604.000	1982	1.687.900
1970	770.000	1986	2.013.900
1972	949.000	1989	2.485.799
1976	1.225.914		

From the table, one can see that the population in the High Plateaus has increased by five times from 1956 to 1989, with annual growth rate of 3,93%, as compared with nation-wide population growth of 2,5 times (from 25.074.000 in 1956 to 64.411.713 inhabitants in 1989) and average annual growth rate of 2,58%. In particular, a more rapid increase has been registered since 1975 due to both natural growth and migration, the latter playing an important role.

Indeed, in order to meet the requirements in social, economic and cultural development of the High Plateaus and the need for a re-distribution of labor and population in the whole country, the Vietnamese government has moved a part of the population from the Red River Delta, Thanh Hóa, Nghe An, Ha Tinh provinces ... to the High Plateaus for land reclamation and economic development. The 10-year period, from 1976 to 1986, saw an increase of 807.200 inhabitants in the High Plateaus, of which only 342.700 resulted from birth while the remaining 464.500 were migrants. In particular, Viet (Kinh) people increased rapidly from 768.900 inhabitants (Census 1979) to 1,6 million (Census 1989). The migration rate to the High Plateaus was the highest in the country : While the 1976-1986 period saw a decrease in the migration to the Red River Delta and the southern coastal areas of Central Vietnam, a 0,5% growth was registered in the migration to the midlands of North Vietnam, the Mekong Delta, while a 3,31% growth was registered for the High Plateaus.

Mention must also be made of the migration over the past few years of a number of ethnical minorities in the North to the High Plateaus. In Cao Bang province alone, about 100.000

people of ethnical minorities migrated to the South, and particularly to Dac Lac province. During the 1993 traditional New Year, some 253 households (comprising 1.509 persons) of the Dao Thanh Y group of Tien Yen district (Quang Ninh province), of Son Dong district (Ha Bac province) and of Lang Son province came and settled down in Krong No district of Dac Lac province. Earlier, in 1992, some 10.000 persons came to Dac Lac province where free migrants from Cao Bang, Lang Son, Quang Ninh, Ha Bac provinces now have 36 settlements with 42.000 inhabitants.

These migration trends have brought about a rapid increase in the general population of the High Plateaus, involving not only Viet (Kinh) people but also of other ethnic groups from North Vietnam. From 1979 to 1989, the ratio of indigenous ethnic minorities to the total population of the High Plateaus decreased from 40,53% to 32,01%, while that of ethnical minorities from North Vietnam (Tay, Nung, Thai, Muong, Dao, H'Mong...) grew from 1,53% to 2,65%, and that of the Viet(Kinh) people from 56,63% to 64,56%.

Ethnical composition of the population in the High Plateaus (3)

<u>Total</u>	<u>1979(%)</u>	<u>1983(%)</u>
Indigenous ethnical minorities	40,53	32,01
People of Viet (Kinh) people	56,63	64,56
Ethnical minorities from the North	1,53	2,65
Other ethnic groups	1,31	0,78

Composition of migrants (in terms of their provinces of origin) to the High Plateaus from 1975 to 1985 (4)

<u>Provinces</u>	<u>ratio</u>	<u>Provinces</u>	<u>ratio</u>
Thai Binh	9,58	Binh Tri Thien	15,53
Ha Nam Ninh	9,98	Quang Nam-Da Nang	21,55
Hai Hung	8,25	Nghia Binh	19,58
Ha Son Binh	3,95	Phu Khanh	0,03
Hanoi	4,58	Vinh Phu	0,07
Thanh Hoa	0,13	Ha Bac	0,03
Nghe Tinh	5,16	Lang Son	0,07
		Cao Bang	1,51

