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Agrarian Change and Land Tenure in Vietnam through a Political Economy Lens

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Abstract

Land tenure in Vietnam is becoming increasingly contested in the context of rapid economic development and growing inequality. Agricultural land in and around cities and industrial areas is targeted by domestic and foreign developers for conversion to commercial uses. In rural areas, farmers' access to productive land is restricted by the dominance of state-owned or state-connected farms and forest enterprises. As a result, the number of complaints filed over land issues has increased dramatically in the last decade, comprising up to one million land-related disputes of which authorities at best can resolve only half. In some cases, land seizures have prompted farmer demonstrations, such as two high profile cases of resistance in 2012 in Hai Phong and Hung Yen provinces. The paper will apply a political economy approach to processes of agricultural land concentration, conversion and exclusion through analysis of the interests and incentives of key actors within and outside the Vietnamese state; the gap between legal documents and policy implementation; and processes of interaction among multiple stakeholders over time. The revision of the Land Law in 2013 led to an unprecedented level of public participation in land policy formation, yet many recommendations from farmers, civil society, and local authorities were not reflected in the final version passed by the National Assembly. While political and economic leaders use overt, hidden and invisible power to marginalize farmers, agrarian communities seek influence of their own through network- and coalition-building, including via the media and Internet. Data sources include monitoring of official media and blogs, interviews with officials and experts, and the authors' direct experience in land governance coalition building via Oxfam's Coalition Support Programme and other local civil society-led initiatives. We will draw on an earlier political economy analysis of the land sector that we conducted at the inception of the Coalition Support Programme and assess what has and has not changed in the intervening three years. Case studies of successful and less successful local organizing around land disputes will be offered to deepen contextual analysis. In the discussion and conclusion sections, the paper will explore the extent to which emerging narratives of farmers' rights may challenge the dominant model of economic growth through resource extraction. Based on available data, we will also evaluate the prospects of policy reformers influencing the central government's desire for stricter land management as well as reducing elite capture by economic interests.

Land tenure in Vietnam is increasingly contested in the context of rapid economic development and growing inequality. This is particularly the case for agricultural land in and around cities and industrial areas, which is targeted by domestic and foreign developers for conversion to commercial uses. In rural areas, farmers' access to productive land is restricted by the dominance of state-owned or state-connected farms and forest enterprises. As a result, the number of complaints filed over land conversion issues has increased dramatically in the last decade, comprising up to one million land-related disputes of which authorities have at best been able to resolve only half. In some cases, land seizures have prompted farmer demonstrations, such as two high profile cases of resistance in 2012 in Hải Phòng and Hưng Yên provinces.

Vietnamese policy has both enabled and restricted farmers' tenure rights over time. The 1993 Land Law (revised in 2003 and again in 2013) maintains the socialist principle of state management of all land, while granting farming households Land Use Right Certificates (LURCs) that can be transferred, leased, mortgaged, inherited and used as collateral. In the 2013 Land Law revision, the term for agricultural LURCs was extended to 50 years. Due to the country's history and the low supply of arable land per capita, Vietnam is a land of smallholders: the average agricultural land holding is 1,560 square meters, less than one-third that of Thailand or Cambodia. 70% of rural households farm an area of less than 0.5 hectare (Centre for Agricultural Policy et al 2013).

At the same time, the Vietnamese state has the legal ability to acquire land from farmers for a variety of public and private development purposes. In euphemistic official parlance, this is referred to as 'land withdrawal' (*thu hồi*), that is the rescinding of previously granted LURCs, although the process is rarely as smooth as this language makes it sound. In political economy terms, the friction between the limited tenure rights offered in LURCs and the state's power of compulsory land requisition is the primary driver of land disputes. It forms a key contradiction between the Vietnamese state's agrarian, equitable roots and its current elite-led push towards 'industrialisation and modernisation' (*công nghiệp hóa, hiện đại hóa*, a leading Communist Party slogan).

In this paper, we apply a political economy approach to processes of agricultural land concentration, conversion and exclusion through analysis of the interests and incentives of key actors within and outside the Vietnamese state; the gap between legal documents and policy implementation; and processes of interaction among multiple stakeholders over time. Following the OECD's definition, we understand political economy as the interaction of political and economic processes in a society, the distribution of power and wealth between different groups and individuals, and the processes that create, sustain and transform these relationships over time. As a way of thinking and a tool for practitioners, political economy analysis explores the links between the structural context for an intervention, the key stakeholders affected (or who could affect), and the influence of institutions on stakeholders' opportunities and incentives for action (Copestake and Williams 2012).

The revision of the Land Law in 2013 led to an unprecedented level of public participation in land policy formation, yet many recommendations from farmers, civil society, and local authorities were not reflected in the final version passed by the National Assembly. While political and economic leaders use overt, hidden and invisible power to marginalize farmers, agrarian communities seek influence of their own through different channels including public action, network- and coalition-building, including via the media and Internet.

Data sources consulted in the preparation of this paper include monitoring of official media and blogs, interviews with officials and experts, and the authors' direct experience in land governance coalition building via Oxfam's Coalition Support Programme and other local civil society-led initiatives. We draw on a political economy analysis of the land sector that was conducted at the inception of the Coalition Support Programme in 2012 and updated in early 2015 to assess what has and has not changed in the intervening three years. Case studies of successful and less successful local organizing around land disputes are offered to deepen contextual analysis. In the discussion and

conclusion sections, the paper explores the extent to which emerging narratives of farmers' rights may challenge the dominant model of economic growth through resource extraction. Based on available data, we also evaluate the prospects of policy reformers influencing the central government's desire for stricter land management as well as reducing elite capture by economic interests.

