

New ADDA-project in Vietnam:

## **Legal aid to the Rural Population**

The people living in the rural areas of Dien Bien, Lai Chau and Lao Cai, often lives in isolated and remote locations. They have only very little access to information and are often in serious doubt on their legal rights and opportunities. The many changes of the legal rights on especially access to land, land use and land tenure are not clearly communicated out to the remote living parts of the population. They often rely on their traditional sets of regulations (village covenant) as internal guidelines for the function of the society. Likewise is it difficult for the local authorities to know what the remotely living population thinks on certain reforms and administrative regulations. Further to the land administrative problems there are in general difficulties in getting legal assistance for the poorest parts of the population.

### **Legal assistance**

In general it is difficult to get access to legal assistance, except for private law companies which are rather expensive and often far away from the villages, and these are not an option for the poor and disadvantaged population in the mountainous areas. This entails that this part of the population fully rely of the general information made available by the local authorities. When the communication and information flow is inadequate, then there will be no access to legal assistance or legal information. These people might loose their legal opportunities. The project will focus on land administrative concerns, civil laws, criminal laws, the administrative laws, the grassroots' democracy laws which will include opportunities for establishment of business cooperatives etc.

### **Village covenant**

One of the areas of assistance will be on analysis, discussion and clarifications of the "Village Covenants" and how these comply with the Rule of law and if there are any areas where they are in conflict with the Rule of Law. Village conventions have so far been viewed as and instrument that regulates social relations within a local community and have been used by village official to control other villagers.

Village conventions reflect customary norms and standards and further they represent the will of the local community in managing various aspects of the social life, public order and security, and cultural and spiritual activities taking place in the daily life of the community. These village covenants have been developed over very long time, sometime centuries, and they are not necessarily consistent with the official national rule of law. It is considered important to clarify these differences and further clarify the consequences of violating the rule of law even though the village covenant has been followed.

### **Land law and land use**

The continuous revision of the Land Law and issuing of decrees have steadily aimed at transferring management authority from the state to the household unit, the driving force being the government's wish to increase land productivity and to

ensure a better land management. The land allocation has been gradually adapted over the years, following experience of implementation. In spite of being a nationwide programme planned to be uniformly implemented throughout the country, the land allocation has in practice been implemented differently in different locations, in terms of timing, process and ‘package’ of related land use programs, and has had different impact and consequences, particularly in the uplands. This project will assist the upland population in explanation of the land law and assist people in their immediate concerns.

### **Land tenure security**

In the recent land allocation process, land tenure security has been increasingly acknowledged by the Vietnamese government as essential to the effective management of land. The land legislation has been progressively more based on the assumption that exclusive and territorial land use rights improve land tenure security, which in turn raises the farmers’ motivation for long-term investments and better land management, leading to increased land productivity.

The implementation of state recognized land tenure laws, while important, is not necessarily in itself a sufficient condition neither for tenure security nor for sustainable land use. Many advocate for the appropriateness and sustainability of community-based common property systems but warn that such systems – if not incorporating well-defined property rights and strong institutions – may not be effective as sustainable natural resources management systems.

### **Participation**

One of the main difficulties in assisting these people is the poor communication between the local government and the target population. The rural population has, partly due to difficult geographical conditions, very little information on development planning, legal aspects, possibilities and opportunities, thus having difficulties in participating in the decision-making processes and they have only very little information about new initiatives launched by the government.

To create democratic and participatory development in a rural society there is a need for dialogue between local government and the target population, and a number of necessary elements to be applied for such good governance practice are required. It should be participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follow the rules of law. However, for the dialogue to function and for the local authorities to comply with these elements it is important that the population is equipped with tools and knowledge so they can take part in the communication with the decision-makers. The rural population and the ethnic minorities must have a voice in the process of promulgating the decisions.

Country: Vietnam

Project period: January 2008 to December 2010

Budget: DKK 4.300.000