

# EXECUTIVE SUMMARY

## Background to the Assessment

The 2013 G8 Summit focussed attention on land governance<sup>1</sup>:

“Weak land governance and property rights systems can lead to opaque land deals, which facilitate corruption and undercut responsible actors seeking access to land for productive investment. Weak governance in many developing countries allows unproductive land speculation and undermines agricultural productivity. Increasing security of land rights and transparency of land governance fosters participation of citizens, contributes to government accountability, reduces costs for businesses, and strengthens the climate for responsible investment. We welcome global activities to improve land tenure governance, including through access to information and participation of citizens in decision making. We acknowledge the importance of multilateral efforts to promote greater land transparency, in particular, the role of the Food and Agriculture Organization (FAO) in providing global policy guidance for good land governance and transparency.”

Up to now, it is widely accepted in the world as well as in Vietnam that good land governance, reflecting by high level of effectiveness, transparency, participation, and accountability, as defined under the UN Voluntary Guidelines on Governance of Tenure (VGGT)<sup>2</sup>, is a prominent precondition for inclusive and sustainable development. However, diagnosing land governance and, based on this, improving it over time are always challenging, partly due to its complexity and multidimensionality, and partly because most elements of governance are hard to measure.

The Land Governance Assessment Framework (LGAF) was designed to address these challenges by the World Bank, based on a comprehensive review of available conceptual and empirical materials regarding experience in land governance. The objective of LGAF is was developed as a diagnostic tool for a systematic evaluating and benchmarking legal framework, policies and practices regarding land and land use. The suitability of the tool has been well tested for various socio-economic contexts globally. In total, LGAF assessments have been completed in 35 countries during ten past couple of years. LGAF is fully consistent with the principles of the VGGT. Unlike the VGGT, the LGAF is a far more comprehensive and in-depth coverage of land governance and also provides a diagnostic methodology and framework to assess land governance on a national or sub-national basis and to provide cross-country comparisons either regionally or globally.

This document represents the country report for Vietnam’s national LGAF Study. This important exercise was undertaken by team of national experts, with support from the World Bank, and in collaboration with the Ministry of Natural Resources and Environment (MoNRE) in 2013. The Study’s objective was to provide the means for better understanding the strengths and weaknesses of the Vietnamese land sector; establish a consensus on the status of land governance in the country and identify priority actions for regulatory and institutional changes and the piloting of new approaches to improve land governance on a broader scale. It also aimed to specify opportunities for South-South learning to take advantage of experiences from other

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<sup>1</sup> Communiqué G8 Summit, 2013.

<sup>2</sup> United Nations’ Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT)

countries in dealing with land sector issues; and put in place a benchmark and process to systematically track progress in improving land governance over time.

The Study's Report describes the process for LGAF implementation and the country context. The assessment of land governance is also presented, as well as the policy analysis, conclusions and recommendations. The report is intended to serve as a reference guide for policy makers and land practitioners in the government and non-government organizations such as private sector, academe and other groups to help shape the direction, focus and support for the land sector, and how progress in improving governance can be effectively monitored.

The LGAF Study was undertaken in accordance to the methodology and the LGAF Implementation Manual developed by the World Bank with necessary adjustments to fit the specific context of Vietnam. The Study takes an opportunity to compare Vietnam's standing with 14 other countries where the LGAF has been conducted<sup>3</sup>. The Report and its assessment have also been updated to reflect the stipulations in the 2013 Land Law. In particular, the Study's scope has extended to cover all seven thematic LGAF modules:

1. Legal and Institutional Framework
2. Land Use Planning, Management and Taxation
3. Management of Public Land
4. Public Provision of Land Information
5. Dispute Resolution and Conflict Management.
6. Large scale acquisition
7. Forest land.

Each module is comprised of several specific dimensions defining the areas for investigation. Each of the dimensions in turn has a set of indicators for quantitative measurement or qualitative assessment, based on evidence through available data and information. Through the assessment of these indicators, the LGAF highlights those areas for legal, policy or procedural reform where it is assessed as necessary to improve governance in land administration over time and as a basis for global and intra-regional comparisons. Accordingly, it is the evidenced-based requirements of LGAF that provide its veracity.

The Study used a participatory and locally driven assessment process. The whole process was led by a two-member Country Coordination Team comprising Dr. Nguyen Van Thang - primarily in charge of coordination and planning issues; and Dr. Dang Hung Vo - primarily in charge of technical aspect of the project. Five National Experts prepared background analyses and initial assessments, using already existing studies, information and data. Nine panels of 31 experts from various relevant backgrounds (including government, education and research, mass-organizations, professional associations and NGOs, and private sector) were organized to discuss and assess the initial analyses. The results were validated at a technical workshop. Key conclusions and recommendations were then presented to policy makers at a Policy Dialogue session.

