

# Land Policies over More Than Thirty Years of Renovation Period in Vietnam

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**Abstract:** The paper describes the viewpoint and guidelines of the Communist Party of Vietnam on the land allocation and use over more than 30 years of the *đổi mới*, or renovation, period, and suggests several policy-recommendations with a view to taking full advantage of land resources for socio-economic development in the process of market economy and international integration.

**Keywords:** Land policy, land resource, resource allocation, viewpoint of the Communist Party of Vietnam on land.

**Subject classification:** Economics

## 1. Introduction

During the first resistance war and the early period of peace in northern Vietnam, the Communist Party of Vietnam (CPV) advocated allocating farmland to farmers (per capita within each commune) for the purpose of enabling every household to earn a living by doing cultivation and contribute to society by paying agricultural taxes. While the ownership of residential land was granted to households, the ownership of some non-agricultural land was granted to the owners of businesses and the remaining non-agricultural land was recognised to be public land and therefore

controlled and used by State agencies. It was the period when the land multi-ownership model was implemented and the land under private ownership made up the largest proportion. During the following period, when the socialist transformation was initiated with the organisation of farmers into cooperatives and the state-private enterprises, non-agricultural land was under the State ownership and agricultural land was under the collective ownership (owned collectively by all members of the cooperatives).

After the country's unification, at the 4<sup>th</sup> National Congress of the Communist Party of Vietnam in December 1976, it was affirmed:

“It is necessary to reorganise agricultural production, aiming at setting up a centralised production model and removing the model of team-based production and sharing. Farmland must be consistently and centrally administered and used on the scale of cooperatives”.

During the period from 1975 to 1978, when the aid from socialist nations decreased significantly resulting in food shortages, especially in urban areas, the State implemented a strict policy on prohibiting goods from exchange and circulation, making agricultural cooperatives and households, who raised animals or grew rice and vegetables on the household scale, have no choice but to sell most of their products to State-owned enterprises (commercial cooperatives) at a low cost. Due to such a policy on collecting products and the way to make assessments on the basis of the amount of the products collected and delivered to the higher authorities, life of agricultural households was difficult. As a result, farmers no longer paid attention to the crops and agricultural production fell into decline. Some management officials who were wholeheartedly interested in agricultural production started realising the contradictions and paradoxes of the bureaucratic administrative model in the large-scale cooperatives. They, therefore, tried to break the barrier by performing *khoán chui*, or make use of unallowed contracts/agreements, in agricultural production (in Hai Phong city), which was considered illegal by the institutional framework. Despite not resulting in the effective exploitation of agricultural land as wanted, such contracts/

agreements helped improve the use of agricultural land in the cooperatives.

Over many years after the country's unification, the Party and the government put a lot of time and effort into studies and pilot models for the purpose of finding out the way to enhance the efficiency of agricultural cooperatives, in which the most important was to increase the productivity of land use and improve the living standards of agricultural households. The guideline on the cooperative movement was aimed at collectivising land for mechanisation, using new technologies and machines in agricultural production. Due to difficulties in the wartime as well as limited economic potential and backward technologies, the average labour and land use productivity of the cooperatives was lower than that of households. Finding out quickly the shortcoming and realising that the *khoán* (making use of agreement on the amount of output to be delivered to the State/cooperative from the farmland use might motivate farmers to use land more effectively, the Secretariat of the Party's Central Committee promulgated Instruction No.100 dated 13 January 1980 on “Renovation in Making Use of Agreement on Amount of Output to Be Delivered from Assigned Land and Expansion of the Use to Groups of Members and Individuals in Agricultural Cooperatives”. As the production of the cooperative members was rated in line with their labour output (the surplus amount to the requirements in such agreement), the instruction of the Secretariat created favourable conditions for members of the cooperatives to take the initiative in using farmland. The guideline on making use of the agreement was, however, limited within the framework of the previously-conducted

improvement of cooperatives. Meanwhile, the Party was continuing to develop the cooperative movement in southern Vietnam. On 3 May 1983, the Secretariat of the Party's Central Committee promulgated Instruction No.19 on "Accomplishing the Land Reform and Strengthening Socialist Transformation via Agricultural Production in Southern Provinces".

In the spirit of the country's 1980 Constitution, the Party and the State step by step revised the policies on agricultural land with the aim of encouraging farmers to develop agricultural production, dealing with food shortages, and reducing forest degradation.

