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Land Law, Land Rights, and Land Reform in Vietnam: A Deeper Look into “Land Grabbing” for Public and Private Development

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Land Law, Land Rights, and Land Reform in Vietnam: A Deeper Look into “Land Grabbing” for Public and Private Development

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Abstract

As Vietnam continues to search for its ideal balance between Communist control and a market-led economy, land rights emerge at the forefront of the discussion concerning the tension between traditional Socialist ideals of people-owned and state managed property versus neoliberal ideals of private property rights. The purpose of this study is twofold. First, this study will explore the legal relationship between the Vietnamese state and individuals in regards to land ownership, land management, and land use rights, explaining how this relationship has changed over time with subsequent land laws. Going further, this study will focus on the 2013 land law reform and explain the major differences, if any, from past land laws and how these differences will affect the state's right to appropriate land—often called “land grabbing”—for both public and private development. Second, through interviews, this study will also explore the roles of two international organizations, The World Bank and Action Aid Vietnam, within the current debate over land rights, exploring each organization's relationship with the Vietnamese government and opinions regarding land grabbing and the 2013 land law.

This study focuses on three major issues surrounding land in Vietnam: land valuation and unfair compensation, “public” (land seized for projects for the public good) versus “private” (land seized for projects for the benefit of an individual or company) appropriation, and corruption at both the national and local levels. These three issues will be exemplified by the case studies in Van Giang, Hai Phong, and “Green Alley,” looking at the roles of local advocates and demonstrations. Finally, this paper explores the influence of ActionAid's land campaign and the World Bank's Land Policy Note in the crucial period leading up to the drafting of the 2013 Land Law, which was passed by the National Assembly at the end of November. This paper will conclude with some of the major changes of the new law, including the new stipulations regarding the appropriation of land for the purposes of “economic development.”

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Introduction

The salience of the current debate in Vietnam surrounding the definition of land property, the rights to this property, and the marketization of land cannot be understated, as lingering Socialist orthodoxies reinforcing the model of people's ownership and state management of land increasingly come into conflict with a post-*Doi Moi* economy governed by market incentives and development projects to spur modernization, urbanization, and economic growth. As in any country, property is a complex topic and cannot be discussed alone outside of its historical, social, and economic context. As Hue-Tam and Sidel assert, "Property is among the most important spheres within which a host of conflicts are played out: the values of the market and social values; legal rights and community norms; protecting livelihoods while also ensuring local and national prosperity through infrastructure development; the relationship between social and cultural traditions and the marketization of property rights; and the relationships between equity and fairness, poverty, and market incentives" (p. 2). This paper will use Hue-Tam and Sidel's rhetoric of conflicts as a lens through which to discuss Vietnam's ongoing debate over who has the right to land, one of the country's most valuable resources, as "development" within this context is always a trade-off, seldom without consequences.

The debate over who has the rights to land ownership, land management, and land use is an extremely hot issue in Vietnam at the moment; in the last decade alone, provincial officials have seized one million hectares of land from farmers. This number greatly exceeds the 810,000 hectares of land redistributed from rich landowners to poor peasants with the collectivization of agricultural land in the period from 1953-1956—under the motto "farms to the cultivators" (Nguyen, "Land Law Reform" p. 1)—as part of the socialist land reform under the newly independent North Vietnam (Gillespie, "Vietnam's Land Law Reforms"). In the years after *Doi Moi*, Vietnam's infrastructure of roads, bridges, and buildings rapidly

expanded. From 2001 to 2010, the government reallocated 0.9 million hectares of agricultural land to land for residential use, commercial non-agricultural establishments use, public works and other non-agricultural purposes. Additionally, the government converted 5.4 million hectares of unused land into land for various purposes, rarely agricultural in nature (The World Bank in Vietnam, Embassy of Denmark, and Embassy of Sweden). The contestation over land is of huge relevance to the Vietnamese people when one considers that 71% of 88 million Vietnamese live in rural areas, and 62% depend on agriculture for their livelihood (Dien).

The state seizes land from individuals for two reasons, and this paper will differentiate between the two by using the terms “public” versus “private” appropriation. Similar to the way that the power of eminent domain (i.e. compulsory acquisition) functions in Western land systems, the Vietnamese government has the right to seize land for the public interest, defined by state, collective, national defense, and security purposes. As one would expect, the state leverages this power to build military bases, schools, hospitals, roads, bridges, etc. The second form, what this paper will call “private” acquisition and what the Vietnamese government calls “economic” acquisition for projects of “national significance,” is for the purposes of economic development (Gillespie, “Vietnam’s Land Law Reforms”). When the government reallocates land for the purposes of economic development, the land use rights are usually transferred from the individual to private entrepreneurs and other commercial parties. According to Professor Nguyen, the majority of appropriated land has been converted to export-processing zones, industrial zones, economic zones, and hi-tech zones (“Agricultural Land Conversion” p. 108).

Beginning in 1980 with the new Constitution, all land in Vietnam was nationalized and the wording of the 1988 Land Law decreed that land was “owned by the people under the management of the state.” This rhetoric of “people’s ownership” and “state management” is a

cornerstone of the Communist Party's ideology and remains strong into the current day, acting as one of the Party's sources of power over the state (Tuan, interview). The legal framework of this ideology is as follows: the state divides land rights into three different categories, each right being held by a different entity. Land ownership rights are collective, belonging to the "entire people," land management rights (also called "control" rights) belong to the state, and land use rights are allocated to individuals, family households, and organizations for different periods of time depending on whether the land is residential, agricultural, or forestry (Nguyen, interview). Current land issues in Vietnam cannot be understood outside of historical context; French occupation, Soviet influence, the American War, and the eventual reunification of the country under Ho Chi Minh's Communist Party have each contributed something to how the state handles land rights, land acquisition, and land allocation. The evolution of Vietnam's land law and state ideology will be further fleshed out in the body of this paper, as well as issues of land valuation and "unfair" compensation, private versus public appropriation, and government corruption.

When I discussed doing my ISP about land issues and land rights in Vietnam, Co Thanh, our academic director, put me in contact with The World Bank in Vietnam, ActionAid Vietnam, and Professor Nguyen Van Suu, an anthropologist at Vietnam National University whose current research is about the transformation of the lives and livelihoods of farmers whose land has been appropriated. Learning about this topic from all three has been invaluable, as each comes from a very different perspective with different interests in mind. This paper is a culmination of my own extensive literature review, as well as the research, information and opinions provided to me from the World Bank, ActionAid, and Professor Nguyen. Land itself is a huge topic, encompassing a wide range of legal, political, social, cultural, and economic issues. Talking to all three and learning on which land issues each has chosen to focus has helped me narrow my own research, making my ISP feasible within a

three-week period of time. This paper will hopefully clearly differentiate between fact and opinion, and assign each opinion to its proper source, whether that is the World Bank, ActionAid, Professor Nguyen, or myself.

ActionAid Vietnam is part of the larger ActionAid International, founded in 1972 in the UK with headquarters in Johannesburg, South Africa. ActionAid began its first program in Vietnam in 1989, and has expanded its presence and programs to more than 20 provinces. ActionAid understands poverty as a consequence of a historic process of exclusion and injustice, and asserts that poverty is human-made and has both national and international dimensions to it. Among development organizations, ActionAid is unique for its human-rights based approach that guides its programming and defines all of its work. ActionAid believes that poverty will remain until the fundamental right to food, shelter, work, education, and health care are secured (Sang, interview). Although ActionAid International has implemented its Land Grabbing Campaign on an international scale, ActionAid Vietnam does not define its own land campaign using the term “land grab,” as it is too politically sensitive an issue. As part of the campaign, ActionAid lobbies the government and tries to influence policy through its research-based campaigning. ActionAid contributed many opinions to the government regarding the 2013 Land Law, and continues to lobby the government concerning the “master plan” of economic restructuring in the upcoming years, which will free up nearly two million hectares of land due to the dissolution of several state-owned enterprises (Tuan, interview).