Land use rights in Vietnam's economic reform period

The land sector in Vietnam has had a well-known turbulent history. Land concentration under the French colonial regime was followed by coercive land reform and collectivisation after the revolution (1945) in northern Vietnam and the end of the war in the south (1975). The Sixth Congress of the Communist Party in 1986 reversed course in the *đổi mới* ('Renewal') policies that enabled a return to household farming, which in turn formed the basis for broad-based poverty reduction and rural development during the 1990s and early 2000s. According to Vietnam's Constitution (Article 53), land is 'owned by the entire people and managed by the state', which then 'allocates land use rights for individual, households and organisations'. Citizen's rights to land are viewed as granted by the State (2013 Land Law, Article 4), not inherently owned. In practice, therefore, citizens have limited rights to decide on allocation and use of land.

As the economy grew rapidly and Vietnam approached middle-income status, demands on agricultural and forest land have skyrocketed. The 2003 revision of the Land Law allowed the State to appropriate land for economic development purposes, also serving to legitimise previous practices of land appropriation. The resulting land policy has become biased in favour of urban-industrial expansion and against agriculture, leading to unequal development and social problems (Dang 2009). This can be best characterised as a process of 'land giveaways' by authorities, rather than 'grabs' by external forces. The most contentious land disputes have arisen around the clearing of land for private real estate and industrial investment projects and the low levels of compensation paid to farmers whose land is appropriated. This has resulted in a de facto process of 'de-peasantisation' outside the major cities of Hanoi and Ho Chi Minh (Khan 2000). Meanwhile, a total of 319 state-owned enterprises still keep a leading role in the economy and manage 2,853,164 ha of agricultural and forest land nationwide (Government of Vietnam 2015).

According to the 2003 Land Law, the purposes for which land can be confiscated include not only national defence or public infrastructure, such as roads (normal government powers in any state), but also economic development, including for private investors. The resulting combination of political and business interests has been identified as a key limitation in transparency and accountability in Vietnam's political economy (Oxfam and OPM 2012). State agencies are also given considerable discretion to implement the law, allowing some actors to interpret policy in a way that serves their own factional interests (*lợi ích nhóm*). It is no coincidence that the two areas of land policy most subject to corruption have been identified as the issuance of LURCs and the resale of land after compulsory requisition by the State (Embassy of Denmark et al 2011). In another survey on local-level corruption, 86% of respondents agreed that corrupt practices are widespread in their provinces (CECODES 2008, p. 26).

Satisfaction is particularly low among women and ethnic minority farmers (whose poverty rate is on average 2-3 times higher than Kinh majority farmers). The annual PAPI survey¹ has found that only 30% of ethnic minority respondents were satisfied with the experience of obtaining a LURC (CECODES et al 2012). Women also face disparities in access to land (Tran et al 2012): only 36% of

¹ PAPI is the Viet Nam Governance and Public Administration Performance Index, conducted by the Centre for Community Support and Development Studies (CECODES), Centre for Research and Training of the Viet Nam Fatherland Front, and United Nations Development Programme (UNDP). See <http://papi.vn>.

agricultural LURCs are held jointly or in women's names for the Kinh majority, and only 21% for ethnic minority women (Oxfam 2012b).

Although the largest development projects require approval from the Prime Minister, most land appropriation is conducted by provincial and district-level authorities. The provincial role in land management has increased over time as certain powers to allocate and manage land have been devolved to local authorities (VDR 2010, pp. 43-44). Provincial People's Committees (local governments) are able to make decisions on land use planning and related infrastructure development, land appropriation, allocation, conversion and leases to organisations and individuals. District People's Committees can do the same, but only to individuals and households. Commune authorities have the least power, managing a community land fund that retains 5% of allocated agricultural land.

Citizen responses to land conversion: case studies

As in other neighbouring countries, Vietnamese citizens have acted to defend their land rights through both formal and informal methods. Some land protests are related to poverty, while others express frustration at forced displacement, poor compensation, and perceived official corruption. The majority of land disputes are related to investment projects that bring commercial benefits. Official figures show the extent of the problem: in 2014, 90% of the complaints received by the government related to land disputes, including 98% of complaints to the Ministry of Natural Resources and Environment (Dang Linh 2015). Of roughly one million land-related complaints since 2003, the National Assembly's Standing Committee reports that 'only around half...were correctly, or partially correctly, handled' (*Tuổi Trẻ* 2012).

The best-known recent cases of land disputes occurred in northern Vietnam in 2012.² A farmer from Tiên Lãng district, Hải Phòng made national headlines when he resisted security forces attempting to seize 40 hectares of coastal swampland that he had converted for aquaculture use. According to a story in a major national newspaper, the farmer, Đoàn Văn Vươn, 'poured much blood and sweat and all the savings of his family' into his farm (An Dien 2012). However, he was only granted a 14-year lease, less than the 20 years for agricultural land specified by law. After his legal efforts to secure the land lease were reversed due to apparent local corruption, Mr. Vươn and his family fought back against the eviction force, injuring six police and soldiers with homemade mines and a shotgun. He failed to protect his land and house, but became something of a national folk hero in the process. Mr. Vươn and the local authorities who ordered his eviction are all currently serving prison terms.