Prior to the renovation period, in general, the land policies were mainly applied to agricultural land. Regarding non-agricultural land, the Party and the State allocated it to households and institutions, including mostly State-owned enterprises and cooperatives, for non-agricultural production or business and residence. Those households and institutions had the rights to houses and other land-attached assets, but not rights to the land. As a result, non-agricultural land was seen as land for production or construction of houses, but it was not the users' property for exchange.

The guidelines drawn up by the Party and the policies promulgated by the State during the pre-renovation period resulted in two positive effects. *Firstly*, it was demonstrated in practice that a transitional form of production relations should be applied appropriately to the productive forces in order to create proactive dynamics and effective organisational forms of production. *Secondly*, in land use policy-making, it was necessary to attach much importance to and

harmonise the interests of individuals and households with the national, local, and sectors' interests. If farmers did not benefit equitably from land use, a motive for effective exploitation of the land could not be created. In an economy developed with a diversified and complicated structure, the State planning was no longer sufficient to regulate flexibly various relations among economic actors. It was, therefore, necessary to be replaced by the model of the commodity exchange relations on the basis of negotiations to enter into agreements.

## **2. The Party's viewpoints and guidelines as well as the State policies and laws promoting land resources for economic development over more than 30 years of the country renovation**

At the 6<sup>th</sup> National Congress of the Communist Party of Vietnam in 1986, the viewpoint on creating a socialist-oriented market economy of multi-sectoral structure was raised, emphasising the significant role of the State in managing the economy. In 1987, the National Assembly ratified a law on land in the hope of implementing the above-mentioned viewpoint. The law, also called the 1987 Land Law, specified in a first step the rights of the State and those of land users in using, treating, and benefiting from land in accordance with the mechanism on allocating land to households and organisations. The 1987 Land Law pursued the following goals: land is owned by the entire people with the State acting as the owner's representative and managing land uniformly; transaction with respect to land is not allowed; the State allocates land to

organisations and individuals for long-term or temporary use and they have to use it pursuant to the purpose prescribed by the State; the State guarantees the lawful rights and interests of the land users, including also the right to make transactions in the labour output and investment results when they stop using the land [7].

Resolution No.10-NQ/TW issued by the Party's Politburo on 5 April 1988 emphasised the improvement of the mechanism on making such agreement on the end products (output to be delivered) with groups of households, households, groups of members, or individuals of the cooperatives, depending on the specific conditions of the sectors and local areas. The importance of attaching the production plans to those of distribution right from the beginning was also underlined. In crop production, the agreement should be made basically [between cooperatives and *tập đoàn sản xuất*, lit. production groups] with groups of households or households. The cooperatives and production groups had to set up productive norms and costs, which were used for the planning and making of such agreement. Plans to distribute both money and goods to all sectors within the cooperative or the production group must be drawn up and disseminated to all members from the beginning. It was essential to make revisions of the area of assigned land in line with the agreement and avoid dividing fields into too small parcels, enabling land users to get a sufficient area of land to do stable cultivation for 15 years. Land must be classified properly with specific productive quotas and costs, which were used as a criterion for land allocation. The quotas and

costs must be kept the same for at least five years. Only when the material and technical conditions changed could they be revised. Cooperatives and production groups decided which sections of the work were undertaken by themselves and which ones by individuals (it was not necessary to stipulate that five sections should be done by the cooperatives and the rest three by individuals). In addition, the households, who were allocated with land in line with the land use agreement, would receive approx. 40% of the output, depending on the number of sections of the work which were undertaken by them. Discussions must be held publicly and democratically among all the members, in order to make decisions on the forms of the agreement, quotas and costs, distribution types in the cooperatives/production groups, and other relevant issues mentioned above [4].

In the areas where land resources were abundant and waters were not exploited yet, the State might lease or allocate the land use right of part of farmland, forest land, and waters to individuals and households so that they could do business or production in line with the legal regulations, depending on the local specific situations. In regard to the land used for afforestation or perennial industrial crops, the land use right could be granted for a period of one or two business cycles. With respect to the land and waters used for food crops and annual industrial crops, however, the duration of land allocation could amount to 15 to 20 years. Within the period, land users were allowed to hand over the land use right to their children. In case of changing to another job, they could transfer the land use right to other people as well.