Methodology

I decided to conduct my ISP in Hanoi for two main reasons. First, The World Bank and ActionAid have their headquarters here. Second, the periphery of Hanoi has gained a lot of recent media attention surrounding cases of land grabbing, as Hanoi undergoes the process of rapid urbanization and extends the city limits into more rural areas. I lived in Hanoi and conducted research for my ISP from the period of Nov. 19 to Dec. 10, 2013. My academic advisor was Professor Nguyen Van Suu, an anthropologist from Vietnam National University, who was of great assistance to me in my research, as his own research is about the transformation of the lives and livelihoods of farmers whose land has been appropriated. Although there was not enough time for me to accompany him into the field, I gained a great insight into the history of Vietnamese land law and land issues from interviewing him and reading his academic publications.

My two methods of collecting data were conducting an in-depth literature review and drawing upon qualitative data collection techniques through interviews with The World Bank, ActionAid, and Professor Nguyen. I conducted a total of five interviews: two with The World Bank, two with Action Aid, and one with Professor Nguyen. The two people I interviewed at The World Bank were Mr. Jim Anderson, Senior Governance Specialist, and Mrs. Hoa Thi Mong Pham, Senior Social Development Specialist. The two ActionAid employees I interviewed were Mr. Vo Xuan Sang from the ActionAid Office in Ho Chi Minh City who gave me an overview of ActionAid's work and introduced me to their land campaign, and Mr. Tran Van Tuan, Programs Manager at the Hanoi office. Each interview lasted between one and two hours. Perhaps even more useful than the interviews themselves were the written materials each person provided me with after the interviews, expanding upon and providing more details to what we discussed in person.

Results and Discussion

Land Law

Although the Communist Party implemented a policy of agricultural collectivization that persisted throughout the 1950s, 60s, and 70s, land was not formally nationalized until the 1980 Constitution, and the first socialist Land Law in Vietnam was not passed until 1988. The second Land Law was passed in 1993—a fuller version that expanded upon the 1988 law. Since then, the 1993 Land Law has been amended three times: in 1998, 2001, and 2003 (Nguyen, “Land Law Reform”). Land is an extremely important resource in Vietnam, the ownership over which remains central to the Party’s control over the direction of Vietnam’s development. As Nguyen asserts, “If the state owns the land, it then has decisive power and essential rights over the vital question of how land is to be managed, used, by whom, and for whose benefit...accordingly, this policy ensures that the state holds a decisive role in decision-making, distribution, and possession of key rights to land” (“Contending Views and Conflicts” p. 319-320). Because the state owns and controls the land, it alone assigns the purpose—agricultural, forestry, or residential—to a plot of land and decides who has the right to use the land and for how long.

Land rights in Vietnam are divided into three categories: land ownership, land management, and land use rights. In the 1993 Land Law, ownership rights were defined as “land that belongs to the entire people, is managed by the state, and that the state allocates or rents land use rights to users.” The meaning of ownership rights was more clearly defined in the 2003 Land Law amendment, which states that “land belongs to the entire people, the state represents the owner (i.e. the entire people) of the land” (Nguyen, interview). Ownership, management, and land use have three different meanings, giving the entity to whom each belongs different rights and responsibilities. “Management” of land gives the state rights over the control and administration of land, while “land use” rights give individuals, family

households, and organizations the right to directly control, use the land, enjoy the product of land use, and to dispose of the land use rights (Nguyen, “Contending Views and Conflicts” p.321).

Although the process of agricultural decollectivization started in the early 1980s, land use rights were only officially allocated to individuals, family households, and organizations in the 1988 Land Law (Nguyen, “Agricultural Land Conversion” p.107). Since 1988, the meaning and rights associated with “land use” have changed greatly. For instance, The 2003 Land Law amendment greatly expanded what one (i.e. an individual, household, or organization) can do with land when in possession of a land use right certificate, allowing one to not only use the land, but also exchange, sell, lease, mortgage, inherit, and give land as a gift. Focusing on agricultural land use rights, Nguyen has synthesized the major changes from the period 1988-2003 (see Table 1).

Table 1: “Some Major Changes Regarding Agricultural Land Use Rights in Land Laws”

Land Law	Agricultural Land Use Rights			
	Possessors	Tenure	Maximum holdings allowed	Subrights
1988	Generally, provision was made for the state to allocate land for use by state farms, cooperatives, production groups, state enterprises, army units, state institutions, social organisations, and individuals	This Law did not regulate, but the practice was 5–15 years	No specific regulation but Law gave authorities the right to decide depending on the local situation of land areas and peasant numbers	None; this Law even forbade the purchase, sale or lease of land use rights for money under any circumstances
1993	3 groups: (1) state agencies (2) households and (3) individuals	20 years for land cultivated with annual crops and 50 years for land cultivated with perennial crops	3 ha, but sub-provisions placed a limit of 2 ha / possessor in the north and 3 ha / possessor in the south	5 subrights, viz. the right to transfer, exchange, lease, inherit and mortgage land use rights
1998	No major changes compared to former version of Land Law			
2001	No major changes compared to former version of Land Law			
2003	7 groups: (1) domestic organisations (2) domestic family households and individuals (3) residential communities [domestic] (4) [domestic] religious institutions (5) foreign organisations with diplomatic functions (6) overseas Vietnamese (7) foreign organisations and individuals with investments in Vietnam		3 ha / possessor for land cultivated with annual crops; 10 ha / possessor for land cultivated with perennial crops	10 sub-rights: the right to (1) sub-lease land use (2) grant land use rights (3) secure land use rights as a collateral (4) employ land use rights as a form of capital (5) claim for compensation if land use rights are seized by the state (6–10) the 5 sub-rights stated in 1993 Land Law

Source: Author's synthesis from the 1988 Land Law and amended versions of Land Law passed in 1993, 1998, 2001, and 2003.

Along with the gradual expansion of rights afforded to those with a land use right certificate came the initial valuation and eventual marketization of the price of land. As you can see in Table 2 below, land was not considered to have a value until the 1993 Land Law; prior to 1993, land still operated under a barter system, as these were still the early years of *Doi Moi*. The 2003 Land Law absorbed ideas relating to *Doi Moi* in several of its provisions, recognizing a price-frame for land. Land is still to this day regulated by the state with accordance to the market price.

Table 2: “Land Policy Renovation”

Period	Rights of land users participating in the market	Land price management regime
01-01-1988 14-10-1993	Don't have rights to participate in land use right market.	The land is valueless and can't be priced in the market.
15-10-1993 31-12-1998	Households, individuals have rights on exchange, transfer, inheritance, lease, and mortgage.	The land is valuable and the land price will be stipulated by the State (regularly equals to 10%-20% of the land price in the market).
01-01-1999 31-6-2004	Households, individuals have rights on exchange, transfer, inheritance, lease, and mortgage; economic organizations using land allocated by the State (limited in some cases) or land lease with one time payment for the overall land rental have rights on transfer, lease, mortgage, and contribution as capital.	The land is valuable and the land price will be stipulated by the State (adjusted to be higher than before).
01-7-2004 Nowadays	Households, individuals have rights on exchange, transfer, donation, inheritance, lease, mortgage, guarantee, and contribution as capital; domestic economic organizations using land allocated by the State or foreign economic organizations using land leased by the State with one-time payment for the overall land rental have rights on transfer, lease, sublease in industrial parks, donation in compliance with the law, mortgage, guarantee and contribution as capital.	The land is valuable and the land price which is regulated by the State must ensure its compatibility with the land price in the market.

Source: World Bank, 2010 (forthcoming): “Measures for Land Price Determination for Compensation and Resettlement in Vietnam”.

Vietnam's history in regards to land is long and complex. Prior to French colonial occupation, the Vietnamese king had ultimate ownership of land, while peasant households at the village level maintained "practical holding" of communal and private land. Communal land, something of a hybrid between the extremes of state versus private ownership, was used during the pre-colonial time for a variety of uses. The village officials would periodically allocate the most important portion of communal land to the male adults in return for payment of taxes to the state. According to Nguyen, the affairs surrounding communal land remained at the local level, with the king rarely intervening to exercise his power over the distribution and use of this land; he collected land tax from the village as a whole and not individual peasants ("Contending Views and Conflicts" p. 310). Private ownership over land also existed during the time period but, much like the feudal land systems in Europe, land was disproportionately owned by the rich at the expense of many poor peasants. In terms of land acquisition, the king could technically seize land without compensating the landowner, but rarely did so.