Several months later, a second case of eviction reached a boiling point at the EcoPark satellite city in Vân Giang district, Hưng Yên province, an outer suburban area of Hanoi. 4,900 farming households from 3 communes in Vân Giang were affected by the allocation of 500 ha for a luxury residential development. Most households accepted a compensation deal, but 1,000 people resisted seizure of their land, claiming that the government granted land to the developers without proper consultation or compensation. Local authorities then sent 3,000 security forces to take possession of their farmland. Unlike the case of Đoàn Văn Vươn, the resulting confrontation was suppressed in the Vietnamese media, but was covered by unregistered bloggers. According to an international media report, villagers threw bottles of gasoline and police beat villagers with clubs and threw stun grenades (Reuters 2013). Local officials then brought bulldozers to clear the land and destroy the farmers' crops.

These two cases are notable mainly for their violent nature and impact. They achieved prominence as well because less dramatic cases of land conversion are a ubiquitous feature of rural Vietnamese experiences in recent years. In 2013, Oxfam and the civil society-led land coalition,

² Summaries of the Tiên Lãng and Vân Giang cases draw in part on Hansen (2013) and Wells-Dang (2013).

LANDA, collected a set of 24 stories of people's experience of various aspects of land use from four diverse provinces.³ Selections from this volume show a more nuanced picture of farmers' experiences of land conversion than can be obtained from press reports (Box 1).

Box 1. Case studies of disputes linked to land conversion

In **Quang Binh province**, central Vietnam, construction of the Song Gianh Cement Factory started in 2001 in Tien Hoa Commune following Decision 509/QĐ –TTg of the Prime Minister. According to the approved plans, households in the buffer zone around the factory were to be relocated to ensure safety when the factory went into operation. However, the resettlement zone was still very close by. Whenever explosions take place, stone dust covers the whole resettlement area and farmland; planted vegetables cannot be eaten as they are full of dust. Within a radius of 1000m around the factory, some 400 households with 2000 people are living with dust and smoke and in a polluted environment. The nearest house is only 100m from the factory. Project planning and resettlement in the existing law follows international standards that include resettlement of people affected by environmental pollution. However, implementation does not follow these standards; plans are made but not carried out.

In **Hoa Binh** province, west of Hanoi, residents of Nhot Village, Thanh Hoi Commune report that in 1985, 43 ha of the village's forest land was transferred by the village cooperative to Tan Lac Forestry Enterprise for management. Villagers, particularly the elderly, believed village land was simply being lent to the enterprise. In 2008, the enterprise took another 100 ha of the village's land, including 20 ha of regenerated forest that protects the water sources for their daily life. The villagers sent complaints to commune and district authorities, but they failed to settle the issue. From 2008 to now, Nhot villagers have continued to protest, leading to increasing tension between the local people and the enterprise. When the enterprise hired labourers from other places to work in the disputed land area, villagers prevented them from working. As a result, the enterprise could not use the land in dispute. Conversely, local people cannot harvest the mature trees they have planted in the disputed land areas.

In **Long An** province, near Ho Chi Minh City, more than a dozen schemes for golf courses have been approved by provincial authorities. Many of these proposals have later been cancelled or withdrawn. One that remains 'hanging' is the 200 ha golf course project of the C.S.O. International Investment Joint Stock Company in Duc Hoa District. This project was announced in 2007, but to date only 1 ha of land has been revoked. While the people don't have land to farm, the project land is left unused. Land waste is one side of the story, but a second consequence is an increase in the population of mice and other insects that threaten the farmers' subsidiary crops. Following the requisition, the land sits idle. People may wonder if the acquired land is really for a golf course or for another real estate scheme.⁴

(Source: LANDA 'Stories from the Field', 2013)

Another key, yet rarely reported driver of changes in land-use in rural areas is agribusiness

³ Yen Bai, Hoa Binh, Quang Binh, and Long An.

⁴ Long An was also the site for a recent episode of violent farmer resistance against compulsory land requisition that echoes the 2012 Đoàn Văn Vươn case (DPA 2015, Hoang Phuong 2015).

expansion.⁵ The promotion of public-private partnerships in agriculture is a central tenet of Vietnam's New Rural Areas Development strategy. Local authorities are actively supporting this expansion, which can have dramatic effects on the well-being for small-scale farmers and local communities. In Nghệ An province, central Vietnam, the provincial government is keen to attract private investments to modernize the local economy in ways which align with national policies on agricultural modernisation. The province is currently supporting a US\$1.2 billion agro-industrial project which will ultimately require 11,000 ha of land and could displace up to 44,000 people. The project is deemed essential to the local economy and in the national interest for food security.

An initial 2,500 hectares in Nghĩa Đàn district were appropriated in 2009. Unlike the above cases, the land identified was legally held by eight different state-owned enterprises, who were leasing the land to small-scale farmers. The farmers had been working the land for an average of 12 years when their leases were revoked. The requisition of the land was justified on the basis that it was not being used 'economically efficiently' and because the project was in the national interest. Since local farmers did not hold LURCs for any of the land, they received no compensation or support for resettlement beyond the agricultural value of their crops and improvements made to their land at the time of seizure, a situation which was (and remains) entirely legal.