The Politburo's Resolution No.10 exerted comprehensive and positive impacts on agricultural development in the country, unleashing land resources in particular. In line with the spirit of the Resolution, the top goal was to create best conditions for agricultural production. Thus, it was necessary to reform the management mechanism of agricultural cooperatives, giving out land use agreement to farming households so that they could use agricultural land stably for at least 15 years. The cooperatives should provide favourable conditions for households to exploit land effectively. The Party approved of the private economic sector, encouraging the development of household economy and authorising households and private enterprises to do commodity exchange on the basis of negotiations to enter into agreements. Business partnerships were promoted to increase diverse investments in agricultural development.

Since the land use agreement were implemented within each cooperative, following the egalitarian pattern (i.e. every household was allocated with both close and faraway, and both fertile and infertile, fields), agricultural land was divided excessively into too small parcels, of which each was allocated to one household. The above-mentioned situation not only wasted land due to the boundaries of the parcels but also prevented the use of agricultural machines and the application of new varieties and farming techniques.

Neither the 1987 Land Law nor Resolution No.10 created favourable conditions to unleash the potential of non-agricultural land resources. Basically, non-agricultural land for business or production

was used wastefully by State-owned enterprises. The land use costs were not included in the business/production expenses. As stipulated by the 1987 Land Law, the transaction of residential land was prohibited. In reality, however, people still did it illegally in form of the transaction of the land-attached properties. Most of other land still remained under control of the State institutions.

At the 7<sup>th</sup> National Congress of the Party held in 1991, it was the first time the regulations of the market economic mechanism had been recognised. The new standpoint was then enshrined in the Constitution adopted in 1992 (from Article No.15 to Article No.23) and realised in the Land Law promulgated in 1993, which is also called the 1993 Land Law.

In line with the Constitution, the State manages all the land through the planning and legal regulations, guaranteeing that the land use conforms to the set objectives and yield effective results. The State allocates land to organisations and individuals for stable and long-term use. Those organisations and individuals are responsible for protection, enrichment, rational exploitation and economical use of the land. They may transfer the right to use the land allocated to them by the State in line with the law. The lawful property of individuals and organisations shall not be nationalised. In cases made absolutely necessary by the reasons of national defence or public security and interests, the State can requisition or make a forcible purchase of pieces of property of individuals or organisations at the contemporary market prices [6].

To concretise the 1992 Constitution and the guideline ratified at the 7<sup>th</sup> National Congress of the Party, the 1987 Land Law was revised by the State. Another Land Law was, consequently, promulgated in 1993, called the 1993 Land Law. As a new point in the law, specific rights and responsibilities of the State were regulated for land management, including: surveying, investigating, measuring, assessing, classifying land resources, and making cadastral maps; making master plans and plans on land use; promulgating legal documents on land use and administration, and organising the implementation of those documents; administering land allocation, land lease, and land acquisition; managing land registration, compiling and keeping cadastral records, managing land use contracts, making land statistics and inventories, and granting certificates of land use right; inspecting the compliance with the policies and regulations with respect to land use and administration; settling conflicts over land use; and, dealing with complaints and denunciations of the breaches in land use and administration. In addition, the rights and responsibilities of land users were stipulated as follows: they are permitted to use land on a stable and long term basis; the land use right is recognised by the State, based on the certificates of land use right; land users are allowed to exercise the right to transfer, exchange, lease out, inherit, and mortgage the land use rights during the duration of allocation; and, they are responsible for using land pursuant to the land planning and paying the land use tax. In line with the 1993 law, foreign organisations and individuals were not permitted to purchase, but were just to lease, land from the State.

Land users were encouraged to invest with labour, materials, and capital and apply scientific and technological achievements for the following purposes: increasing the land use value, doing intensive farming, and improving the land use efficiency; carrying out land reclamation, rehabilitation, and reclamation from the sea, planting trees on wasteland, bare hills, and coastal sand dunes so as to expand land for agriculture, aquaculture, forestry, and salt production; strengthening land protection, improvement and fertilisation; and, using land economically and effectively. All the activities relating to illegal occupation of land, illegal transaction of land use rights, breaches of the regulated land use purpose, and damage to land resources were prohibited by the State.

The 1993 Land Law set up the first conditions for the formation of a real estate market in Vietnam, where the transaction of land use rights could be made within the duration of land allocation and appropriately to the types of land in accordance with the legal regulations promulgated by the State. It is considered by many economic researchers as the land lease market (leasing land from the State). In spite of being an early stage of the land use right market, the policies on land use, which enabled land users to get a longer period of stable land use (ranging from 20 to 50 years, depending on specific types of land) and a higher extent of protection (the land use rights were seen as property under the State protection by granting certificates of land use right) in comparison with those in the 1987 Land Law, contributed to the more effective use of land and the transition of land allocation structure among various sectors in both urban and rural areas.