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<sup>3</sup> Although LGAF has been completed in 35 countries, the full assessment details of only 14 countries were made available from the World Bank's global coordination team.

## **Vietnam's Land Resource Challenges**

Vietnam's land endowment is one of the world's lowest on a per capita basis. With 33.1 million hectares of natural land including 26.2 million hectares of agricultural land (of which there are 13.2 million hectares of protection and special-use forest land), Vietnam ranks 156<sup>th</sup> in the world and 9<sup>th</sup> among the ten ASEAN<sup>4</sup> countries in terms of their acreage per capita. However, land still plays a critical role in the country's socio-economic development. For example, land resources are vital for the development of agriculture, which remains a main source of livelihood for 70 percent of the total population and 60 percent of the labor force, despite the share of agriculture in the country's GDP has been reduced to 20 percent. High land fertility combined with favorable climatic conditions and labor abundance has allowed Vietnam to achieve national food security and compete successfully in a number of important agricultural commodities since the recent gradual market-oriented reform process took off in early 1990s.

However, the rapid growth that the country experienced in the past was based on an extensive use of natural resources, including land. There is little "unused" land remaining. In just a decade (2000-2010), its total amount reduced by 5.6 million hectares (i.e. two thirds) with 4.7 million hectares for agriculture and 0.9 million hectares for non-agricultural purposes. On the other hand, there are increasingly competing demands for land resources, especially due to rapidly growing urbanization. To support future growth, the single long-term strategic challenge facing land administration in Vietnam is to ensure the country's increasingly scarce land resources are used more efficiently and sustainably and develop efficient land markets, while maintaining an equitable access to land, particularly by vulnerable groups such as ethnic minorities and women.

## **Vietnam's Land Policy and Legal Framework**

There has been a significant evolution in the land policy framework in Vietnam over the past 50 years. A comprehensive policy framework for land management in support of the country's transformation into a market-oriented economy with a socialist orientation has been setting up over the last two decades. Land Laws 1987 and 1993 paved the way for reallocating cooperative land to farmer households for their long-term use and recognized a range of their land use rights. The Land Law of 2003 supports the country's industrialization and the economic transformation into a market-oriented economy, covering comprehensively all legal, land use planning, land finance, and land administration aspects.

The promulgation of the new Land Law by the National Assembly in November 2013 represents an important milestone in the continuing evolution. The Land Law was prepared with the broad objective to promote more effective and sustainable use of the country's land resources and address burning issues of land governance. The latter concerns high corruption risks in the processes of land allocation and registration<sup>5</sup> and wide spread incidences of land disputes and grievance faced by the State. The new Land Law introduces a number of improvements such as enhanced agricultural land use rights by extending the duration of agricultural land tenure to 50 years and raising the ceiling for land accumulation to promote farmers' investment into their land, narrowing the scope of compulsory land acquisition by the Government for socio-economic

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<sup>4</sup> The Association of Southeast Asian Nations

<sup>5</sup> World Bank. Corruption Risks in the Land Sector of Vietnam. Hanoi. 2012.

development, and enabling more transparency, people's participation and accountability in land management and administration, from land use planning and land valuation to compensation and support and grievance redress. However, it also leaves a number of issues for further guidance by the government through its under-law implementation decrees and circulars. This report reflects the latest changes.

It is also noted the high degree of decentralization and fragmentation in institutional settings. Land policy formulation and implementation supervision are concentrated at the central level with involvement of a large number of Ministries (such as those of Natural Resources, Justice, Construction, Agriculture, Finance, and Planning) according to their general mandates. MoNRE is the government's designated ministry responsible for land. The land policy implementation responsibilities have been greatly delegated to the provincial and, to less extent, sub-provincial levels. A unified system of land registries and, since 2003, Land Registration Offices (LROs) has been developed to monitor land uses and provide land-related public services. It has been also widely recognized that the land management institutions lack necessary capacities to meet increasing demands from land users and to govern the sector effectively.

The following six sections summarize key findings of the assessment by theme.