Local farmers disputed the contention that their mode of production was 'inefficient'. According to one farmer, *'before 1993 (when the land was still being worked by the SOE itself) the farm efficiency was very low [...]. Leaders encouraged people to take land straight away so that others would see them and follow. For those farmers who took up the offer early it took about 5-6 years to achieve economic efficiency. After it became very profitable for the farmers, the government encouraged farmers to invest more in their farms and build better homes. When [the investor] came in 2009, none of the farmers here wanted to give up their land. We were making very good money!'*

Despite this, farmers were required to sign papers attesting to their inefficient use of the land. Farmer representatives reported they had *'no choice but to sign our land over.'* Farmers have been unable to find alternate farm land and have not found sufficient off-farm livelihood options to sustain their families. As a result, farmers have spent the majority of their compensation payments on living costs. Farmers feel that they were 'cheated out of their land' and now fear poverty and destitution. Many appear to have lost faith that the authorities can protect their interests.

To date, almost all of the reallocated land has been from state farms but future expansion will likely require the reallocation of 'red-book' land for which farming households have LURCs. Whilst local authorities and the investor continue to promote the benefits of the large agro-industrial project at the local level, provincial authorities acknowledge the severe challenges faced by the affected population including the loss of farm-based livelihoods a lack of alternative off-farm jobs, negative environmental impacts as well as the limited capacity of local government to respect and protect the rights of affected communities.

Advocacy to revise the Land Law

Based on a common recognition by government, media, civil society, and farmers alike that the land policy system contained important shortcomings, the state began a process of revision of the Land Law in 2012-13. The process attracted early and consistent attention from the public. In Vietnam's law-making process, legislation is initiated by a Communist Party resolution and then assigned to a relevant ministry for drafting, in this case the Ministry of Natural Resources and Environment (MONRE). Once a draft is prepared, it is sent for discussion and voting to the National Assembly (NA). Although the NA is not an independent branch of government, it can and does influence the

⁵ This section is adapted from Oxfam (2012a).

outcome of laws and is seen as a positive force that is relatively more sensitive to public opinion and concerns (Oxfam and OPM 2012). In the view of a MONRE official who was involved in the process, the three main principles behind the revised law were to enable policies to fulfil international norms and standards, to support democracy and enable the expression of people's views, and third to establish a clearer, more transparent and effective process for addressing land issues (interview, 24 April 2015).

In mid-2012, Oxfam started to engage as part of a technical working group on land policy among international NGOs and donors to prepare recommendations for revision of the law (Wells-Dang 2013). With a group of Vietnamese civil society and research institute partners, Oxfam conducted community consultations with more than 3,000 households who are directly affected by the Land Law, and commissioned research on land conflicts between state-owned enterprises and local people. This partnership led in June 2013 to the establishment of a land policy coalition (LANDA), which includes Vietnamese NGOs, research institutes and media to engage with government authorities on amendment and implementation of the Land Law. LANDA and Oxfam facilitated a multi-stakeholder approach and identified a set of 'champions' in the government system as counterparts, including a former MONRE vice-minister, 20 NA members, the Institute of Legislative Studies, and other high-level experts who joined the campaign.

The advocacy campaign carried out four national workshops and seminars that provided a platform for multi-stakeholder dialogue and debate. Strong cooperation with various media agencies (some of them members of LANDA) resulted in more than 200 newspaper articles on aspects of the Land Law, a series of in-depth articles, public opinion polling on three news websites, and more than 10 television documentaries. The recommendations collected by LANDA and Oxfam (Box 2) were sent to National Assembly committees and presented directly to delegates outside the NA meeting hall.

Box 2. Summary of Oxfam and LANDA recommendations on the 2013 Land Law

- 1. State land requisition policy:** The concept of 'socio-economic development' in the State mechanism on requisition of land should be restricted to projects in the national and public interest, not to those with only economic benefits to investors.
- 2. People's participation in land use planning:** Local authorities should hold community meetings to discuss land use plans, and no land conversion should take place without agreement of at least 70% of those present.
- 3. Communal land for poor communities and ethnic minorities:** Allocate land for common use of households who lack land for residence and production in line with the village rules or their customary laws and consensus of the community. Create a land fund for ethnic minorities from state farms and forest enterprise land.
- 4. Land pricing:** Set up an independent pricing agency to eliminate monopoly and conflicts of interest among government agencies (who both set prices and acquire land).
- 5. Compensation, support and resettlement for people whose land is acquired by the State:** Investors should compensate both the value of the land as an asset and also the income and livelihood of the people whose land is acquired.
- 6. Diversify compensation mechanisms on the basis of common benefit.** Create benefit-sharing mechanisms between farmers and investors, or exchange agricultural land for smaller plots with higher value.

7. Require community consensus in all cases of compulsory land requisition. Plans for compensation, support and resettlement should only be approved with agreement of at least 70% of community members.