The most visible impact of the 1993 Land Law is that a legal framework was created to accumulate agricultural land by *dồn điền, đổi thửa*, or exchanging and merging farming parcels, aimed at eliminating partly the previously excessive division of agricultural fields. Owing to the policy that allowed people to transfer, lease, and inherit the land use rights, and farmers who were good at non-agricultural business could transfer or lease their land use rights so as to get capital to do business or other jobs. When the land use rights were acquired by the State, furthermore, the people or organisations, from whom land was acquired, would receive compensation upon land acquisition as well as support for their engagement in production or to settle in new places. Obviously, the policy allowing for the commercialisation of the land use rights provided favourable conditions for agricultural households to mobilise capital for business activities and get the legal right to the land use rights as their own property. In addition, the State encouraged allocating land directly to users, in order to prevent the coming back of *phát canh thu tô*, or leasing out the land and getting land rent. When those, to whom agricultural land was allocated, no longer used the land, it would be acquired by the State. As the land use rights were effective within the duration of allocation and farmers had to conform to the set land use purposes, the value of the land use rights was not estimated high. This is a factor making the policies on agricultural land not attractive enough to boost investments. Favourable conditions were not provided to accumulate and transfer agricultural land

to effective land users in line with the market principles.

The 1993 Land Law exerted initial impact on the transition in agricultural land. Part of agricultural land was converted into non-agricultural land used for industrialisation and urbanisation. The land allocation and land acquisition rights regulated in the 1993 Land Law enabled the State authorities (including mainly provincial governments) to acquire a large area of agricultural land for urban residence, industrial zones, economic zones, export-processing zones, irrigation reservoirs, and hydroelectric plants, etc.. Since the State had the right to acquire land at the compensation price determined by the people's committees of provinces/cities for specific types of land, Vietnam could accumulate land for construction of urban areas and industrial zones faster and at a low cost, satisfying the requirements of economic development. It did not take much time, unlike the situation when negotiations and agreements with private land users must be made for land acquisition. Nevertheless, it also resulted in some unexpected corollaries as follows: *Firstly*, the price was determined by the State without negotiating with land users, so they did not feel satisfied no matter whether the compensation was high or low. *Secondly*, most of the land rent earned from the conversion of land use purposes mainly came to the pocket of the urban investors; whereas the State and the farmers, who previously had the land use right to the land, got nothing from the land rent. As a result, many investors became much richer due to their investments in land. *Thirdly*, it was difficult to activate the market of agricultural land use, because the price of agricultural land use rights as well as the

price of agricultural products was too low as determined by the State. Farmers would rather leave their fields fallow than sell or lease their land use rights, because they could earn too little from it. Meanwhile, agricultural land accounts for an overwhelming majority of natural land in Vietnam. It was, consequently, hard to promote the source of capital for economic development.

Over a short period, the area of farmland reallocated for urban residence and industrial zones increased rapidly due to the local demands for having many industrial zones and the interests of real estate investors, who wanted to build a large number of urban residential projects beyond the affordability of local residents. Part of the land was, however, left fallow due to the delay of projects, while farming households whose land had been acquired had no fields to do cultivation. The waste of land was seen popularly for years in many locations. Although the central government issued instructions on acquiring drastically land of the projects which were carried out behind schedule, the implementation of the instructions was inconsiderably effective due to difficulties relating to various legal regulations and policies. After the State started to carry out the equitisation of State-owned enterprises in 1992 especially, the land use rights over a number of parcels in favourable locations were transferred at a low price from State-owned enterprises to a group of shareholders. This resulted in a tremendous loss in the land rent to the State budget and caused much complaint in society. In the past, the State neither included the price of land use rights in the enterprise value nor charged the land rents, aiming at encouraging the equitisation of

State-owned enterprises. It was considered a big gap in the policy on the equitisation. As the price of land use rights was not included in the enterprise value, when State-owned enterprises were equitised, the land use rights over many parcels in favourable locations of those enterprises were transferred at a low price to a group of shareholders. Later on, the policy on the equitisation of State-owned enterprises was revised, remedying the shortcoming. In the equitisation of State-owned enterprises, either the price of the land use rights was added into the enterprise value, or the land rents, which equitised enterprises would have to pay, were specified. At present, however, many State-owned enterprises have not been equitised whereby they do not have to pay the land rents. Thus, those enterprises do not have a motive for effective land use.