With the arrival of the French in Vietnam in 1884, the system of land ownership changed as the French nearly wiped out communal land and repurposed it for private use for wealthy French and Vietnamese landowners. As one would expect, this led to violent conflicts over land, social unrest, and contributed towards the resistance movement against the French. After the defeat of the French at Dien Bien Phu in 1954 and the subsequent reclamation and division of Vietnam, a radical land reform program was implemented in North Vietnam from 1953-1956. Nearly 810,000 hectares of agricultural land was redistributed to more than two million peasants, in an attempt to address issues of social and wealth inequality. This was not always a peaceful reform, however, as conflicts between state authorities and poor peasants and landowners ensued, as well as wrongful identification and

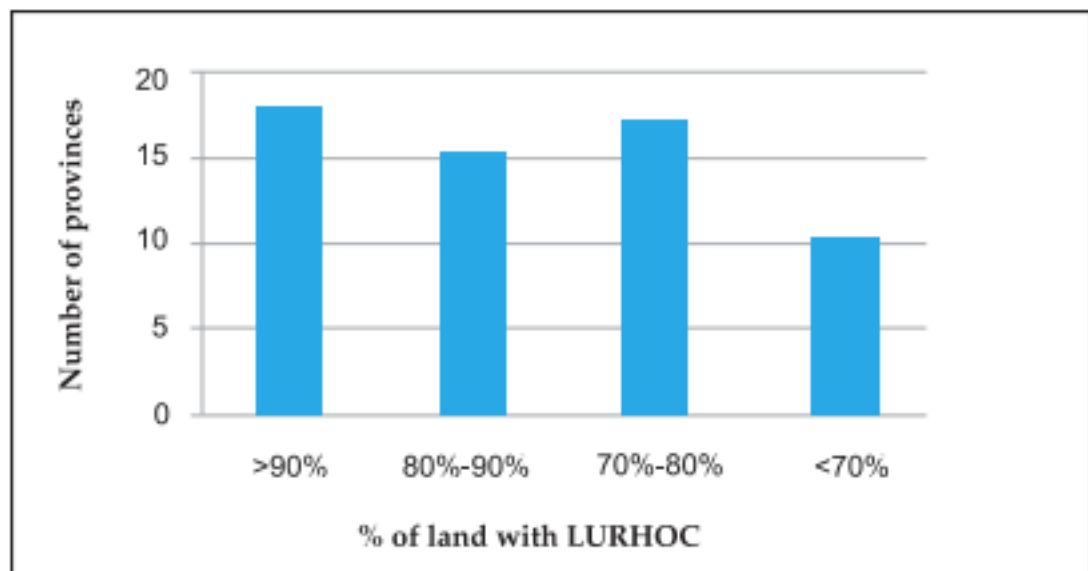
charges of and against landlords, sometimes causing death (Nguyen, “Contending Views and Conflicts” p.311).

From the period of 1945-1980, laws on land were not codified and even through the period of agricultural collectivization, the state legally recognized three different types of land ownership: state, collective, and private (Nguyen, “Land Law Reform”). Beginning in the late 1950s and intensifying in the 1960s, North Vietnam collectivized agricultural production, shifting from the traditional family-household-based system. Collectivization was based on three principles: collective ownership of the means of production, centralized management of production, and equal allocation output on the basis of points (Nguyen, interview). After national reunification in 1975, agricultural collectivization was intensified in the North and introduced in the south. By mid-1980, more than one-third of peasant households in southern Vietnam had joined cooperatives and production teams (Nguyen, “Contending Views and Conflicts” p. 312). However, this was an inefficient system, resulting in the stagnation of agricultural production, economic crisis, and mass famine by the end of the seventies.

With the state realizing the failure of its agricultural land reform, the process of national decollectivization began in the early-1980s. This process entailed the reverse shift back to a system of private production, based on the individual-family-household model. “One of the most essential tasks in this transformation was therefore to distribute agricultural land use rights to villagers, mostly peasants, to use on their own for a certain period of time” (Nguyen, “Contending Views and Conflicts” p.312-313). Although decollectivization started in the early-1980s, land use rights were not officially allocated to individuals, family households, and organizations until the implementation of the 1988 Land Law (Nguyen, interview). The implications of the allocation of land use rights and their changes over time have been discussed above. According to the World Bank, Vietnam has rapidly increased its

issuance of Land Use Right and House- and Land-Attached Assets Ownership Certificates (LURHOC). Up until 2008, 10.53 million LURHOCs were issued for an area of 413,060 hectares, which is 79.9% of total area requiring LURHOC. As demonstrated in Figure 1 below, as of October 2010, the vast majority of provinces in Vietnam have issued LURHOCs for 70% or above of the total land area requiring them (The World Bank in Vietnam, Embassy of Denmark, and Embassy of Sweden).

Figure 1: “Number of Provinces with Various Proportions of Land with LURHOC”



Source: Report No 206 of the Department for Land Registration and Statistics to the General Department of Land Administration of MONRE, dated October 14, 2010.

In 1986, Vietnam opened its doors to the global economy and welcomed neoliberal reforms with its economic restructuring known as *Doi Moi*. Since then, Vietnam’s growth rate has soured while its wealth gap has widened. Conflicts over land have increased as the state’s priority with urbanization, modernization, and industrialization has often interfered with individuals’ lives and livelihoods as land is seized for “socioeconomic” (i.e. development) projects. As Nguyen asserts, “Since the Seventh Party Congress (1991), and particularly since the Eighth Party Congress (1996), industrialization has once more become

an ambitious scheme of the party-state, aiming to turn Vietnam into an industrialized country by 2020. To turn Vietnam's traditional agricultural economy into a modern industrial one, the party-state sees it necessary to convert agricultural land to create space for industrialization and urbanization” (“Agricultural Land Conversion” p.107).

Recent tensions prompt ethical questions for debate, such as the following: Who is benefitting from this kind of “development” and who is being left behind? While the development of a high-rise office building might contribute to Vietnam’s GDP, does this wealth trickle down to the people whose land was appropriated? On the other hand, should people be more willing to sacrifice their land if these development projects improve the city’s image and truly make a larger community better off, even if this community does not necessarily include those who were removed? Questions such as these should be kept in mind as contemporary land issues are discussed in greater detail in the next section.

Key Issues

Land issues are complex and wide-ranging, from unequal access to land to unfair treatment of minority groups and women to the destruction of communal land. Although I knew from the beginning that I wanted to explore the issues regarding land grabbing in Vietnam, I had no idea how many sub issues this one topic encompassed. As land grabs and land rights in Vietnam involve every level of society—individual, village, province, state, etc.—they are embroiled with intricate tensions. After my literature review and interviews, I was finally able to focus my paper and choose three issues regarding land grabbing that I wanted to explore further: the valuation of land and unfair compensation, public versus private appropriation, and corruption.

Valuation of Land and Unfair Compensation

As industrialization, urbanization, and modernization surge ahead in Vietnam and land—mostly rural—is seized for swarms of development projects, from industrial to hi-tech zones, conflicts over the process of land valuation and proper compensation emerge.

According to the 2003 Land Law, “Compensation upon land recovery by the State means the return by the State of the value of land use right with respect to the recovered land area to the person from which land has been recovered.” In practice, huge disparities exist between individuals and the state over the proper amount of compensation to truly reflect the “value” of a plot of land. To this end, two main conflicts emerge: not only is the compensation amount that an individual receives often below the land’s actual market value but, also, the “value” of a piece of land cannot be defined exclusively monetarily. As Nguyen maintains, “Value has innumerable interpretations, ranging from the emotional value of a piece of land a farmer’s family has been tilling for generations to the value of long-term stability that a piece of land can provide” (interview).

According to a recent World Bank survey of people whose land has been appropriated, 57% of respondents with opinion think that “it is correct or partly correct to claim that land prices are “unequally” applied to the determination of the compensation value and that bribery or good relations with state officials help obtain a higher value” (“Recognizing and Reducing Corruption” p. 44). During my interview with Mr. Anderson, he added that a huge problem is that compensation must be *based on* market price, but does not have to equal it. He asserted that this is a huge loophole in the law, which allows government officials to give land users compensation at 50%, for example, of their lands’ market price (interview). Tensions are often the worst at peripheries of big cities, like Hanoi, where the disparity between property values and compensation rates is often the highest. The government tries to avoid seizing residential land, as population density is high in the cities

and land value is higher, meaning that mandatory compensation would also be higher (Nguyen, interview). Mr. Anderson was mostly worried about the monopoly of power that government officials have over the power to decide compensation rates, and told me that the World Bank has advised the Vietnamese government to employ an *independent* land valuation team (interview).