This huge migration has given rise to many administrative units, economic zones, agricultural and forestry organizations. Over the past 12 years (1976-1988), the migrants in Gia Lai and Kontum provinces have caused substantial population growth in 20 former communes, have set up 13 new communes, 6 rubber companies, 2 coffee companies, 5 tea companies, one group of enterprises dealing in special products, 4 groups of industrial-agricultural and forestry enterprises, 16 forestry stations and 11 forestry industrial enterprises. In Dac Lac province alone, there are 64 agricultural stations and 42 forestry stations (5). The agricultural and forestry stations have occupied a very large area of land, including the forest and agricultural lands already owned by the villages of ethnical minorities. Thus, the villages which were previously independent ownership units are now managed by the agricultural and forestry stations. For example, the Kon Ha Nung Group of Enterprises (Ministry of Forestry) now occupies 570,000 hectares of forestry land covering the land area of 4 districts Klang, An Khe, Mang Giang and Kon Plong (Gia Lai - Kontum province) (5). In Dac Lac province, the agricultural and forestry stations control nearly 1,7 million hectares of land and forest, that is 86% of the land and forestry area of the province, but they manage only 21% of its population (7). New Economic Zones have also been set up on the land of the existing villages, that is the land already owned by these villages. In other words, while delineating the areas allotted to these new units for the purpose of control and management, due attention has not been paid to the customary laws regarding the traditional common land property regime of the indigenous communities.

Further, since many agricultural and forestry stations cannot effectively control and manage the very large expanses of land put at their disposal, a lot of land has been left fallow, many forest stretches are without real owners and control, and this has led to wanton deforestation, with negative impact on the ecosystem.

One witnesses serious depletion of the forest resources of

the High Plateaus : 40% of the forests was destroyed during 30 years of war, and 1/3 of the remaining forests were destroyed during the 10 years that followed the full liberation of Vietnam. From 1979 to 1988, natural forests decreased by 525.000 hectares, and wood reserves by 100 million m³. On an average, the natural forests have decreased by 65.700 hectares per year and the wood reserve over 10 million hectares per year.

Forest area and forest reserves from 1979 to 1988 (8)

(area: hectare; reserves: m³)

<u>Area</u>	<u>1979-1980</u> <u>(period I)</u>	<u>1987-1988</u> <u>(period II)</u>	<u>As compared with</u> <u>periods I and II</u>
Forest Area :			
- Forest land	3.137.700	2.649.000	486.000
- Natural forests	3.136.000	2.611.000	525.000
+ Wood forests	2.809.000	2.291.000	518.000
+ Bamboo forests	3.270.000	320.000	7.000
Reserves :			
- Natural forests (Wood)	3.428.450	216.733.000	126.111.100

The forest area of the High Plateaus has decreased by 700.000 hectares (as compared with 3,3 million hectares in 1975) and the forest cover has decreased from 85-90% (in 1945) to 45-50% (in 1975) and to 40-42% (1988) (10). Forest resources depletion is also reflected in the lowering quality of the forests. In 1988, there remained only 462.994 hectares of rain-forest, that is less than 20% of wood forests in the whole region. From 1976 to 1978, 88.184 hectares of forest were destroyed, of which 36.958 hectares due to forest fires (41,91%), 21.286 hectares due to land reclamation (24,14%), and 29.940 hectares due to slash-and-burn agriculture (33,95%) (11).

The above-mentioned figures show that the main cause behind the depletion of forest resources in the High Plateaus is land reclamation and slash-and-burn practices. This involves not only the indigenous ethnical minorities, but also settlers of Viet (Kinh) people and other ethnic groups from the North.

In 1990 and 1991, thousands of migrants settling in Lam Ha district (Lam Dong province) burned and turned 2.200 hectares of forest into slope fields. In Dac Lac province, the migrants settled down anywhere they found it fit, particularly in the rainforests and watersheds. In 1992 alone, free migrants in Dac Lac province burned 1.400 hectares of forest -- mainly rainforest -- and turned them into slope fields.

As a result, the area of land without forest cover has increased by 578.000 hectares in 1987-1988 as compared with the 1979-1980 period. At present, the High Plateaus have 2.200.000 hectares of bare land and bare hills (accounting for 42% of the natural land area), subject to serious erosion (12). Of the total 1,4 million hectares of basalt soil, only 28,3% are not yet subject to erosion and degradation. (13)

Following the decrease in vegetation cover, soil erosion and degradation, the ecological balance in the High Plateaus has changed for the worse, with increasing severity of the monsoon tropical climate, bigger wind velocity, longer dry seasons and higher frequency of floods.

CONCLUSION :

As is seen, the common property in the High Plateaus has been undergoing deep changes due to various pressures. While land and forests are owned by the State, different economic sectors enjoy the right to directly use and manage them.