### **Legal and Institutional Framework (including forest land)**

A important highlight is in Vietnam the ownership over land belongs to the whole nation. However, the State recognizes, enforces and protects land use rights of land users through granting them with Certificates of Land Use Right or, from 2009, joint Certificates of Land Use Right and ownership of houses and other properties attached to the land (LURCs). The land use rights have been gradually extended and now include buying, selling, converting, transferring, giving, inheriting, leasing, mortgaging, and using it as capital contribution with more leveraged playgrounds between domestic and foreign investors. Indeed, LURCs provide not only secured long-term land tenure to land users but also their access to credits and other financial resources. Reportedly, the statutory tenure regimes are secured for 85 percent of people with LURCs granted for 83 percent of agricultural land, 65 percent of urban and 60 of forest land (2013). The main challenge in years to come is to complete the first-time registration, as stipulated by the National Assembly in 2009. In view of wide spread incidences of informal land transactions, particularly in urban areas, and land users' inability to pay land use fees, the provision of various types of the LURCs which reflect different legal status or restrictions on rights could be a feasible option to be considered. However, the legislative framework is weak in urban areas, where there lack clear or feasible provisions to establish arrangements for the management and maintenance of common properties under condominium, resulting in low quality services and endless disputes. To address these issues, it is necessary to clarify common land and property rights under condominium.

Second, another important highpoint is the land policy and legal framework have incorporated a number of equity objectives to ensure equitable access to land by disadvantaged groups such as farmers, ethnic minorities and women. A quite equitable access to agricultural land is secured for farmers, who comprise 70 percent of population but 91 percent of the poor in Vietnam (2010). According to the General Statistics Office, 72 percent of the total land area, including almost all

the agricultural and residential lands, has been allocated to land users, largely smallholders (2009). A particular attention is also given to ethnic minorities who comprise just 15 percent of the total population but 47 percent of the total poor and 70 percent of the total extreme poor people. However, there are not many specific targets, systematic approach, and effective policies in support of this vulnerable group. In particular, rights of ethnic minority forest dependent communities on the forest land, which were put under the control of state forest enterprises in 1970s-1980s and have been used by them ineffectively, still have not been recognized, particularly for the economic purposes. On the other hand, land policies applied for ethnic minorities neglect their customary practices, which are based on community land management and use and have been proved as effective and sustainable in centuries. It is recommended to give the priority to the reallocation of land from the state own enterprises to local ethnic minority communities. In parallel, it is also recommended to study existing arrangements, their evolution over time and global practices, and use the evidences collected to adjust the legal and regulatory framework for recognition of communal rights on forest land and forest in the economic sphere (including REDD+<sup>6</sup> on forest land). Since 2003, gender equality in land access has been stipulated and protected. The focus is largely given to the issuance or renewal of LURCs with the name of women. To date, 39 percent of registered land parcels are with the name of women, either individually or jointly, particularly in urban and peri-urban areas. This is a slow but remarkable progress in comparison with other countries. In year to come, it is recommended to promote unified change of LURCs with husband's name alone to those with both spouses' names and monitor gender-disaggregated data and explore options for increasing effective female land rights.

Third, comprehensive institutional arrangements have been put on place from the central to commune level. In general, there are an adequate budget, resources and institutional capacity. However, the public funds allocation and management are not often based on appropriate cost-benefit analysis and close monitoring and evaluation. Further, in the situations that may entail conflicts of interest or abuse (e.g. decision making on land allocation and conversion), there is no clear separation in the roles of policy formulation, implementation, and supervision through land management and administration and arbitration of any disputes that may arise as a result of implementation of policy. Further, the consultation with stakeholders and, particularly affected communities are required by existing legislations. However, the feedbacks from the consultation are usually not sought or not used in making land-related decisions in an appropriate manner. In the short-terms, it is recommended to ensure law implementation decrees introduce effective guidelines and incentives to enforce the collection of the communities' opinions and reflect them in the decision making. In a medium term, it is also important to ensure the forthcoming revision of related laws, such as those on housing and on forest protection and development, is fully consistent with the Land Law.

In overall, Vietnam has developed a quite comprehensive land policy and legal framework that possesses imperative strengths, such as the recognition of land use rights and their enforcements in general, the provision of equitable access of smallholders to agricultural land, and an extensive, unified and decentralized system of land administration from the central to commune levels. However, the main challenge in forthcoming years is to bridge the existing large

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<sup>6</sup> REDD+ means Reducing Emissions from Deforestation and Forest Degradation "plus" conservation, the sustainable management of forests and enhancement of forest carbon stocks,

implementation gaps. To speed up implementation progress and improve implementation quality on the ground, further improvements should focus on the recognition of rights by communities, speeding up the issuance or reissuance of LURCs with women's names, addressing weaknesses in condominium laws concerning common assets management and maintenance, and enforcement of effective community's consultation on land-related matters. Establishment of a regular and meaningful monitoring and evaluation of land policy implementation will also contribute to that.