Land has value outside of that determined by the market. As Hue-Tam and Sidel put it, “Where individuals may see shelter, access to livelihoods, ties to the past and means of preserving their lifeways and traditions, planners and other outsiders many see roads to modernity with high-rise buildings replacing modest huts, sources of raw materials for a global market, or electricity for downstream urban centers, wildlife refuges, or dams” (p. 7). During my interviews with Mr. Anderson and Professor Nguyen, they both stressed that monetary compensation does not make up for the livelihoods that farmers lose. Nguyen asserted, “Farmland is valuable to farmers in many different aspects...compensation is not fair because farmers do not benefit from the development happening on their seized land. Additionally, once their land is gone, farmers face uncertainty and instability in their futures” (interview). The destruction of long-term stability is a sentiment that Mr. Anderson shared. “A farmer’s human capital is intricately tied to his land, as he knows how to till *that* piece of land and cultivate *that* specific crop...value of the land is always higher than the price” (Anderson, interview).

Since Professor Nguyen’s current research is about the lives and livelihoods of farmers whose land has been appropriated, it is a topic he approached with much passion. He told me that when the government or a company appropriates farmland, the land is often sold again for a much higher price than the compensation that the farmer received. For instance, in 2007, land was bought in Me Linh district for 60 million Dong. The company purchased the land for the purposes of building a villa, of which only the house frames were built, and then

resold the land for 15 billion Dong. “The farmers in this scenario lost valuable farmland, received unfairly low compensation, and could rarely find suitable alternative livelihoods” (interview).

Additionally, he explained to me that even if farmers received enough compensation payment to buy more farmland, it is nearly impossible because of the dearth of available land for allocation doubled with the lack of farmers willing to sell their land. Thus, farmers are forced into different professions in which they have no experience. “Usually farmers use their compensation money to build a new house and become vendors of some sort. Some farmers can find good jobs and alternative livelihood but this, unfortunately, is the exception; most lose their long-term stability as they vacillate between part-time work. Government support, such as job training programs, is extremely limited” (interview). Even if investors offer farmers resettlement many refuse, as they would be moving into high-rise apartments, out of which a home business of sorts would be unviable to run (Nguyen, interview).

According to the Ministry of Labor, Invalids and Social Affairs, 627,495 households were affected—including 950,000 laborers and 2.5 million farmers—when Vietnam converted 366,440 hectares of farmland to industrial and urban land between 2001 and 2005 alone (Nguyen, “Agricultural Land Conversion” p. 110). While the law stipulates that farmers whose land has been appropriated must be provided with a certain fund for job training programs and, when industrial zones are built, a certain percentage of the farmers must be employed, the realization of the law is not without problems. According to Nguyen, the majority of expropriated villagers have no stable job. While some have found alternative livelihoods in self-employed jobs, such as informal retailing and selling basic foodstuffs, household goods, and services to migrant laborers and students in the community, many others have no job. The industrial parks can often only hire 3-5% of the farmers, as most of the farmers are “unqualified” to work in those kind of jobs. “In short, various materials

demonstrate that for many farmers, a loss of agricultural land use rights results in a loss of livelihood, potentially creating a vulnerable group in contemporary Vietnamese society” (Nguyen, “Agricultural Land Conversion” p. 111).

“Public” versus “Private” Appropriation

“Older farmers in Northern Vietnam complain that the land they defended against the French and American armies was first wasted through failed Communist experiments and is now being lost to condominiums.” -The Economist

Professor Nguyen argues that what is important when considering land grabbing is who can decide compensation, who can seize land and for what purposes. Over the past 20 years the government has appropriated land for the three following reasons: infrastructure, urbanization, and economic development (i.e. economic zones, industrial zones, etc.) (interview). Much like the power of eminent domain functions in Western land systems, the Vietnamese government has the power and right to appropriate land for the state, collective, national defense, and security purposes. The government would have the right to seize someone’s property to build an airport or military base, for instance. In this first form of land acquisition, state officials directly plan the location, area, and level of compensation and implement the acquisition to meet its purpose without consulting the individuals who hold the land use rights. “This originates from a rationale that all land in Vietnam belongs to the entire people, which is represented by the socialist state, and therefore the state allocates—rather than gives—land use right to individuals, households, and organizations for certain periods of time” (Nguyen, “Agricultural Land Conversion” p. 108). While the legitimacy of this form of land acquisition is not inherently challenged, the issue over the proper level of compensation is the main source of conflict surrounding this form, as previously discussed.

The second form of land acquisition, which only became legal under the 2003 Land Law, gives the state the power and right to acquire land for the purposes of “economic

development,” which Mr. Anderson describes as a “purposely vague term” (interview). The government can seize land on the behalf of private developers to build industrial parks and other projects of “national significance.” For the purposes of this paper I will distinguish this form of land acquisition as for “private” development as opposed to the “public” development under the first form of land acquisition. Under private appropriation, the land use rights are usually transferred from the initial holders to private entrepreneurs and other commercial parties. These investors must work with the appropriate state officials and land use right holders to reach agreements about the transfer of land use rights before state officials can officially make the plans for the land seizure. “In contrast to the first, this second form of land appropriation does give the holders of land use rights, who are usually farmers, a say in the land conversion process” (Nguyen, “Agricultural Land Conversion” p. 108).

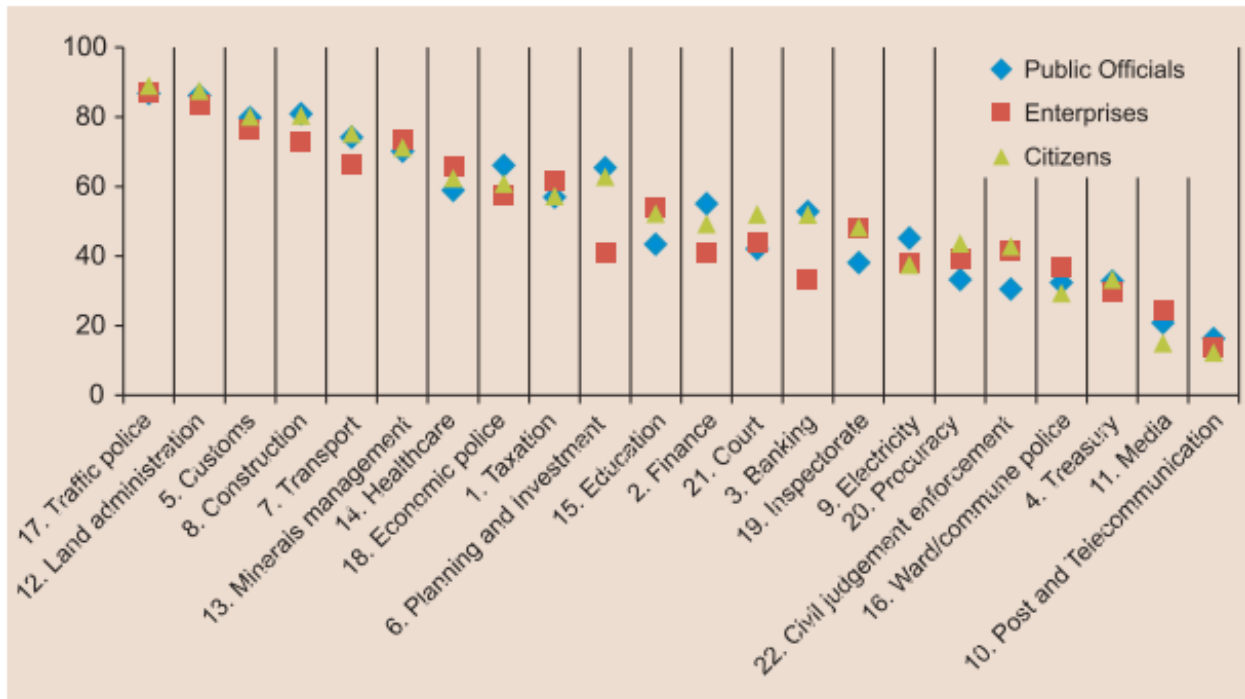
The first export-processing zone was constructed in Ho Chi Minh City in 1991; by 2005, 130 large export processing, industrial, economic, and hi-tech zones had been built, occupying 26,517 hectares of land. Additionally, there are dozens of small- to medium-sized industrial zones and clusters that are managed by city, province, or district governments and that do not appear on the national map of industrial sites. The government has officially approved a master plan to increase the total area of industrial zones to 80,000 hectares by 2020 (Nguyen, “Agricultural Land Conversion” p. 109). This second form of land acquisition for purposes of economic development has caused a lot of public outcry from people who do not think that the government should possess this right. Holders of this sentiment argue that while public appropriation is for the good of the entire nation, private appropriation is for the benefit of one individual or company. In the formative period leading up to the drafting of the 2013 land law, strong opinions were voiced to address this issue. Two leading positions emerged: that land should be privatized or that the government should recognize land use rights as a kind of private property and treat it as such.