LANDA and Oxfam demonstrated a degree of success in shaping the flow of discussion on the Land Law in the National Assembly. Advocacy efforts initially contributed to the NA's decision to postpone voting on the draft law by five months for more consultation with stakeholders as well as more preparation from the Government. The final law, passed in November 2013, adopted aspects of four of the recommendations presented in Box 2. These are:

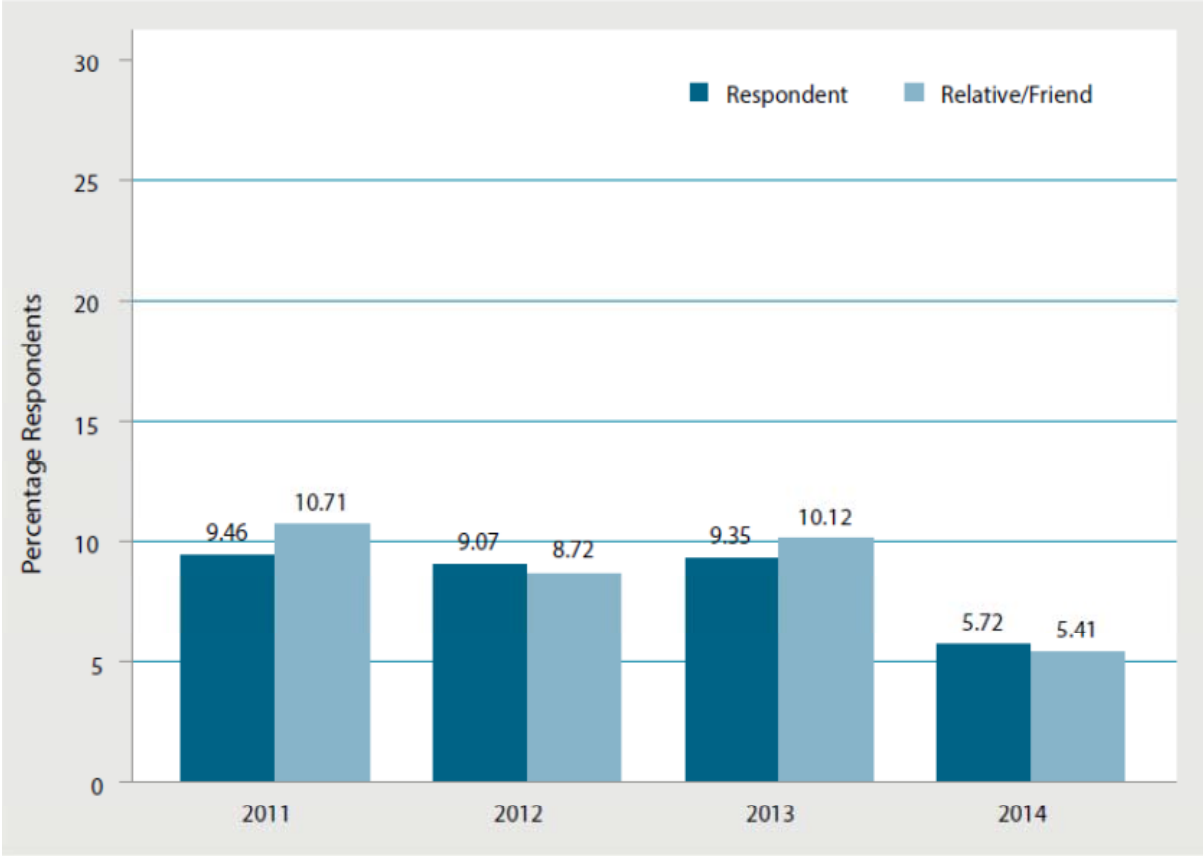
- **Community consultation:** Citizens have the right to 'supervise and report the breaches on the land management and land use by themselves or through representative organizations' (Article 199). Other provisions of the Land Law accept the principle of collecting people's opinions of local communities where land is expropriated (Article 69), however there is no process established for conducting the consultation and no mechanism of approval by any majority percentage of citizens. Article 43 provides for collection of people's opinions on land use planning at national and district levels through direct meetings and consultation with local communities. Recommendations made by Oxfam and LANDA included details on the procedures to collect opinions, but only the general principles are accepted in the Law.
- **Limits on compulsory land requisition by the State:** Article 62 states that 'The State recovers lands for the purposes of socio-economic development for national and public benefits', which is a mixture of the LANDA-Oxfam recommendation and the previous law. Compulsory land requisition must be part of a national project that is approved by the National Assembly, Prime Minister, or (in a smaller number of cases) provincial authorities.
- **Secure land tenure for communities:** Land that is unused or used inefficiently or illegally by state-owned enterprises should be allocated or leased to organizations, households or individuals, with priority given to ethnic minority households or individuals who do not have or have insufficient land for production (Article 133).
- **Land pricing:** Recommendations for an independent land pricing agency were not accepted, but the principle of external consultation was included in Article 114. Instead of prices set directly by each province, provinces are to set up a 'land price appraisal board' headed by the provincial governor (chair of the People's Committee). This mechanism can only make the process stricter, it does not guarantee independence.

The advocacy process on the Land Law has brought several important consequences. Based on the new language in Article 133, the Communist Party Political Bureau (Politburo) issued a decision on reforming state enterprises (Resolution 30/2014) that has prompted numerous provinces to return agricultural and forest land from SOEs to local farmers. Up to 100,000 ha is being re-allocated to primarily ethnic minority households and communities in 2014-15. Since passage of the Law, Oxfam and LANDA have carried out a pilot on community monitoring of land use planning to make sure that the Law is implemented in practice. LANDA members have also initiated a campaign to increase issuance of LURCs to women, especially in ethnic minority regions. The process of community consultation on the Land Law has contributed to opening greater space for public discussion in policy-making and is being replicated in preparations for revision of the Law on Forest Protection and Development scheduled for 2016, among other advocacy coalition initiatives.