### **Land Use Planning, Management and Taxation**

The current land use planning is assessed as inefficient. For example, this study notes that only 50-70 percent of demand for urban residential plots is able to be met, although demand for land for apartment development is usually met. However, urban development plans are not based on a sound spatial analysis and spatial planning. And the actual urban development is not in line with the urban plan. This is because while a hierarchy of regional and detailed land use planning is specified by law, in practice there are often overlaps or conflicts between land use planning and urban development planning. Furthermore, urban spatial expansion usually occurs in an ad hoc manner, not in line with the plans, or infrastructure is often provided after urbanization.

The process of land use plan preparation has been significantly changed with the introduction of the public consultation in all the steps, from general planning, and planning by areas to infrastructure and detailed planning. However, the consultation has been conducted for the plan formulation but not plan amendments and not been enforced in the rural areas due to the lack of clear implementation guidelines and necessary resources. Even more important, the community consultation process remains formalistic. There are lacks of feedback on the public comments and recommendations contributed which are often ignored in the finalization of the land use plans. Third, the plans are not publicly available despite it is required by the law. In its turn, the lack of plans to guide land development causes informal development, over-acquisition of land and land fragmentation. Finally, combined with the lack of government detailed instructions and plans and their inconsistent implementation, this leads to the domination of urban development by private interests, resulting in high levels of informality and high cost of service provision.

It is recommended to give a priority to the clarification of the relationship among plans, implementation responsibilities, and information sharing between different levels of administration. Second, it is also important to improve the current land use planning methodology based on evidenced cost-benefit analyses and zoning principles. In particular, strategic land use planning shall be informed by economic value, land requirements, social issues, and environmental planning with inputs and data sharing across all the sectors concerned. Local level land zoning shall be systematically built on the local inputs, which identify and quantify technical requirements needed to put on the ground, and in the way that balances and provides feedback between strategic planning objectives and local plans. Third, it is critical to ensure all land use plans are publicly available for all the interested stakeholders in line with good governance and establish protocols for sharing land ownership and planning information across ministries. Finally, it is necessary to explore options to make land conversion contingent on an approved plan and feed this into drafting of the national planning law.

The land taxation system is assessed as ineffective and inequitable. There are limited exemptions to the payment of land/property taxes (e.g. the exemption of the agriculture land tax), and the exemptions that exist are clearly based on equity or efficiency grounds and applied in a transparent and consistent manner. The assessment of land/property for tax purposes is based on market prices, but there are significant differences between recorded values and market prices across and defining the latter is often constrained as property markets are distorted and lack transparency. Land taxes is quite low to ensure increments in land values are captured by the public, needed infrastructure and services can be provided, and efficient land use is incentivized. The fear of taxation leads to consistent under-valuation of land, making it impossible to do economic planning.

It is recommended to: (i) collect taxes in line with principles of efficiency, effectiveness, and social equity; (ii) require registration of transaction value and regularly publish schedule of land prices; (iii) base land tax on assessed values rather than market value; and (iv) strengthen valuation standards, profession, and practice.

### **Management of Public Land (Including Land Acquisition)**

Surprisingly, there is no official definition of public land. In the context of the whole nation's national ownership over land in Vietnam, this Study defines public land to include: (i) land allocated by the State for the use by public organizations, armed and security forces, social organizations without payment or with payment from the State budget; (ii) land used for public purposes and managed by local authorities in compliance with their mandates; and (iii) unused land under the management and protection by Commune People's Committees. The public land can be leased by the State to commercial organization or individuals for their use for commercial purpose in a limited time for payment. Nowadays, land acquisition by the State - the only source of new public land – shall be conducted in accordance with the uniform process and procedure including the provision of compensation and support to former land user(s) and other affected people.

The management of public land in Vietnam has been decentralized to local authorities. It is observed that responsibilities for management of public land are often placed at wrong level or with some ambiguity but the system makes effective use of limited available budget and/or human resource. However, the information about the public land inventory or public land allocations (the locality and area of the land allocated, the parties involved, and the financial terms of the land allocation) are only partially publicly although this is required to ensure the land is used in line with intended purpose and in an effective manner.