Corruption

As Nguyen asserts, “Under the socialist state, corruption continues to be found at a high level, in various forms, and involved different types of people in the state and society. Corruption varied among levels of authority, areas and sectors of the state and society” (“Contending Views and Conflicts” p. 332). In 2005, the Internal Affairs Committee of the Communist Party of Vietnam conducted a study in order to gain understanding of the level, pattern, and nature of corruption in Vietnam. In response to the knowledge gleaned from the 2005 Diagnostic, the government passed the Anticorruption Law of 2005, which introduced new approaches to anticorruption such as assets declarations for civil servants, job rotation, and a stronger focus on transparency (World Bank, “Corruption” p. 17).

Although that was about eight years ago, the prevalence of corruption among government officials and perceived level of corruption among citizens remains high (Anderson, interview). In 2012, The World Bank in Vietnam conducted its own study on corruption to gain a current understanding of the issues. As can be seen in Figure 2 below, land administration is believed to be the second-most corrupt sector according to public officials, enterprises, and citizens. Each group of respondents was asked to give their perception of the three most corrupt sectors among 22, focusing on the perception of the most corrupt sectors that have the largest interface with society.

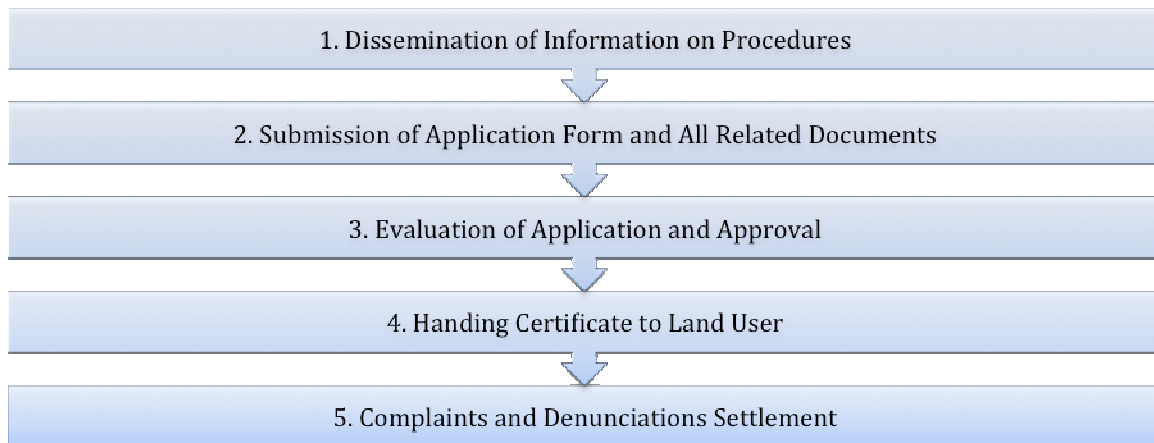
Figure 2: “The Most Corrupt Sectors According to Public Officials, Enterprises, and Citizens (% selecting as among the top 3)”



Source: The World Bank in Vietnam. "Survey Findings." *Corruption from the Perspective of Citizens, Firms, and Public Officials*. Hanoi: 2013.

In keeping with their findings, The World Bank in Vietnam also published a reference book entitled “Recognizing and Reducing Corruption Risks in Land Management in Vietnam,” which explains corruption by type and identifies major risks and forms of corruption in land management. The World Bank analyzed corruption in the two following processes: the issuance of LURHOCs (Land User Right and House and Land-Attached Assets Ownership Survey) and land acquisition/allocation. To analyze each, the World Bank broke each process down into their respective “process flows” and explained the type of corruption at each level in the process flow. When researching land management corruption, I found the World Bank’s analysis to be one of the most in-depth and clearly explained. Therefore, most of this section will be devoted to their research.

Risk factors in the process flow for the issuance of LURHOCs is as follows:



In the first step of the process flow for the issuance of LURHOCs, the World Bank argues that information on LURHOC procedures is incomplete and hard to understand. Therefore, confused citizens applying for a LURHOC might seek the assistance of a “middleman,” so to speak, who might or might not be a legitimate source of information, and pay irregular fees for his assistance. Additionally, local officials can take advantage of citizens’ ignorance to impose illegal requirements, which could end up in a bribe to get around these imposed “requirements.”

In the second step of the process flow, citizens can pay officials bribes in order to speed up the application process or to dodge the supplemental documentation that officials sometimes illegally demand. In regards to the third and fourth steps, officials can extend the duration of the evaluation process beyond the legally mandated period, prompting bribes and the use of middlemen on the part of citizens. In the final step of the process flow, the World Bank argues that the opportunity for applicants to file complaints and denunciations is often improper, slow, and only partially transparent (World Bank, “Recognizing and Reducing Corruption Risks” p. x).

Risk factors in the process flow for land acquisition and land allocation is as follows:



The World Bank argues that one of the forms of corruption that permeates the first two steps of this process is when investors pay state officials a share of the rents/profits obtained by increasing land value through conversion to other purposes. They argue that this is caused from the tendency of land use/urban plans to be formulated, revised and approved on the basis of investors' commercial plans. The second form of corruption in the first two steps is caused by "difficult and unequal access to information on land-use planning among investors" (World Bank, "Recognizing and Reducing Corruption Risks" p. xi), causing investors to give illegal payments to officials in return for information. In the third step, a big issue is investors bribing public officials to approve their own development projects in lieu of previously approved plans.

In the fourth step of the process flow of land acquisition and allocation, investors may pay bribes to officials in return for a low price of land allocation/lease. Second, investors may promise officials that they will sell land, housing, or office space at their completed project site at a favorable price just for them. Third, "the failure to disclose information on the process and resulting land allocation/lease decision increases opportunities for corruption and hampers accountability...land recovery and land allocation are among the most vulnerable

points in the process flow” (World Bank, “Recognizing and Reducing Corruption Risks” p. xi).

In the fifth step, the compensation and resettlement plan, people may bribe officials or agree to share a portion of their compensation with them to receive a higher compensation payment (which is usually too low in the first place). Additionally, a portion of the money purposed for compensation might be pocketed by district-level officials, resulting in a lower compensation for the affected citizens. Keep in mind, government support in general—i.e. money, job training programs, etc.—for those whose land has been appropriated is extremely limited in the first place (Nguyen, interview). During my interview with Jim Anderson from the World Bank, he really focused on the risks posed by the monopoly over the management of land. He said that when a single official or office has a lot of power and discretion over land allocation, and when there is little accountability or transparency, corruption is more likely. “When there is little accountability or transparency...and when there is also the chance for making large profits through official decisions, corruption should not be surprising” (Anderson, interview).