Most promising, the 2014 PAPI survey collected tentative evidence that the revised Land Law is reducing the extent of compulsory land requisition by the state. As Table 1 shows, the percentage of citizens interviewed nationwide who reported that they, a relative or friend had lost land due to state requisition declined from 9-10% in previous years to between 5-6% in 2014 (CECODES et al 2015,

pp. 14-15). While the PAPI survey team is careful to hedge against over-interpretation of this finding, it is reasonable to conclude that the changes in the Land Law contributed to the lower level of land conversion, as otherwise the underlying economic drivers have remained constant.

Table 1. Land loss experienced by Vietnamese citizens (source: PAPI)



These findings were supported in a set of qualitative interviews conducted in April 2015 as part of Oxfam’s Coalition Support Programme political economy review. Respondents, including members of the land policy and forest coalitions as well as current and former government officials, pointed to initial signs that the revised Land Law is having a positive effect, even as other governance indicators stagnate. Other evidence cited confirming a reduction in disputes at the local level are slowing levels of land transactions, a reduction of legal cases, data from the government inspection system, and mass media reports. The new law is said to encourage better land governance through inclusion of aspects about the right to information and transparent decision-making, among other aspects. However, respondents emphasised that the inclusion of these contents on paper still raises many questions about implementation. Much depends on issues including local government interest, access to information, and the issuance of sub-law decrees and circulars. It will be important to monitor trends of land requisition in 2015 and coming years as the Vietnamese economy continues to grow and several anticipated trade and investment agreements take effect.

Changes in the political economy context

This section analyses three distinct trends in the political economy of land conversion in Vietnam that have emerged since around 2012. The first, revision of the Land Law, points toward a re-centralisation of authority to rein in inconsistencies and shortcomings in Vietnam’s land policies that were widely

viewed as threatening instability. A second trend concerns changes in Vietnamese agriculture that place increasing pressure on smallholder farmers. A third external force, with more uncertain effects, is Vietnam's ongoing process of international and regional integration, in particular its participation in a set of trade and investment agreements that are currently in preparation. The combination of these trends suggests that the apparent respite in compulsory land requisition linked to passage of the Land Law may be temporary in nature, and consequently land-related disputes are likely to remain a key feature of Vietnamese society for some years to come.

Revision of the **Land Law** in 2013 effectively addressed some of the issues that were raised by experts, civil society advocates, and the media, as well as by farmers themselves. These issues included increasing rights to trade land user certificates, longer lease rights for farmers, and reduced agricultural land taxes. As previously stated, the term for agricultural LURCs was extended to 50 years (many of the initial 20 year agricultural LURCs were set to expire in 2013). More than 90% of agricultural land has now been issued with LURCs to households, a significant accomplishment in recent years.

From a central government point of view, which sees laws mainly as a state management tool, the new law re-concentrated authority at provincial and national levels, discouraging local speculation and corruption. For instance, business analysts observe that the law sets out stricter requirements for developers (both local and foreign), who want to lease or obtain land allocation from the government, and equalizes treatment of foreign and domestic investors, presumably to encourage greater foreign direct investment (Vietnam Briefing 2014, Nguyen 2014). Clarification of the land tax system also promises to add significantly to government revenue, although the main source of land tax revenue is non-agricultural land rather than agricultural land taxes, which were more important in the past (Trinh and McCluskey 2012).

Reflecting the central government's concern with state management, the new Land Law shifts the main authorised body in land use planning from the commune up to the district: this change enables more centralised control, reins in communes that weren't following procedure, fits in with other efforts to reduce commune authority more broadly, tackles disagreements between communes and districts, and is seen as an effort to reduce friction tensions around land. In many cases, communes found ways around district plans – sometimes for positive reasons, but often not. With an average of 10-20 districts per province, it then becomes possible to overview and manage land at the provincial level, something which was not possible when delegated to each commune.

The 2013 Land Law also has important limitations. No matter how well crafted, laws cannot solve every implementation problem in the Vietnamese context. According to a MONRE official, the drafting committee made efforts to fit the law to the context, rather than only writing a theoretical document that could not be carried out (interview, 24 April 2015). Despite this effort, the implementation guidelines for the new law are only partly complete, and much depends on local government interest and continued access to information. Many Vietnamese government agencies, like their counterparts in other countries, function at a level of policy overload that inevitably leads to weak enforcement. Such 'capability traps' are a frequent unintended consequence of policy reforms and institutional improvements in governance (Wild et al 2015, p. 24).

More widely, land issues over the last three years have not changed hugely. The same underlying problems are continuing, although there are some shifts through amendments and more awareness of rights among the wider population. Now people have more knowledge that they have rights to land designated to them, more wherewithal to complain given top-down reallocation of land for other purposes that deprives them of what they had. Progress includes some local canvassing and consideration of local views for new projects. However, this is often not actually in practice used anyway even if the information is gathered (interview, LANDA members, 13 April 2015).

The apparent slower pace of land conversion and other real estate transactions, even in a context

of rapid economic growth, may thus be a temporary slowdown as officials and business interests find their way round the law, and possibly even a glut of land from past deals given a less active market. If the market picks up again, unresolved problems such as state-determined land prices and mechanisms for compensation and resettlement in case of compulsory requisition will again rise to the forefront. Although the scope of compulsory requisition has tightened, many projects such as roads, hydropower dams, and government buildings still fall clearly within the criteria, while other types of projects such as mining or urban expansion could still be construed as in the ‘national interest’. Underlying features of the political economy context, such as nepotism and rent-seeking, also remain significant obstacles to reform.