It is recommended in coming years to give priority to the improvement of land acquisition and public land allocation and sale/lease. In particular, this includes: (i) clarifying the criteria of land acquisition for socio-economic purpose and methodology and procedures for their evaluation; (ii) clearly regulating the process of land acquisition in line with good practice (e.g. notification, periods for objection, procedures for appeal); (iii) regularly publishing the schedule for compensation by PPCs based on a fair and reasonable value as it is difficult to define market prices due to market distortions; (iv) monitoring incidences of expropriation and compensation and support paid, in order to assess whether it is fair, reasonable, and allowing affected parties

to maintain their previous livelihood; and (v) making auction the default mode of allocating public land to private interests and publish fees paid and associating conditions .

## **Public Provision of Land Information**

Thanks to government intensive investment in cadastral surveys and mapping results, 70–90 percent of land parcels privately held and registered in the registry or cadastre are readily identifiable in associated maps. However, the public provision of land information is constrained by a number of constraints. Firstly, relevant private encumbrances are not recorded. This is because the land registration and thus the issuance off LURCs are still lagging behind. On the other hand, in recent years, many localities fail to update land registry and cadastre to reflect land use changes regularly. Thus, less than 50% of the ownership information in the registry/cadastre is up-to-date, limiting the usefulness of available land information. This affects quality of information. Second, the progress in integration of spatial and textual data and the establishment of land information database are also behind plans. Thus, land information is largely not spatially referenced yet, limiting their value. Third, the timeliness of response to a request for access to records in the registry generally takes more than one week after the request to produce a copy or extract of documents recording land use rights. Limited access to land information by non-government stakeholders (incl. banks) reduces value of registry for economic development. Finally, the investment in capital in the land information system and the total fees collected by the registry cover less than 50 percent of its total operating costs, threatening the final sustainability of the system in the short and medium terms.

The study notes that the 2013 G8 Summit endorsed an Open Data Charter<sup>7</sup> as fundamental to improving land governance through the public provision of land information:

“Open government data are an essential resource of the information age. Moving data into the public sphere can improve the lives of citizens, and increasing access to these data can drive innovation, economic growth and the creation of good jobs. Making government data publicly available by default and reusable free of charge in machine-readable, readily-accessible, open formats, and describing these data clearly so that the public can readily understand their contents and meanings, generates new fuel for innovation by private sector innovators, entrepreneurs, and non-governmental organizations. Open data also increase awareness about how countries’ natural resources are used, how extractives revenues are spent, and how land is transacted and managed.”

To enhance the public provision of land information, the report recommends to: (i) to devise strategies to ensure full coverage with spatially referenced LURCs and, building on existing experience (VLAP), revising fee structures in light of people’s ability to pay, explore waiver of first time registration fee, support public awareness, administratively resolve disputes during first registration as needed; (ii) ensure that prices and all covenants and restrictions are registered, and that information can be accessed by non-government stakeholders; (iii) complete a national land information system that is synchronized across land institutions and can be easily assessed by interested parties in government and the private sector; (iv) complete geo-referenced parcel mapping – also to be used for land use monitoring; and (v) pilot and subsequently roll out a system for regular outcome-oriented monitoring and evaluation of land governance.

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<sup>7</sup> Communiqué G8 Summit, 2013.

## **Dispute Resolution and Conflict Management.**

The Land Laws 2003 and 2013, stipulate that all and disputes and complaints have to be resolved through the general dispute resolution system defined under the Law on Complaints and that there is no separate system for land dispute or complaint resolution. As policy formulation, implementation, and conflict resolution functions are often not separate, the dispute or complaint resolution body enjoys limited independence. Land-related disputes are widespread, comprising about 70-80 percent the total number of complaints the State receives every year, not mentioning the informal community-based mediation. However, there is no systematic monitoring or feedback to policy.

Land disputes usually take a long to resolve and these can jeopardize effective land use. Indeed, an administrative dispute takes on average 40-75 days to be resolved. In 70-90 percent of civil cases, a decision on a land-related conflict is reached in the first instance by the court within 1 year. The share of long-standing land conflicts is between 10-20 percent of the total pending land dispute court cases. A process exists to appeal rulings on land cases but costs are high and the process takes a long time.

In the coming years, it is recommended to: (i) systematically monitor incidence of disputes, complaints, and grievances; (ii) establish grievance redress mechanisms and service standards for first instance administrative disposal of specific disputes, complaints, grievances, and appeals and & monitor adherence, while also improving court capacity; and (iii) review institutional structure to assess the extent to which there are undue conflicts of interest.