Professor Nguyen also talked about corruption in regards to land administration, but focused on the corruption in rural areas, as his area of research is farmland. He asserts that corruption in rural areas occurs to great extent in the following three areas: the management and use of land, construction of infrastructure, and the management of finance-budget. In the 1990s in Ha Bac province, for example, corruption on the part of provincial authorities resulted in a huge loss of different types of material property of the state and the people, including billions of Dong, hundreds of tons of paddy and other materials and, most significantly, hundreds of hectares of land. However, this land did not merely disappear into thin air. Instead, the land was transformed from public and communal land to residential land; the local authorities or organizations hold the land rights to the former while the latter

are held by individuals and households. During 1997-1998, the provincial people's committee investigated 135 cases and discovered a loss of 73.73 ha of land. In 1999, this committee also inspected 81 cases and revealed a loss of 22.21 ha of land. "As I understand it, corruption committed by the local cadres contributed the most to producing local conflicts...[it has] created discontent and protests from the masses" (Nguyen, "Contending Views and Conflicts" p. 332). In fact, the rhetoric of anti-corruption is commonly heard in people's fights against government officials to keep their land, as will be further explored in the next section with the case study of the residents of Green Alley.

Recent Tensions

"Site clearance" translates into Vietnamese as *giai toa*, which literally means to reduce or relieve and, within the context of site clearance, it implies destruction, for the object of "reduction" is the built environment itself. Over the past decade, there have been thousands of newspaper articles in Vietnam written about *giai toa*. "Vietnamese newspaper stories about *giai toa*, like the meaning of the term itself, are full of dynamism and differences, at times representing clear cases of suffering and injustice and at other times representing creativity, local level maneuvering, and even occasional forms of support and cooperation for land clearance projects...[they reveal] everything from the acts of corrupt cadres and unscrupulous land speculators, to the demands of foreign investors and the machinations of local citizens" (Harms, p. 60). From the period from the 1950s into the 1980s, very few petitions or protests emerged in response to land grabbing. However, this changed in the 1990s as petitions and protests became more prominent as people advocated at the village and commune levels. Although public demonstrations were illegal prior to 2006 when Vietnam joined the World Trade Organizations, individual protestors were very rarely

arrested (Nguyen, interview). I chose the following case studies of local advocacy to illuminate some of the key issues around which this paper focuses.

Case Studies

On April 24, 2012, the state ordered riot police to take possession of farmland in Van Giang district—east of Hanoi—in order to clear the land for the development of a luxury housing project. As Reuters reports, the confrontation between thousands of police and farmers turned violent, as villagers threw bottles of gasoline and police beat villagers with clubs and threw stun grenades. Local farmers refused to relinquish their land use rights when local authorities announced that they would forcibly appropriate 70 hectares of land for use in a city development called Ecopark. Many farmers camped out overnight to burn bonfires and keep vigil. Regardless, local officials came in with bulldozers to clear the land and destroy crops. Ever since the Ecopark project was initially announced several years prior, farmers in this district have been protesting, claiming that the government granted land to the developers without proper consultation or compensation (Reuters).

On January 5, 2012, 52-year old Doan Van Vuon from Hai Phong's Tien Lang District violently fought to save his farmland, injuring six police and soldiers with homemade mines and a shotgun. As opposed to the Ecopark protest, state-controlled media covered this incident extensively. In fact, many Vietnamese view Vuon as a local hero. What Vuon fought so hard to protect was an area of 19 hectares that he converted from coastal swampland into seafood farms. He is said to have “poured much blood and sweat and all the savings of his family” (Dien) to develop the land. In 1993, he was given a 14-year land use lease, which is not in keeping with the normal 20 years allotted to agricultural land use leases. Originally, Vuon fought the eviction through legal means. A judge led him to believe that he would be allowed to keep working on his land if he dropped the lawsuit. However, local authorities claimed a statutory limit for mounting a legal challenge expired and deployed the army to

evict Vuon. His house has since been demolished, and he along with his two brothers and a nephew have been accused of attempted murder (Dien).

In his essay “Constructing Civil Society on a Demolition Site in Hanoi,” author Nguyen Vu Hoang describes a group of residents in an alley of Thanh Xuan District that he calls “Green Alley” and their struggle against a infrastructure project to build a third city ring road designed to relieve some of Hanoi’s traffic congestion. Most of the residents did not object to the road itself being built, but did not think that the compensation they would receive was “sufficient to ensure the preservation of their already meager standards of living” (Nguyen, p. 87) and knew that their personal businesses would not survive out of the high-rise building to which they were supposed to relocate. Additionally, residents were frustrated by officials’ lack of transparency surrounding the project. The case of Green Alley is very interesting, as it resulted in a partial but still significant victory for the residents.

Thanh Xuan Trung ward, where Green Alley is located, is 106.2 hectares and in 1996 had a population of 11,036. The ward is divided into 65 residential groups, with “Green Alley” comprising three residential groups. Twenty years ago, the area now called Green Alley was the parking lot for a state-owned enterprise. When the enterprise dissolved in 1989 after *Doi Moi*, workers stayed and turned the area into a residential living space. The author describes the residents of Green Alley as living in “poor living conditions” (p. 88), as many lived in shacks or temporary dwellings and everyone lit charcoal fires twice a day, knowing the smoke was unhealthy, as no one could afford any other type of fuel.

In 2001, the Hanoi’s People Committee authorized Thanh Xuan District to draft a plan for clearing the land where the ring road was supposed to be built; a Thang Long State-based company was hired to complete the project. In August 2002, more than a year after the City Ring Road Project had been approved, the District gathered residents to tell them about the project plans and each family was given a plan map and decrees concerning land

clearance and compensation. The map of the road they were given was different than the one they had seen in a public exhibit of Hanoi urban planning. The map they were given at the meeting was asymmetrical, which would affect the residents of Green alley, unlike the symmetrical map at the public exhibit. The residents refused to accept the asymmetrical map as legitimate because the Prime Minister did not sign it. Some sent petitions to district and city offices, which actually slowed down the project by several years.

In 2006 the Communist Party Cell in Green Alley appointed a group of nine persons to act on the resident's behalf in fighting against the eviction. The leader, Thanh, gained access to the original documents of the Third City Road Project through friends he had in some government ministries, which included the symmetrical road plan. However, the group did not know how to use the documents that Thanh had obtained to their advantage. Fortunately a man named Hung, who is a police officer trained in law, joined their struggle after he learned that he would be evicted from his house as well. Hung reorganized the entire campaign, framing it around the rhetoric of anti-corruption. Their struggle was no longer localized; "residents saw themselves as fighting within a more national framework against government corruption...the struggle now aimed not only to protect their rights and their property but also to protect the transparency of the government and national justice" (Nguyen, p. 95).

A victory for the Green Alley residents occurred in November of 2006, when an hour-long TV program specifically on the problem in Thanh Xuan district was broadcast as part of the anti-corruption campaign launched by the prime minister. In total, 12 news articles were written about the Green Alley protestors and six TV programs were broadcasted. The Ministry of Communications and Transport decided to legitimize the falsified asymmetrical road plan by sending it to the Prime Minister for approval. However, he rejected the asymmetrical plan and in December 2007, the Ministry of Communications and Transport

requested that the project planning committee revise the intersection to make it symmetrical. The residents of Green Alley were spared their houses and the project was officially completed in September 2009.

These case studies demonstrate both failure and victory on the part of local protestors, fighting against issues of unfair compensation and corruption, among other things. Although definitely not what I would define as corruption, it is worth noting that citizens sometimes “rig the game” as well. For example, sometimes people will build essentially unlivable shacks on land in advance of land-clearing projects in order to claim compensation. Some people have built extensions on their homes in order to increase the square footage of land being valued. For instance, an entire neighborhood in Da Nang hired local artists to “decorate” their homes and create impromptu landscaping features and feng shui elements before land compensation teams came, as these things would increase the value of their land (Harms, p. 64). Additionally, residents are not always united in their struggle against authorities. As Harms points out, “While many residents have clearly protested state intervention, there are many others who willingly call on the state to guide the process. There are not only conflicts between the people and the Party but between different residents themselves” (p. 66). As Hue-Tam and Sidel assert, “Some [residents] in fact subscribe to the same modernist vision as urban planners. What they want is fairness and access to resources in order to maintain their livelihoods. Others, however, are fighting an uphill battle to maintain their claims to their traditions and preserve their lifeways” (p. 9).

Addressing the Issues

ActionAid Vietnam

ActionAid, which has been working in Vietnam since 1989, is currently involved in three major campaigns: one promoting fair tax practices in Vietnam, one working towards women's empowerment, and a land campaign. ActionAid has implemented its land campaign on an international scale, referring to it as a "land grab" campaign; however, ActionAid Vietnam cannot use the term "land grab" due to the politically sensitive nature of the topic of land in Vietnam. ActionAid's land campaign is broad in scope, covering roughly twelve key issues—including the three discussed in this paper—that ActionAid thinks have the largest negative impact on the poor and marginalized (Tuan, interview).