Similar to the 1993 Land Law, the laws on land promulgated afterwards do not have any provisions stipulating that State-owned institutions/agencies have to use land effectively. Thus, a large part of the land still remains used wastefully by those institutions/agencies. Some of them even do not conform to the set purposes of land use, causing disputes. Part of the financial resources mobilised from the land use is not used appropriately to the State regulations (for example, they lease out land to others, but the rent is not submitted to the State budget).

The 1993 Land Law does not allow foreigners to buy houses attached to the land use rights, which somewhat prevents development of the housing market and do not create favourable conditions for long-term residence of foreign investors in Vietnam.

At the beginning of the 21<sup>st</sup> century, Vietnamese government realised fully the



advantages of international integration and economic reforms as well as the necessity of promoting economic development resources, particularly land resources. On 12 March 2003, the Central Committee of the Communist Party of Vietnam issued Resolution No.26-NQ/TW, reaffirming the viewpoint that land is owned by the entire people with the State acting as the owner's representative and managing land uniformly; the State allocates and leases land to organisations, households, and individuals for long-term or temporary use in line with the legal regulations. A new point described in the resolution is that the Party officially recognised land as a tremendous resource of the nation and the land use rights as a special commodity. Focused on urban areas, the real estate market should be developed steadily under the administration and regulation of the State. It should attract the participation from different economic sectors, of which the State economic sector played a major role. The markets of land use rights and land-attached properties should not be detached. The resolution also banned speculation on land and emphasised the impacts of land policies on socio-economic development, security and national defence, showing the necessity of harmonising the interests of the State, investors, and land users, of which the State and societal interests must be taken into account properly. The land use and management responsibilities must be strengthened among all members of the society. The viewpoint of the Party was then concretised in the law on land promulgated in 2003, which is also called the 2003 Land Law, and the following revisions of the law.

Remarkably, the 2003 Land Law specified the rights and obligations of all land users (from Article 105 through Article 121), including also foreign organisations and individuals as well as Vietnamese residing overseas, in the spirit of providing fair treatment for all economic actors in accessing land resources. The 2003 Land Law in a first step allowed overseas Vietnamese to get the ownership of houses and land use rights in Vietnam. In 2009, the National Assembly adopted a revision of Clause 2 in Article 121 of the 2003 Land Law, granting overseas Vietnamese with the right to lease out and authorise the management of houses and land use rights. In addition to the specification of the rights and duties of the State institutions that undertake the land management, the rights of land users were expanded in line with the 2003 Land Law as follows: to lease and sublease the land use rights; to use the land use rights to guarantee and contribute capital; to enjoy the benefits arising from State works for protection and improvement of agricultural land; to lodge complaints and denunciations and institute proceedings against conduct in breach of their lawful land use rights; and, to choose types of land allocation and land lease. The 2003 Land Law also specified further the obligations of land users related to the depth, the height, the environmental protection, the registration of land use rights, and the payment of taxes on the transfer of land use rights, etc.

The 2003 Land Law, its revisions, and relevant legal instructions created great room for promoting land resources for production. In addition to the generation of financial sources, land resources also contributed to

the improvement of agricultural output, the development of transport infrastructure, the expansion of industrial zones, economic zones, urban areas, and the activation of the real estate market on the basis of accommodating and allocating land to effective land users in accordance with the market principles and decreasing the burden on the State institutions.

The wasteful land use, however, was quite popular in many industrial zones and urban projects. Breaches of the planning were made for the sake of short-term interests; complaints were lodged due to the unfair distribution of benefits related to land use; land use efficiency was low; and, the real estate market was not run transparently, etc. As a result, those shortcomings constituted obstacles to the unleashing of land potential. A large number of activities under the State land management did not keep pace with the situation. There were interest groups distorting deliberately the mechanism of land benefit distribution. On 31 October 2012, the Central Committee of the Party issued Resolution No.19-NQ/TW, which not only reaffirmed the land ownership of the entire people with the State acting as a representative and managing uniformly land use but also emphasised that the land use right was a special commodity and property, but it was not an ownership. It mentioned that the land use right should be specified for every type of land, land users, and land allocation and lease. The State exercised the ownership right in the following aspects: approving of and making decisions on the land planning and land use schemes; allowing for the conversion of land use purpose and stipulating the use duration; determining the