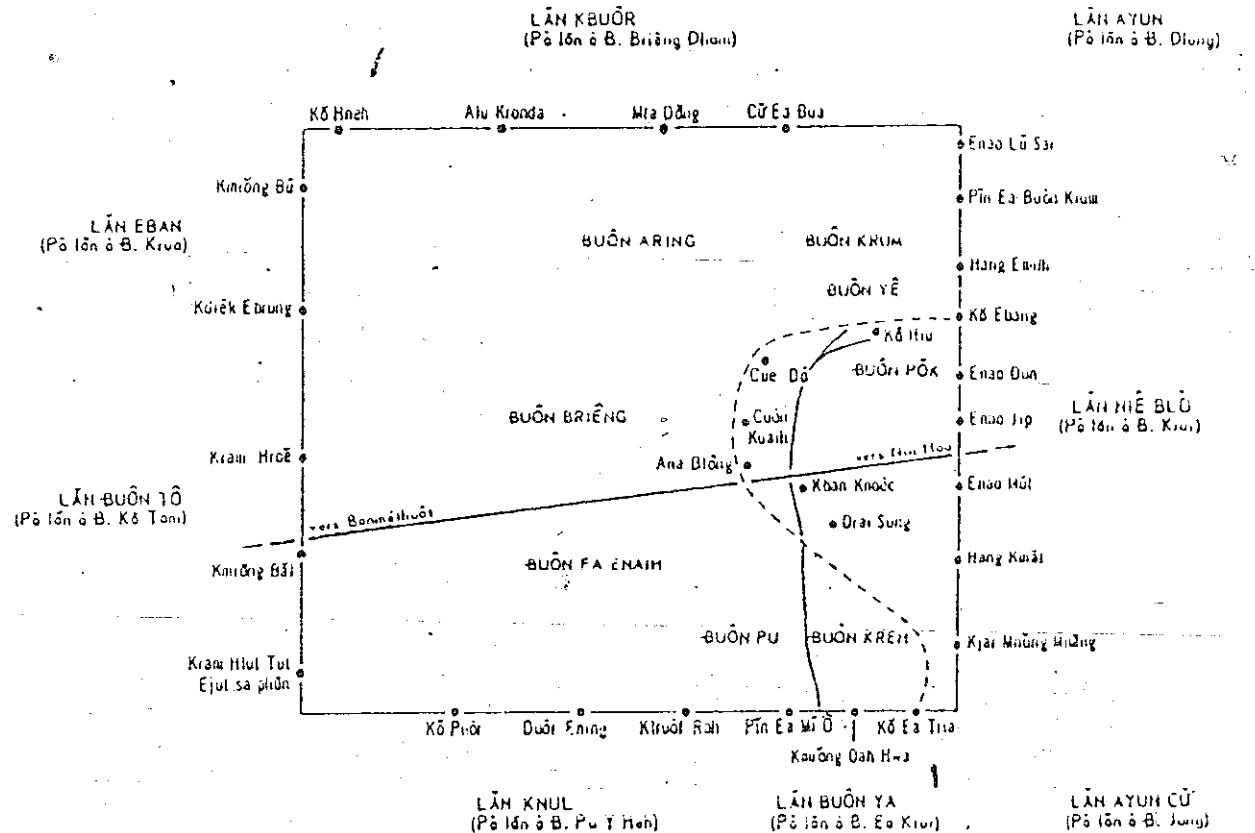
In order to control the existing natural resources, it is essential to solve adequately a series of problems : the relationship between the State's land law and the use of land and forests in accordance with the customary laws of the indigenous ethnical groups; a clear delineation of the administrative boundary of villages and communes in coordination with the allocation of land and forest to the population, and the development of models of sedentary agriculture and settlement which are appropriate to the production practices of the ethnical groups and the comparative advantages in terms of natural

conditions of various areas; to revise the area of land and forest allocated to agricultural and forestry stations and state enterprises which should be made to efficiently exploit them, not allowing land to lie fallow and forest stretches to be without real control; to readjust in a rational manner the migration scale and population distribution in order to ensure development and harmony between economic, social, cultural and environment factors; to find comprehensive solutions which should, among others, focus on investment designed to generate employment and land to the ethnical minorities in the highlands of North Vietnam, on limiting and gradually preventing free migration to the High Plateaus, and on bringing the existing migrants -- now being involved in migratory farming in various parts of the region -- into villages and designated dwelling areas with stable production conditions so as to forestall further wanton deforestation.