At the same time as the Land Law has come into effect, major **agricultural changes** in Vietnam are underway. These include a ‘New Rural Areas’ (*nông thôn mới*) government programme aiming to ‘modernise’ the countryside, a ‘large plots’ campaign to take advantage of supposed economies of scale in agricultural production (*cánh đồng mẫu lớn*), and an effort to reduce fragmentation of landholdings by exchanging and re-allocating agricultural plots (*dồn điền đổi thửa*). Each of these campaigns features widely in the Vietnamese press. Few wholly rural communes are able to meet the 19 New Rural Area criteria, particularly in upland areas. Exchange of plots has been effectively implemented in some locations but attracted criticism in others, mainly for reasons of perceived interference and favouritism by some local authorities (*Hà Nội Mới* 2014, Viet Tung 2015).

Land consolidation, likewise, brings both winners and losers. In cases where both farmers and investors participate actively, consolidation can bring both higher profits and secure livelihoods (Centre for Agricultural Policy et al 2013). Comparative research conducted by a group of Oxfam partners found that land consolidation is only sustainable and effective in areas with specific conditions allowing for cultivation of high quality agricultural products and where farmers are treated fairly. In other cases, farmers were left worse off through consolidation as they were left with no role in signing contracts of land lease, determining land prices or distributing dividends. In some cases, farmers were forced to join consolidation models and sign long-term contracts at low price, leading to discontent such as that described in the case study from Nghệ An. Although farmers’ income may increase compared to smallholder cultivation, their work is unstable without policies to support and guarantee long-term livelihoods (ibid.). LANDA coalition members emphasise that women farmers and ethnic minorities are likely to continue to face the most challenges to benefit from new agricultural models. As large Vietnamese real estate companies have indicated a move into agriculture, these equity issues require increasing attention (*Vietnam News* 2015a).

Looking back at the six case studies introduced earlier in this report, how many might be resolved differently in 2015 than in previous years given changes in the legal and agricultural policy contexts? Re-centralisation of authority seems particularly relevant for the Đoàn Văn Vươn case in Hải Phòng, which by all accounts was driven by local officials’ venality rather than any higher level plan. However, this does not apply to any of the other cases, which all involve provincial or national-level approvals and/or the participation of enterprises with agreements and connections at these levels. Whether an investor is a state-owned or private enterprise does not appear to make a great deal of difference, although the priority given to SOEs was a factor in both the Hòa Bình and Nghệ An cases. Even limitations on local abuse of authority might be of limited value, if the April 2015 Long An dispute is a harbinger of the future rather than an isolated incident.

As Vietnam continues its **international integration**, proposed trade and investment pacts will have an uncertain effect on agricultural land use. These include the Trans-Pacific Partnership (TPP) currently being negotiated with the United States and other Pacific Rim economies, the EU-ASEAN Free Trade Agreement, and the ASEAN Economic Community set to come into force at the end of 2015 (Wong and Nguyen 2015). A full analysis of the impact of these agreements on Vietnam is beyond the scope of this paper (and in the case of the TPP at least, unknowable at present since the

details of the agreement have not been made public). On the positive side, policy discussions in recent years have recognised Vietnam's comparative advantage in agriculture, with less of a single-minded industrial development focus (Nguyen 2013). Regardless, most analysts believe that international investors will make increasing demands on land in Vietnam and place competitive pressure on small-holder farmers and state-owned enterprise models alike.

Given these trends and the extremely small average farm size, some further consolidation in landholding is probably inevitable. Even with the tighter controls in the new Land Law, the percentage of the population engaged in farming will continue to decline and the average plot size increase. The question is who will benefit from continued conversion of agricultural land use. Will Vietnam remain a nation of small and medium farmers, or will only workers in large-scale enterprises remain? The success of Vietnamese agriculture since the mid-1980s has been written by smallholders who first ensured their own food security, escaped from poverty, and then made Vietnam a leading global agricultural exporter. Yet as Vietnam reaches middle-income status, this model has begun to hit barriers. Smallholder agriculture can remain viable if it is supported by pro-poor government policies, such as those encouraging public-private partnerships that benefit both farmers and investors.

An important alternative to corporate land consolidation is new-style agricultural cooperatives, which are becoming a significant factor in some regions of the country (eg, Phuc Hau 2015, *Vietnam News* 2015b). Ironically for those with strong respect for Vietnam's socialist heritage, many farmers have turned away from cooperative models during the years of transition to a market economy. Yet now there is an identified need for local level solutions that move forward with more commercial agriculture yet also protect smallholders. In one type of farmer-led cooperative described in the 2013 land consolidation research, households volunteer to contribute finance and land for production according to a common plan, process and form of farming with similar markets of input and output. This model makes no change to land use rights, in which farm households use their own farmland in accordance with a common process, while cooperatives concentrate on providing input services and taking charge of output products. Evidence to date shows that the establishment of farmer-led cooperatives in this situation connects households both horizontally and vertically to gain access to markets, reduces production cost, and increases productivity, especially in areas where parcels of land are of small size (Centre for Agricultural Policy et al 2013).

Despite these ongoing efforts, a range of barriers still limits the role of smallholder farmers. One of these barriers is attitudinal: a repeated assumption from political and economic elites that smallholder agriculture is 'backward' and cannot continue to operate in a modern society. This bias has little if any basis in evidence. While some economies of scale can be explained, and the current system generates dependency on specific inputs and outputs that make it hard to work outside existing relationships, smallholders have shown huge capacity to improve productivity in Vietnam if the conditions enable them to do so. The anti-rural bias is especially obvious in treatment of ethnic minorities, in which inclusive rhetoric is not balanced by effective voice and representation in policy-making.