land price; promulgating policies regulating the added value of land, which was not created by land users; and, granting the land use rights and acquiring land for the purpose of national defence, public security and interests, or socio-economic development projects in accordance with the legal regulations. In line with the resolution, the State should undertake the function of allocating and leasing land to land users for long-term or temporary use, while granting the land users the rights to transfer, exchange, lease, sublease, bequeath, present, donate, mortgage, and use the land use rights as a contribution of capital. Land users would be paid with compensation, when their land was acquired by the State, depending on specific types of land and the origin of land use, in accordance with the laws. Meanwhile, land users had the obligation to register the land use right, use land with the correct purposes, comply with the State planning, hand over the land when the State issued a decision on land acquisition, and conform to the provisions of the law on land... It was necessary to enhance the efficiency of the State land management and strengthen the administrative reforms, while ensuring the transparency and openness in the land management. Land-related services should be diversified and developed. An advanced system of land management must be built, giving priority to the database of land infrastructure...

Fully grasping the viewpoint, the National Assembly then revised the 2003 Land Law and promulgated a new law on land in 2013, which is also called the 2013 Land Law. The new land law consists of some new points. It prescribes specifically the rights and obligations of the State as follows: to give guarantees to land users; to

provide people with information on land; to extend the duration of agricultural land allocation for households and individuals to 50 years, instead of 20 years; to increase the quota on receipt of transferred land use rights of agricultural households and individuals, making it ten times higher than the quota on agricultural land allocation earlier; and, to determine the land price in line with the regulated land use purpose at the time of the price determination, based on the land use duration, market principles and the valuation made by independent consultants. The regulation that a list of land prices should be announced on the 1<sup>st</sup> of January each year was abrogated. The land prices determined by the State must be adjusted, whenever the difference between the land prices determined by the State and the real prices in the market is greater than 20%. The land prices were only applied to a number of cases. Local and foreign investors must be provided with equal land access. It was essential to stipulate specific conditions for land allocation and land lease for investment projects, aiming at selecting successfully the investors who are capable of implementing the projects.

Especially, the 2013 Land Law consists of some additional provisions, including: the provision on the necessary conditions to allocate or lease land for the projects that will take the land used earlier for rice farming or afforestation as well as the investment projects in the border, coastal, or island areas; the provision on granting the certificates of land use rights and ownership of houses and land-attached properties; the provision on the first registration, the registration of changes, and online registration; and, the provision

stipulating that when the land use rights or the ownership of houses and land-attached properties are shared by a group of people, it is necessary to grant each of them a certificate or grant only one certificate which will be kept by a representative of the group. The 2013 Land Law also prescribes the situations, when a certificate can be granted without having legal documents on the land use rights. It provides comprehensive and detailed provisions on land acquisition, compensation, and support to resettlement, which must be done transparently and publicly, while ensuring the interests of the land users, whose land is acquired. At the same time, it is necessary to avoid acquiring land without using it effectively, as it will result in the waste of land use and negative public opinions. Sanctions must be imposed strictly against those who deliberately do not use or do delay using the land allocated or leased out to them. The law also stipulates clearly and fully the situations, in which land acquisition is necessarily made by the State. It prescribes that the compensation is not made in line with the set prices in the list of land prices, but it should be based on the specific prices determined by the people's committee of the province/city at the time of land acquisition. The law is supplemented with new provisions on the systems of information, supervision, and assessment of land management and use, aiming at ensuring the transparency and democracy appropriately to the viewpoint that land is owned by the entire people. The provisions on the improvement of the policies on agricultural land as well as those on land allocated for industrial zones, high-tech zones, and economic projects are also included in the law. There are provisions on the land use for construction of

underground facilities, satisfying the socio-economic requirements of the country. The law also prescribes general provisions on land-related administrative procedures. The central government is assigned to promulgate specific regulations on the order and procedures, in order to meet the requirements of administrative reforms and application of information technology. The 2013 Land Law is also supplemented with the basic provisions on the survey, investigation, and assessment of land resources, which were not stipulated in detail in the 2003 Land Law.

In general, the Party's viewpoint and guidelines as well as the State policies and laws with respect to land have been fundamentally appropriate to the market economy without causing social troubles. They are suitable for every period, creating a motive for effective exploitation of land and other natural resources to serve socio-economic development. Owing to the proper guidelines of the Party and the timely revisions of the State policies and laws on land, remarkable achievements have been gained in the agricultural sector for the past 30 years. The annual revenue from housing and land use usually makes up more or less 10% of the total revenue of the State budget. The land use rights have been a commodity, of which the value is getting greater and greater for organisations and individuals.