The first key priority for ActionAid is land ownership, overlapping with its goals for women's empowerment. Although the land law stipulates that both husband and wife have to be listed on the land use certificate when land is jointly inhabited, many local governments did not rewrite land use certificates to reflect the new law. When a wife is not listed on the certificate, she loses the rights associated with land use. ActionAid has experienced major successes surrounding this priority, as all 17 districts in which ActionAid has advocated have agreed to rewrite the land certificates with both the husband's and wife's name when requested to do so. The next priority concerns the government's "master plan" of the future of land use in Vietnam. Mr. Tuan asserts that this is one of the major priorities for ActionAid at the moment, as part of the master plan of economic restructuring is to dissolve many state-owned enterprises in the next couple of years, which will leave two million hectares of land for the government to reallocate. The government can do three things with this land: give it to companies, sell it to individual entrepreneurs, or give the land back to local people. ActionAid is pushing for the government to give at least 20-30% back to local people, especially ethnic minorities.

ActionAid's next three priorities surrounding land are land allocation and land management, land tenure of agricultural and forestry land, and the acquisition of land. ActionAid does not think 20 years land use tenure for agricultural land is appropriate, as farming is a life-long devotion to the land and long-term livelihoods cannot be ensured with only a 20 year land lease. ActionAid is hoping that the new land law will extend land use rights to at least 50 years, hopefully extinguishing the limit altogether. In terms of land allocation, ActionAid asserts that not enough decision-making power is in the hands of individuals when the government is appropriating their land.

ActionAid's next priority concerns land funds, specifically the "clean land fund" held by the government, which acts as a reserve for when the government needs land for certain projects. The clean land fund is important to ActionAid because when the government takes land from this fund it means that land is not being seized from individuals. How this "clean" land fund is created in the first place, however, is still a bit murky. Additionally, ActionAid keeps tabs on projects for which the clean land fund is being used, promoting giving land back to locals for projects agricultural in nature. Another priority for ActionAid's land campaign is land allocation for ethnic minorities. Mr. Tuan asserts that in the central highlands especially, many "ethnic peoples," especially women, have sold all of their land to Kinh people to make money. In the central highlands villages where ActionAid works, ActionAid forms groups of landless women, urging the local government to give these groups communal land on which to farm. ActionAid then supports these groups, training the women to cultivate mushrooms and avocados and providing them with technology.

The next two priorities are compensation and resettlement support and mechanisms of price evaluation, both issues discussed in this paper. Another priority is conflict resolution of land disputes. ActionAid supports settling disputes in court when the individuals in question actually possess a land use certificate, otherwise ActionAid thinks that it is best to resolve

disputes via local officials. The last two priorities of the land campaign are the functions of local organizations and the participation of locals in land management, urging for increased local power and participation. To lobby the government to enact changes in the 2013 land law to reflect ActionAid's land priorities, ActionAid holds "conferences" and then invites members of the National Parliament (Tuan, interview).

The World Bank Vietnam

In the period leading up to the drafting of the 2013 Land Law, Vietnam's Ministry of Natural Resources and Environment, the central government agency that oversees land management and the preparation of the new law, requested advice and opinions from the World Bank. In response, the World Bank published a policy note entitled "Revising the Land Law to Enable Sustainable Development in Vietnam." The policy note is centered around four main themes: reforming agriculture land use to create opportunity to enhance effectiveness of land use as well as to secure farmers' rights in land use, creating transparent and equitable land acquisition and compensation by the state, reaffirming and strengthening the land use rights of vulnerable groups, such as women, the poor and ethnic minority communities, and making the governance system more effective and accountable (World Bank).

Under the first theme of agricultural land use, the World Bank advised the government to prolong the duration of agricultural land use tenure from 20 years to much longer or unlimited. It argues that expanding the duration would promote more effective and environmentally sustainable land use practices and would increase a farmer's incentive to invest in land. Second, the World Bank advised to government to increase the size of land holding, allowing a farmer to accumulate more land. While the current law allots three hectares for annual agricultural land, 10 hectares for perennial crops in the plain areas, and 30 hectares for perennial crops in highland, mountainous areas, and forestland, the World Bank

would like to see these limits expanded or abolished altogether. It argues that this would increase investment and productivity. Third, the World Bank wants the government to abolish the limitations on alternative uses for agricultural land. Currently, a farmers needs to obtain permission to convert land from rice land to, for example, perennial crop, forest and aquaculture land. The World Bank thinks that diversifying land use would increase farmers' incomes and reducing the threat of land degradation.

Regarding the second theme of creating transparent and equitable land acquisition and compensation by the state, the World Bank seeks clarification on the purposes for which the state is allowed to seize land, a limitation over its power to do so. Currently, the state can take land for the purposes of national defense and security, national interest, public interest, and economic development. The World Bank wants this power to be limited to national defense, security, and projects with public benefits only. Additionally, it seeks clarification for the term "public benefit." The World Bank asserts that land acquisition for economic development could still be allowed, but would have to voluntary on the part of land user and mutually agreed upon.

Second, the World Bank addresses the issue of compensation by advising for the use of an independent appraisal boards at the both the Central and Provincial levels. It asserts that compensation should be determined by the market price by a land valuation service provider selected on consensus basis. Currently, the state determines land prices "close to market prices" and has too much discretion over the valuation (World Bank). Third, the World Bank calls for the establishment of "benefit sharing" in development projects, which means that the benefit from large hydropower, mining, or similar project would be equitably shared between their beneficiaries and affected people. Fourth, the World Bank wants to see the establishment of efficient, fair, and responsible grievance redress mechanisms at investment

project level to reduce the complaints in order to speed up the project implementation and enhance social stability.

Under the third theme of enabling an effective and efficient administration of land, the World Bank wants to ensure the land use rights of vulnerable groups, such as women, the poor, and ethnic minorities. To this end, it wants to confirm the requirement in the current law of having both spouses' names on the land use right certificate. Additionally, it calls for the recognition of customary land use and management practices of local ethnic minority communities. The World Bank also wants to fully decentralize the implementation of the state's legal rights on land and the land administration authority to Provincial People's Committees. While at the central level of land administration and management, the World Bank wants focus on policy and program development and the supervision of its implementation.

To improve the effectiveness of land governance—the final theme of the policy note—the World Bank calls for more flexible and effective land planning. The World Bank asserts that “land use planning remains largely an internal government exercise, characterized by unclear relationship among different types on plans, and resulting in a fragmented and silo-based exercise” (World Bank). To combat this, it advises the approach that land use planning should be made by integrating the best available evidence with planners' expertise and with other stakeholders' needs, values, and preferences. Additionally, land use planning should be based on stakeholders' consensus on land use through participatory interactive consultations and dialogues. Finally, the World Bank pushes for the transparency of land and anti-corruption in land management. Currently, there are very few provision surrounding transparency in the land law; most are found in the Anticorruption Law and the Ordinance on Grassroots Democracy. The World Bank wants to ensure greater access to land information by all stakeholders and their active participation, giving priority to functions affecting

people's rights and benefits. Additionally, the World Bank maintains that the government should formalize and regulate the use of land information in electronic media and establish objectives and institutionalized arrangements for the development of the national land information system and national spatial data infrastructure (World Bank).

2013 Land Law

The National Assembly recently passed the 2013 Land Law, which had to be revised this year due to the 20-year agricultural land leases allocated in 1993 that were set to expire. The 1993 Land Law stipulated that after the expiration of the 20-year leases, local governments will assess if the land has been effectively used and decide whether the lease will be extended. Pressure was put on the government from all sides—advocates and protestors, local and international organizations, private investors, etc.—to enact serious changes with this year's land law due to many of the issues discussed in this paper. The National Assembly received comments and feedback from millions of citizens concerning the proposals to the Land Law. The relevancy of land issues in Vietnam and the fact that the 2013 Land Law was passed in the middle of my ISP period gave my research an interesting dynamic; I was simultaneously learning about the history of land laws in Vietnam and about the advocacy on the part of locals and international NGOs while watching change—if only small changes—being enacted before me.