A related set of political or cultural barriers concerns the role of the state in land management. The state's self-appointed power as ultimate landowner is justified through nationalism and Vietnam's revolutionary history. Land is also of critical importance to communities as a matter of identity, tradition and livelihoods. These priorities sometimes clash in cases where communities contest land conversion decisions driven from above, yet in other situations they can coincide in support for communal tenure of land, as in farmer-led cooperatives that receive legal backing from local authorities. Customary land tenure, especially as it relates to forest land and the diverse traditional tenure practices of ethnic minority groups, has been undervalued in Vietnamese law and policy to date, but has possibilities for productive dialogue and reform in coming years, such as through revision of the Law on Forest Protection and Development.

The most pervasive barriers faced by smallholder farmers, as well as the strongest arguments for more secure tenure, remain economic. Land is of immense value in Vietnam given its limited supply and importance in economic development. It is therefore bound to attract powerful interests at all levels, and the risks of poor management are significant. This applies equally for foreign investment as for the outstanding legal issues of secure leases, a court system, and land pricing. As domestic and foreign agribusiness and larger corporate interests invest in Vietnamese agriculture, a strong defence of smallholders' incomes and land rights will be crucial. If new policies do not support smallholders' rights and voice, the pressure on them will be still greater, leading to further dislocation and tensions. The market economy can lead to positive improvements in land tenure, indeed, it has done so in many areas, but it can also be used to undermine progress and accountability.

Conclusions

Land governance is a core development issue revealing political economy processes at their rawest. Major development pressures create pressure over land and land related issues: rising land values, industrialisation, and urban growth in a highly opaque and semi-controlled environment create huge potential for graft. This is most evident on the edges of towns and cities where growth is strongest and land values rocket. These are also generally the locations where land disputes have been most violent, with communes and now districts having considerable scope to state the value of land, reallocate, and re-possess agricultural land. Vietnamese farmers have some rights to protect their land, but these rights are often constrained in practice.

Revision of Vietnam's Land Law has addressed the immediate tenure insecurity problem by extending the term of LURCs. The threat to smallholders' rights from compulsory land requisition by the state has reduced somewhat through the tighter regulations in the Land Law. The process of consultation leading up to the new law is also generally recognised as an example of relatively open and responsive law-making. However, the underlying policy bias against smallholders and prioritisation of large-scale agriculture and industrialisation remains. If agricultural development requires large amounts of land that must be expropriated from smallholders, the problem of land loss will remain severe.

2015 is a sensitive year in the Vietnamese political calendar, as the Communist Party prepares for the 2016 Congress (held once every five years). Ongoing tensions within the Party elite are generating heightened security interest. Concerns over social unrest, with concomitant limitations on press freedom and space for civil society, are a consistent though fluctuating feature of the social-political landscape. The very real possibility that land protests may again increase also brings a risk of state responses that could erase portions of the development progress that Vietnamese farmers have made.

The Vietnamese experience of land conversion follows a common pattern of smallholders' rights under threat in Asia (GRAIN 2015). Smallholders have so far had limited opportunity to benefit from FDI and large-scale agriculture. Changing from SOE dominance to private sector control (including both foreign and domestic investors) would not necessarily make much difference to smallholder livelihoods, though the private companies would probably be more efficient at extracting surplus. The shift has greater implications for ownership. As long as agricultural and forest land is managed by Vietnamese state-owned companies, the potential of re-allocation to households and communities remains, as evident in the latent constitutional language of 'ownership of all the people.' If international agribusiness attains usage rights over SOE land, it is much more difficult to see how future re-allocation could occur. As Vietnam pursues international integration, a fuller understanding of the benefits and costs of various agribusiness models from the perspective of smallholders is essential to prevention of a further round of 'land giveaways'.

Donors and international organisations can play a role in contributing to this policy debate, as can

investors who desire clearer ‘rules of the game’ for access to land. The media, especially new forms of social media, are significant as a source of policy information as well as a channel of information on disputes. Yet these civil society actors remain under some degree of official suspicion, their role in holding government to account impeded by both formal regulations and unofficial restrictions. Meanwhile, private interest groups appear to obtain virtually limitless access to government leaders, who in turn are accountable to entrepreneurial interests rather than the interests of farmers, workers, and youth. These forms of hidden power largely explain the delays and reluctance to reform state-owned enterprises, even when most observers and participants in the system agree the system is unproductive and wasteful. As one agricultural expert stated, ‘we know what the problems are but it is not possible to make the changes. That is the difficulty’ (interview, Hanoi, 17 April 2015).

More progressive policies on securing land tenure depend on shifts in the underlying factors of civil society space and interest-group politics. The Vietnamese government is not a unified actor. Some government allies are prepared to join with civil society advocates in coalitions for policy reform, while different bureaucracies and central-local splits make regulation and enforcement difficult. This is not just a capacity limitation, but is based on diverging interests and incentives. Local officials, for instance, are assessed on economic growth performance, not on compliance with laws. Development, in turn, is seen as a short term measure of GDP rather than a longer-term and multi-faceted social development challenge. Solutions to these constraints in governance will not come from legal or technical means alone but through cooperation of multiple stakeholders, including Vietnamese farmers themselves.

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