## **Large scale acquisition**

Large-scale acquisition of land rights requires specific governance as it produces huge impacts not only on economy and society but also on life and living environment of specific communities. In Vietnam, large scale acquisition of land occurs under hydropower, mine exploitation or urban development projects.

Three main issues that need special attention are:

1. It is relatively frequent that conflicts related to land use rights are directly or indirectly related to land acquisition and the inability to address these conflicts expeditiously and in a transparent manner results in long pending disputes.
2. Vietnamese law has no regulation on benefit sharing mechanism, similarly for risk sharing despite there exist mechanisms (e.g. payment for environment services) to allow the public to obtain benefits from the investment other than compensation (such as schools, roads, etc.)
3. Arrangements regarding sharing of benefits or risk (but not both) are often not specified in contracts even when this is understood and agreed to by all parties.

To address these issues, it is recommended to: (i) piloting urban land readjustment and pooling; document and disseminate results with the goal of making it a standard practice for urban expansion; and (ii) in parallel, also explore models for benefit & risk sharing among parties acquiring land and land holders in rural areas.

## **General Assessment and Comparative Strengths and Weaknesses of Vietnam's Land Governance**

In overall, with the promulgation of the 2013 Land Law and with few exceptions (e.g. recognition of communal land rights and customary land practice and compulsory land acquisition for economic purposes), Vietnam performs well in establishing a comprehensive policy and legal regulatory tools for inclusive and sustainable land management in international comparison. According to the expert assessment and an international comparison, Vietnam was among the top three countries to rank highest in six indicators concerned with land policies and regulations, as follows:

- Enforcement of land use rights (including secondary rights as well as rights held by the minority communities and women) – Core Indicator # LGI-2.
- Mechanisms for recognition of rights established with formal definition, assignments of rights and process of recording of right with actual practices - LGI-3.
- Restrictions on land rights: unconditional on adherence to unrealistic standards - LGI-4.
- Equity and non-discrimination in the decision-making process - LGI-6:
- Speed and predictability of enforcement of restricted land uses - LGI-9:

In particular, Vietnam performs relatively well in providing access to land by smallholders and recognition their land use rights and ensuring equity and non-discrimination in the land-related decision making. These have been proved as an most important factor contributing to Vietnam's rapid and sustained growth and poverty reduction in the last two decades.

On the other hand, Vietnam's weakest rankings were in the areas concerned with the accountability (for resources and tasks) of the concerned land sector agencies, as follows:

- Completeness of land registry information - LGI-16.
- Reliability: Information on registration are updated and sufficient - LGI-17.
- Cost-effectiveness and sustainability: Land services provision is cost-effective - LGI-18.
- Responsibility for conflict management assigned clearly - LGI-20.

These indicators are concerned with land registration office responsibilities for providing public access to information and also related to cost-effectiveness of service provision. In addition the assignment of responsibility for conflict management ranks weaker. In this respect, the Study confirms strong needs for institutional reform and capacity development in the sector to address wide gaps between the existing policy and legal framework and their implementation on the ground in order to improve land governance in Vietnam in the long run.

Finally, the global comparison shows where Vietnam is ranked as average and these areas include:

- Recognition of a continuum of land use rights - LGI-1.
- Clarity of institutional functions and activities - LGI-5.
- Transparency of land use restrictions - LGI-7.
- Transparency of valuations - LGI-10.
- Identification of public land and clear management - LGI-12.
- Transparency and fairness of expropriation procedures - LGI-14.

- Transparent process and economic benefit - LGI-15.
- Low level of pending conflict - LGI-21.

Thus the areas where Vietnam is considered average are those concerned with transparency. Some 15 countries in the global comparison, including Vietnam, rank as average regarding transparency.

However, at the same time, the Study find this is insufficient and good land governance is still constrained because the implementation on ground often lags behind and is uneven. The study proposes a set of comprehensive measures to address pending issues in the policy and legal framework and, even more critical, to improve the quality of implementation. And, ways to monitor the progress in land governance at different levels and will be of importance.