The period leading up to the passage of the 2013 Land Law was a critical period for advocates to voice their opinions. Mr. Tuan from ActionAid told me that most of the pressure for the government to change the law came from local protests and conflicts. “Seventy percent of conflicts reaching local officials concerns land, and the government is scared to lose the support of the poor. Most of the pressure to change the law came from the local people, as NGOs cannot criticize the government too strongly or hold protests” (interview).

Many thought that the expiration of the 1993 Land Law created “fertile ground for corruption and chaos,” as giving local authorities the power to decide whether or not farmers’ leases will be extended “puts the livelihoods of the farmers in the hands of the authorities, paving the way for corruption” (Dien).

Dang Hung Vo, one of Vietnam’s most prominent land advocates and a former government official, calls for a long-term extension of farmland land use rights. “Farming is a long-term business and the 20-year period cannot guarantee a decent income for farmers. Vuon’s case [from the Hai Phong case study] has just rammed home a sad message: farmers looking to make long-term investments in their leased lands stand to lose everything. My position is that we should grant permanent land use rights to farmers. Obviously, measures to curb land speculation and its wasteful use should also be included in the amended laws” (Dien). Mr. Anderson, who consulted with Dang Hung Vo on the World Bank’s land law policy note, agrees with his sentiments. “A farmer’s willingness to invest in a plot of land is correlated with the amount of time allotted by the land use certificate” (Anderson, interview).

Early on the notion of private land ownership was brought before the National Assembly but quickly refuted by the committee overseeing constitutional reforms. In the lead-up to the May 2013 sitting of the National Assembly, a proposal to remove the government’s powers to compulsorily acquire land for private economic developments was being considered. However, Nguyen Van Giau, Chair of the Economic Committee of the National Assembly, strenuously opposed this initiative. “He argued that such powers are required to safeguard new industrial parks and associated infrastructure — a view that reflects the party’s overriding preoccupation with national economic development and industrialization” (Gillespie, “Vietnam’s Land Law Reforms”). Even though private ownership was ruled out, the government announced that it planned to strengthen the legal rights of land users. The Ministry of Natural Resources and Environment, the central

government agency that oversees land management, advised that land use disputes could be resolved by moving to a long-term leasehold system. The ministry asserted that a long-term leasehold system would convey more secure tenure rights to farmers and thus increase market value and compensation payments (Gillespie, “Will Property Rights Solve Land Disputes?”) According to Gillespie, a huge unresolved issue that remains is the lack of independent institutions (i.e. courts) that are willing and capable to enforce private land rights against the state (“Vietnam’s Land Law Reforms”).

In late November 2013, the National Assembly passed the 2013 Land Law. The new law has extended land use rights for agricultural and forestry land to 50 years. Additionally, the new law contains more limitations on the government acquiring land for the purposes of economic development. Now when private investors want to seize land for a development they have two options: they must either negotiate directly at the local level or go through the national assembly or the prime minister if they want to enact the powers of eminent domain. Mrs. Pham asserts that the only difference in the new law is that investors must go through a higher level to get permission to appropriate land. Additionally, investors who are acquiring land must provide two plans: Compensation Assistance and Resettlement Plan and a Livelihood Restoration Plan. This could include, for instance, providing credit to people to find a job. Mrs. Pham thinks that this stipulation is an improvement in the law as currently, once local authorities deliver compensation payments, they are done and do not need to think about the future livelihoods of the affected people (interview). Additionally, there are greater regulations concerning the timing of compensation payments. Under the new law, compensation must be paid before the land is cleared. Additionally, the new law contains new provisions for land dispute resolution. If people argue that the compensation price is too low, an independent land appraisal will be used if needed (Pham, interview).

For the first time ever, the Vietnamese government considered public opinion in the drafting of the 2013 Land Law, receiving over six million responses with comments and feedback. On its website, the government published a report giving a summary of the most common comments and feedback received from the public. Additionally, the government published a report announcing what opinions were enacted into the new land law and under what provision; conversely, if an opinion was rejected, they explained why (Pham, interview). Regardless, neither the World Bank nor ActionAid are completely satisfied with the new land law. The World Bank wants the power the government has over the right to seize land for economic development to be completely abolished. While Mrs. Pham thinks the new law requiring higher permission helps, it does not solve the base problem. Additionally, the World Bank thinks that even before the government decides on the level of compensation, it should hire an independent land appraisal team. Again, while Mrs. Pham is glad that an independent appraisal team will be used in the case of compensation disputes, she thinks an independent system needs to be used in the initial land valuation (interview).

Mr. Tuan from ActionAid is not happy with the new land law as it only addresses a few of ActionAid's priorities surrounding land. He stresses that ActionAid must continue to advocate for government transparency on behalf of the poor (Tuan, interview). Professor Nguyen also does not think the new land law contains any drastically improved changes. "The overall ideas of the new law in regards to land acquisition contain minor changes...stricter regulation on land acquisition by requiring higher levels of authority to approve land acquisition...the main point remains that the state authorities totally control the power over the decision making in regards to land acquisition [land compensation price, area and purpose for land acquisition, when and where, etc.] (Nguyen, interview). The new land law will be enacted on July 1, 2014.

Conclusion

I hope this paper has highlighted the complexities of the trade-offs facing a country pushing into its rural areas to rapidly convert agricultural and communal land for the purposes of urbanization, modernization, and economic development. Hosts of conflicts have historically surrounded and will continue to surround land, as it is located at an important intersection of livelihoods, traditions, family and community values, and individual and national prosperity. Additionally, I hope this paper has aptly conveyed the ideological struggle between a cornerstone of socialist ideology—“people owned” and “state managed” land—versus land that has slowly gained monetary value in the marketization of Vietnam’s economy. Finally, I hope that I have done justice to the three different perspectives provided to me from Professor Nguyen, ActionAid, and the World Bank. I only wish I could stay in Vietnam longer to see the repercussions—positive and negative—of the enactment of the 2013 Land Law.

The major limitations to my study were the time frame, complexity of the topic, amount of access I was allowed, language barrier, and personal bias. With only three weeks in Hanoi, the number of interviews I was able to conduct were numbered, especially as ActionAid was exceptionally busy with the finalization of the 2013 Land Law. Because of my focus on land rights, focusing on land law, some of the legal lexicon was beyond my knowledge. Whenever I could I would clarify with experts, such as Professor Nguyen, but some aspects of the law I had to omit from my paper because of its complexity and my inability to explain it. Additionally, because of the sensitive nature of the topic of land rights in Vietnam, I had a limited amount of access to documents and people. As expected, I could not access most government documents surrounding land outside of the official land laws themselves. Additionally, ActionAid had more written materials that Mr. Tuan could not let me see because of their “confidential” nature. I also could not go into the field to interview

individuals whose land has been appropriated, giving my paper a policy- and government-oriented approach. Moreover, not being fluent in Vietnamese meant that I was mostly limited to documents and news articles written in English. While I could enlist the help of a volunteer translator for very short things, a translator would not have the time to translate an average length academic publication. Lastly, coming from a country that has historically placed a great amount of emphasis on privatization and personal property rights, I came into Vietnam with personal bias, as much I tried to neutralize it. While my paper does not center on my own personal opinion and rather the opinions of those I interviewed, my bias undoubtedly influenced the type of questions I asked and the answers on which I chose to focus.

As land is such a big and timeless issue, this research could easily be furthered. If I were to continue this study, I would definitely seek the perspective of more local NGOs. However, Professor Nguyen told me that he did not know of any local NGOs advocating for land rights, and the only other NGO that Mr. Tuan mentioned was Oxfam, another large international NGO. Regardless, I would want to speak to prominent land activists, such as Dang Hung Vo or the leaders in the Green Alley movement. If I had more time in Vietnam, I would try to get permission to interview locals whose land has been appropriated, as they are the real catalysts behind change in the country. Additionally, it would be phenomenal to actually witness a land protest. To further narrow the scope of this research, I think it would be beneficial to focus on a geographical or otherwise defined subset of the population, such as residents in one particular village or just women or just H'mong people, for instance. To this end, while this paper focused on only three issues—the valuation of land and unfair compensation, public versus private appropriation, and corruption—there are a multitude of other issues related to land that one could research, such as gender and minority rights or unequal access to land.

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