However, the practical scale of land mobilisation still remains lower than the land potential in Vietnam. This can be seen in the following facts: Land is used wastefully in industrial zones and urban areas (due to the excessive development of urban projects and the land allocation by the State to incompetent investors). Agricultural

land is divided excessively into small parcels, making it difficult for enterprises to invest in agriculture. The certificates of land use rights have not been fully granted to organisations and individuals. The land desertification in southern provinces of Central Vietnam and the saline intrusion in Mekong Delta have been growingly severe... In reality, there is a paradox that farmers in some provinces in the Red River Delta let fields lie fallow, as farming is considered ineffective, while many enterprises are complaining that they cannot get enough land for their business activities. The tax on non-agricultural land is still low. The tax on the added value of the land, which is not created by land users, has not been levied in practice. The abuse of the State policies for mercenary activities with respect to land acquisition, land allocation, and enterprise equitisation has not been tackled effectively. The overexploitation of natural resources still takes place... Those shortcomings mainly result from the inadequacy of the current land management and use, in addition to climate change, which has been taking place too rapidly beyond our expectation.

### **3. Recommendations for improvement of the Party's guidelines and the State policies and laws for the purpose of promoting land resources for economic development in the future**

To promote further land resources for sustainable economic development, several recommendations can be made for improvement of the Party's guidelines and the State policies and laws as follows:

*Firstly*, it is necessary to encourage farmers to gather and merge land parcels appropriately to the direction of agricultural development towards specialised cultivation and application of modern technologies, aiming at increasing productivity in a certain area of land, using water economically, and getting environmentally friendly farming. Until now, the cultivation model of a farm in combination with collective services, organised by farms in the form of cooperatives, is by far more effective, in terms of both food security and efficiency of labour and land use. The cultivation on the scale of a household farm is suitable for the agricultural production that does not require working by office hours, while seedlings can develop more naturally. It is possible to increase the quotas on land allocation and agricultural land transfer so that farms can reach an effective scale for production. Enterprises should be provided with support in order to have land leasing contracts with farmers. The combination of farms into service cooperatives is the best model for dealing with socio-economic and technical issues in agriculture in Vietnam at present. The State may provide support by building irrigation channels, transport infrastructure, and energy-generating works so as to encourage the farms to use agricultural machines and modern farming techniques. The difficulty faced by Vietnam in agriculture at present is not how to gather land and establish specialised farming areas, but how to develop output markets and in-depth processing industries, which will improve the seasonality of agricultural products and extend the value chains in the country. It is also necessary to have more trade agreements signed by the State,

making it more favourable for the export of processed agricultural products. Farmers should get more habituated to the international standards of product quality process assessment and safe and green production. Overseas consumption markets of Vietnamese agricultural products should be set up and expanded step by step.

*Secondly*, it is essential to improve the planning quality and long-term efficiency with respect to land use, allocating land reasonably to the sectors that have competitive advantage. The conversion of land use purpose should comply with the planning as well as the national, regional, and local interests. The government should assign specific agencies to supervise the regional planning and impose penalties on local authorities who violate the regional planning. The infrastructure planning should be done appropriately to the land use planning.

*Thirdly*, it is necessary to strengthen the regulating role of the real estate market in allocating land to effective users and sectors. To do so, the State institutions should lessen their interventions in the prices of land use rights. The State's prices should be used within the framework of land-related taxes and fees. The prices of land allocation and land acquisition should be determined on the basis of the market principles; i.e. agreements should be made via real estate trading floors with independent land pricing service. It is necessary to minimise the acquisition of land use rights and lengthen the duration of agricultural land allocation so that it can be the same as the duration of non-agricultural land allocation, aimed to ensure the equality among land users and maintain long-term investments.

*Fourthly*, it is essential to strengthen land-related public services, including also the services of charge collection, making the system of land use titles in agricultural production more reliable under the State protection and societal recognition of the land use rights as property. All information about land planning and land use schemes should be announced publicly, while setting up a system of information on the prices of land use rights by areas and types of land. The indices of the prices of land use rights should be provided, enabling investors to make proper decisions on land use. It is important to minimise legal risks in performing the rights of the property owners in the transactions of land use rights in the market.

*Fifthly*, it is necessary to renovate the system of land and housing taxation towards taxation on properties rather than on income, which will help increase reasonably the State revenue from those who have great property of land and reduce the wasteful use of land resulting from the land speculation. Higher taxes should be imposed on the use of natural resources so as to encourage the effective use of the resources, increase the revenue of the State budget, and prevent the overexploitation of non-renewable resources.