### Land Governance Policy Priorities for Vietnam

The LGAF identified six priority areas for land governance with recommended actions, which are summarized below:

Issue	Recommendations	Time Frame and Recommended Complementing Actions
<p><b>1. Recognition of land rights</b></p> <ul style="list-style-type: none"> <li>• Guarantee rights of indigenous communities (link to REDD+)</li> <li>• Recognition of condominium use</li> <li>• Women’s land rights (LURC)</li> </ul>	<ul style="list-style-type: none"> <li>• Study existing arrangements &amp; global practice and use evidence to adjust legal &amp; regulatory framework for recognition of communal rights on forest in the economic sphere (incl. REDD+ on forest land) and evolution over time.</li> <li>• Study &amp; pass condominium legislation.</li> <li>• Monitor gender-disaggregated data and explore options for increasing effective female land rights.</li> </ul>	<ul style="list-style-type: none"> <li>• Medium term plus modification of Law on Forestry Protection and Development</li> <li>• Short term plus modification of Housing Law</li> <li>• Medium term</li> </ul>
<p><b>2. Land use and strategic planning</b></p> <ul style="list-style-type: none"> <li>• Planning regulations &amp; land use restrictions are fragmented, based on narrow &amp; uncoordinated sector-based interests, lack public input, and not publicly available.</li> <li>• Lack of plans to guide land development causes informal development, over-acquisition of land &amp; fragmentation.</li> <li>• Domination of urban development by private interests leads to high levels of informality &amp; high cost of service provision.</li> </ul>	<ul style="list-style-type: none"> <li>• Clarify relationship among plans, implementation responsibilities, and information sharing between different levels of administration.</li> <li>• Improve existing methodologies for strategic land use planning in ways that ensure input &amp; data sharing across sectors in ways that are informed by economic value, land requirements, social issues, and environmental planning.</li> <li>• Revise procedures for local level zoning in a way that systematically builds on local input, which identifies and quantifies the technical requirements needed to implement these, and in a way that balances and provides feedback between strategic planning objectives and local plans.</li> <li>• Make all land use plans publicly available in line with good governance and establish protocols for sharing land ownership &amp; planning information across ministries.</li> <li>• Explore options to make land conversion contingent on having an approved plan, and feed this into drafting of the national planning law.</li> </ul>	<ul style="list-style-type: none"> <li>• Short term</li> <li>• Medium term plus enacting law on projection and planning</li> <li>• Short term</li> <li>• Short term</li> <li>• Short term</li> </ul>

<p><b>3. Land valuation and taxation</b></p> <ul style="list-style-type: none"> <li>• Taxes too low to ensure increments in land values are captured by the public, needed infrastructure and services can be provided, and efficient land use is incentivized.</li> <li>• Fear of taxation lead to consistent under-valuation of land, making it impossible to do economic planning.</li> </ul>	<ul style="list-style-type: none"> <li>• Collect taxes in line with principles of efficiency, effectiveness, and social equity.</li> <li>• Require registration of transaction value and regularly publish schedule of land prices.</li> <li>• Base land tax on assessed values rather than market value</li> <li>• Strengthen valuation standards, profession, and practice.</li> </ul>	<ul style="list-style-type: none"> <li>• Medium term (through the implementation of the Party's Resolution No. 19)</li> <li>• Short term</li> <li>• Long term (through the implementation of tax reform program)</li> <li>• Medium term</li> </ul>
<p><b>4. Public land management &amp; acquisition</b></p> <ul style="list-style-type: none"> <li>• Criteria for public land designation are not available.</li> <li>• Land conversion equated with expropriation. Identification often ad hoc, creating conflicts of interest and an incentive to over-acquire &amp; convert land that is then transferred to private parties.</li> <li>• Resettlement is not given proper attention, raising social issues.</li> <li>• Most privatization is not through auctions, resulting in loss of revenue for local governments.</li> </ul>	<ul style="list-style-type: none"> <li>• Regularly publish the schedule for compensation by PPCs based on market value.</li> <li>• Clearly regulate the process of land acquisition in line with good practice (e.g. notification, periods for objection, and procedures for appeal).</li> <li>• Monitor incidences of expropriation and compensation and support paid, in order to assess whether it is fair, reasonable, and allowing affected parties to maintain their previous livelihood.</li> <li>• Clarify the criteria of land acquisition for economic purpose.</li> <li>• Pilot urban land readjustment and pooling; document and disseminate results with the goal of making it the standard practice for urban expansion. In parallel, explore models for benefit &amp; risk sharing among parties acquiring land and land holders in rural areas.</li> <li>• Make auction the default mode of allocating public land to private interests and publish fees paid.</li> </ul>	<ul style="list-style-type: none"> <li>• Medium term</li> <li>• Short term</li> <li>• Medium term</li> <li>• Short term</li> <li>• Medium term</li> <li>• Medium term</li> </ul>
<p><b>5. Provision of land information</b></p> <ul style="list-style-type: none"> <li>• Land information is not spatially referenced; coverage with land use certificates &amp; maintenance incomplete.</li> <li>• Failure to record relevant encumbrances undermines usefulness of the land registry.</li> <li>• Limited access to land information by non-government stakeholders (incl. banks) reduces value of registry for economic development.</li> </ul>	<ul style="list-style-type: none"> <li>• Devise strategies to ensure full coverage with spatially referenced LURCs and, building on existing experience (VLAP), revising fee structures in light of people's ability to pay, explore waiver of first time registration fee, support public awareness, administratively resolve disputes during first registration as needed.</li> <li>• Ensure that prices and all covenants and restrictions are registered, and that information can be accessed by non-government stakeholders.</li> <li>• Complete a national land information system that is synchronized across land institutions and can be easily assessed by interested parties in government and the private sector.</li> <li>• Complete geo-referenced parcel mapping – also to be used for land use monitoring</li> <li>• Pilot and subsequently roll out a system for regular outcome-oriented monitoring &amp; evaluation of land governance.</li> </ul>	<ul style="list-style-type: none"> <li>• Medium term</li> <li>• Medium term</li> <li>• Long term</li> <li>• Long-term</li> <li>• Medium term</li> </ul>
<p><b>6. Resolution of disputes &amp; administrative complaints</b></p>	<ul style="list-style-type: none"> <li>• Systematically monitor incidence of disputes, complaints,</li> </ul>	<ul style="list-style-type: none"> <li>• Medium term</li> </ul>