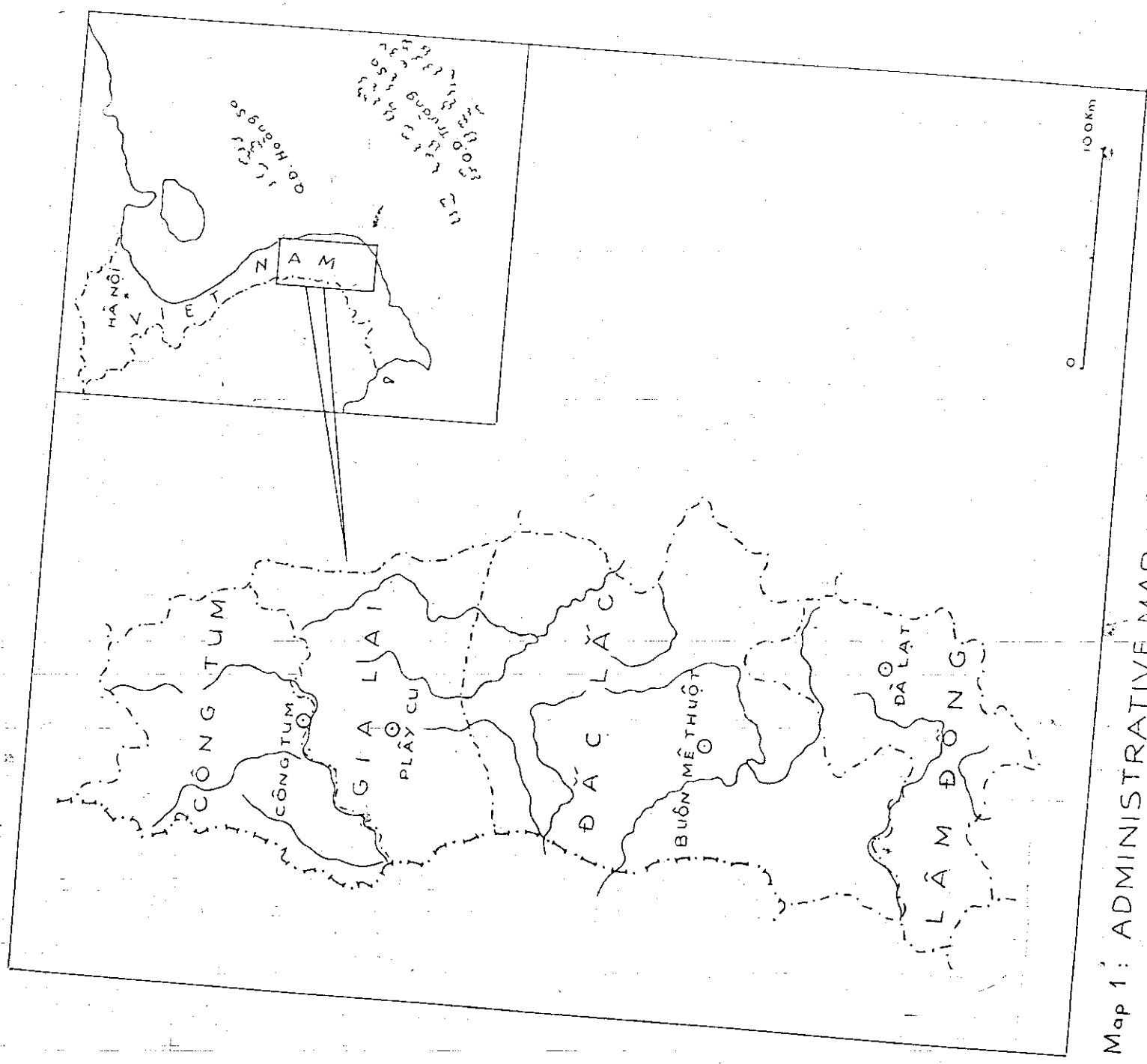
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Land of The Nie BLo Clan



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| Pin Ea : point d'eau | Kdjar : arbre sacré |
| Enao : étang | Kiam : bambou géant |
| Khuông : forêt | Cũ : montagne |
| Kô : source | Orai : chute d'eau |
| Duôi : lieu, parcours | Kdiêk : passage d'animaux sauvages |
| Cuôi : marais | Hàng : rive |
| Ktruôi : arbre | Kban : pont |



Map 1: ADMINISTRATIVE MAP OF CENTRAL HIGHLANDS