*Finally*, it is necessary to evaluate fully the land use rights of the State-owned enterprises before they are equitised, so that the value of land and other natural resources will not be taken by a group of shareholders after the enterprise equitisation. At the same time, it is essential to add the expenses of the natural resource and land use rights into the production cost of the products sold in the market. Natural resources and land must be

used economically, while the efficiency of the natural resource and land use as well as the labour productivity are enhanced.

#### 4. Conclusion

The actual development of the land-related issues and the achievements in resource promotion over the past 30 years of the renovation process demonstrate that the viewpoint to establish the entire people's ownership of land and the flexible sharing of rights between the State and land users is appropriate to the context in Vietnam. However, the institutionalisation of the entire people's ownership on the basis of laws and policies should be reviewed, assessed, and amended frequently and properly. Looking at the four revisions of the law on land, we can see that the State has been well performing the work. In reality, there are still shortcomings persisting for years in the State management with respect to land. Thus, it is necessary to enhance the State management, in addition to the improvement of the policies and legal regulations on land.

#### Note

<sup>1,2</sup> The paper was published in Vietnamese in: *Nghiên cứu kinh tế*, số 3, 2018. Translated by Nguyen Tuan Sinh, edited by Etienne Mahler.

#### References

- [1] Ban Bí thư Trung ương Đảng (1980), *Chỉ thị số 100 về "Cải tiến công tác khoán, mở rộng*

- khoán sản phẩm đến nhóm và người lao động trong hợp tác xã nông nghiệp”, Hà Nội. [Secretariat of Party’s Central Committee (1980), Instruction No.100 on “Renovation in Making Use of Agreement on Amount of Output to Be Delivered from Assigned Land and Expansion of the Use to Groups of Members and Individuals in Agricultural Cooperatives”, Hanoi].*
- [2] Ban Chấp hành Trung ương (2003), *Nghị quyết số 26-NQ/TW về tiếp tục đổi mới chính sách, pháp luật về đất đai trong thời kỳ đẩy mạnh công nghiệp hóa, hiện đại hóa đất nước*, ngày 12 tháng 3 năm 2003, Hà Nội. [Party’s Central Committee (2003), *Resolution No.26-NQ/TW on Continuing Reforming Policies and Legal Regulations on Land in Period for Accelerating Country Industrialisation and Modernisation*, 12 March 2003, Hanoi].
- [3] Ban Chấp hành Trung ương (2012), *Nghị quyết số 19-NQ/TW về tiếp tục đổi mới chính sách, pháp luật về đất đai trong thời kỳ đẩy mạnh toàn diện công cuộc đổi mới, tạo nền tảng để đến năm 2020 nước ta cơ bản trở thành nước công nghiệp theo hướng hiện đại*, ngày 31 tháng 10 năm 2012, Hà Nội. [Party’s Central Committee (2012), *Resolution No.19-NQ/TW on Continuing Reforming Policies and Legal Regulations on Land in Period for Comprehensively Accelerating Renovation, Creating a Foundation for Making Our Country Basically Become an Industrial Country towards Modernity*, 31 October 2012, Hanoi].
- [4] Bộ Chính trị (1988), *Nghị quyết số 10-NQ/TW về đổi mới quản lý nông nghiệp*, ngày 5 tháng 4 năm 1988, Hà Nội. [Politburo (1988), *Resolution No.10-NQ/TW on Renovation in Agricultural Management*, 5 April 1988, Hanoi].
- [5] Đảng Cộng sản Việt Nam, *Văn kiện Đại hội đại biểu toàn quốc lần thứ IV, VI, VII*, Hà Nội. [Communist Party of Vietnam, *Documents of 4<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> National Congresses*, Hanoi].
- [6] *Hiến pháp 1980, 1992*, Hà Nội. [Constitutions of 1980 and 1992, Hanoi].
- [7] *Luật Đất đai năm 1987, 1993, 2003, 2013*, Hà Nội. [Land Laws of 1987, 1993, 2003, and 2013, Hanoi].
- [8] *Việt Nam có 344 Khu công nghiệp, Khu kinh tế*, <http://vinanet.vn/kinh-te/viet-nam-co-344-khu-cong-nghiep-khu-kinh-te-677641.html>, truy cập ngày 11 tháng 5 năm 2019. [Vietnam Has 344 Industrial Parks and Economic Zones, <http://vinanet.vn/kinh-te/viet-nam-co-344-khu-cong-nghiep-khu-kinh-te-677641.html>, retrieved on 11 May 2019].