<ul style="list-style-type: none"> <li>• Although land disputes are widespread, there is no systematic monitoring or feedback to policy.</li> <li>• Land disputes often take long to resolve, jeopardizing effective land use.</li> <li>• Policy formulation, implementation, and conflict resolution often not separate.</li> </ul>	<p>and grievances.</p> <ul style="list-style-type: none"> <li>• Establish grievance redress mechanisms and service standards for first instance administrative disposal of specific disputes, complaints, grievances, and appeals and &amp; monitor adherence, while also improving court capacity.</li> <li>• Review institutional structure to assess the extent to which there are undue conflicts of interest.</li> </ul>	<ul style="list-style-type: none"> <li>• Medium term</li> <li>• Medium term</li> </ul>
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Given the complexity of land issues, it is also recommended to strengthen cross-sector land policy coordination through the establishment of the National Land Policy and Plan Coordination Board, in addition to the enhancement of the land information sharing between policy making bodies and between government agencies and the public.

### Conclusions for LGAF Methodology and Further Follow-up

1. **Suitability of the LGAF Methodology.** The Study confirms the needs for regular land governance monitoring. LGAF’s methodology is considered to be highly suitable for the diagnostic assessment of land governance of Vietnam. However, for the specific country context, it is recommended that it is necessary to adapt some indicators and dimensions to the context of land administration and land use in Viet Nam as aforementioned. In terms of data, some certain types of information was not available for the first-time implementation but can be prepared for in the next implementation. Future implementation of LGAF is expected to create the cohesion with sub-national level, civil society organizations, news agencies and the community. LGAF’s documents should be well-prepared in Vietnamese version to make it sound, easy to understand and easy to spread.
2. **Undertaking a synthesis of main substantive findings and suggested reform actions in the short, medium, and longer term.** In the Land Law 2013, there is a provision on developing a monitoring and evaluation (M&E) system on land law enforcement. The completion of the LGAF should be seen as providing a national baseline for monitoring and assessment of progress in land governance in Vietnam. It is recommended that the national LGAF be repeated periodically, possibly every two years, depending on available resources. Furthermore, it is recommended that LGAF be undertaken sub-nationally, commencing with VLAP provinces, then to other provinces and major cities such as Hanoi and HoChiMinh. LGAF’s evaluation indicators should be considered as official assessment or baseline on land governance and also serve as the foundation to submit the proposed revision, supplementation of land law system to the State. The system will be developed as a part of the land information system. Indicators and dimensions in LGAF can be adapted into evaluation indicators of this M&E system. Besides, M&E systems will include an information network that receives monitoring feedback from general people. The design of the system should take into thorough consideration mobile technological solutions so as to receive multimedia data sent by the people from their mobile phones. This means of communication is supposed to be highly effective

3. **A discussion of the scope for further work to improve land governance in the country.**  
The Study also raises a number of priority issues and recommended actions to further improve land governance in Vietnam. A continuing dialogue is recommended to further elaborate, prioritize them and build a broad consensus among interested stakeholders. Both MONRE – the government’s focal point for the sector – and the Bank are recommended to place and proactive role in this process.