



Research Article

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The Amendment of Land Law

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**Abstract:** Our paper purpose is presenting **THE AMENDMENT OF LAND LAW in case of Vietnam.**

**Methodology:** using combination of historical method and qualitative methods including synthesis, inductive and explanatory methods.

**Findings:** we would suggest improving the mechanism for determining land prices according to market principles, and the inspection and supervision mechanisms of the Central Government and the People's Council in the development of land price lists.

Last but not least, The necessary conditions for the all-people ownership of land include development of a transparent land state management system, reform of administrative procedures, and provision of sufficient information on land use rights to increase confidence of land users in investment and use of governmental mechanisms to protect their legitimate rights and interests.

**Keywords:** Revision, Vietnam and Law, Amendment.

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INTRODUCTION

First, The draft Land Law (amended) institutionalized the orientations in the Document of the 13th Party Congress, the resolutions and conclusions of the Party and the National Assembly. In particular, it has institutionalized 3 general goals, 6 specific goals, 6 groups of solutions and 8 major policy groups in Resolution No. 18-NQ/TW of the Central Executive Committee and resolved the issues set by the Central Committee. Out of practice, in line with development trends, the Draft Land Law (amended) has many new contents.

Second, We summarize previous studies as follows:

Then, VCCI said such a regulation would be at odds with the Law on Real Estate Business because the law allows foreign individuals to purchase houses in Việt Nam and the sale of a house normally comes with a piece of land.

In the same way, the regulation is legally inconsistent with the Law on Housing since the law grants homeownership to foreign individuals who have

received as a gift, purchased or inherited the commercial houses.

VCCI also said the regulation, if passed, would lead to an inconvenient situation in which Vietnamese homebuyers would not be able to receive land use right transfers associated with houses once they purchase the houses from foreign individuals.

Another inconsistency involves the draft regulation is that land users can transfer, lease out, offer as a gift, mortgage and contribute as capital their land use rights, provided they have the land use right certificates. Meanwhile, the requirement of certificates is confined to investors of realty projects who do existing building trading under the laws.

The next legal disparity is that the draft stipulates investors may only sell or lease properties associated with land on the condition that the properties have been legally formed. Meanwhile, the Law on Real Estate Business allows the sale of off-plan buildings, as long as the buildings have land use rights, authority-approved construction dossiers and certificates. (source: vietnamlawmagazine.vn)

Table 1. Summary of previous studies

Authors	Year	Contents, Results
Hansen	2013	As Vietnam continues to search for its ideal balance between Communist control and a market-led economy, land rights emerge at the forefront of the discussion concerning the tension between traditional Socialist ideals of people-owned and state managed property versus neoliberal ideals of

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		private property rights. The purpose of this study is twofold. First, this study will explore the legal relationship between the Vietnamese state and individuals in regards to land ownership, land management, and land use rights, explaining how this relationship has changed over time with subsequent land laws. Going further, this study will focus on the 2013 land law reform and explain the major differences, if any, from past land laws and how these differences will affect the state’s right to appropriate land—often called “land grabbing”—for both public and private development. Second, through interviews, this study will also explore the roles of two international organizations, The World Bank and Action Aid Vietnam, within the current debate over land rights, exploring each organization’s relationship with the Vietnamese government and opinions regarding land grabbing and the 2013 land law
Nguyen Trong Diep; Dinh Tran Ngoc Huy; Nguyen Thu Thuy; Le Ngoc Nuong; LLM. Nguyen Tien Dat	2021	Shows the amendment of the Land Law 2013 is an urgent requirement to promptly institutionalize the guidelines, guidelines and policies on land of the Party and State, ensuring compliance with documents in the legal system. laws, especially provisions of the Civil Code and specialized legal documents; overcome the shortcomings and inadequacies posed in the process of implementing policies and laws on land
Nguyen Lan Huong	2022	Viet Nam’s land law has been significantly improved since its economic reform starting in 1986, and made a great contribution to the enhancement of the security of farmers’ land-use rights.

**Source:** Author Synthesis

## METHODOLOGY

### Method and Data

This study mainly use combination of historical method and qualitative methods including synthesis, inductive and explanatory methods.

## MAIN FINDINGS

The purpose of building the Law project is to perfect the land legal system in line with the socialist-oriented market economic institution in the context of international integration; resolving overlaps and problems arising from practice; strengthen land management in terms of area, quality, economic value... harmonize the rights and interests of the State, land users and investors. Promote commercialization of land use rights, develop a healthy real estate market. Promoting land resources, creating motivation for our country to become a high-income developed country. Establish a modern, transparent and effective land management system in association with promoting administrative reform and digital transformation; promote democracy, limit the status of complaints about land.

The Draft Law consists of 16 chapters, 245 articles, of which 28 articles remain unchanged; amend and supplement 184 articles; added 41 new articles and abolished 8 articles.

The Draft Land Law (amended) specifically stipulates the rights and responsibilities of the State; rights and obligations of citizens towards land; complete regulations on the rights of land users; supplement and complete regulations on principles to ensure specificity and regional linkage; synchronized and consistent with

plannings of sectors and fields with land use, construction planning, urban planning; ensure the balance between land use needs of sectors, fields and localities and suitability with land potential in order to use land economically and efficiently.

In addition, the draft Law also stipulates specific conditions, criteria and cases in which the State recovers land to implement socio-economic development projects for the national and public benefits (Article 12). 86) and the order and procedures for compensation, support and resettlement to be open and transparent in implementation and monitoring; diversify forms of compensation in land with the same purpose as the acquired land or in cash, in other land or in housing; compensation land price at market price; separate compensation and support payments; compensation, support and resettlement must be one step ahead when deciding on land recovery; specifying cases of land allocation or land lease without auction or bidding for projects using land.

In order to overcome the overlapping and inconsistency between the laws related to land, the draft Law has added an article (Article 4) to clarify the scope of provisions of the Land Law with other relevant laws.(source: quochoi.vn)

The Draft Law institutionalized the orientations in the Document of the 13th Party Congress, the resolutions and conclusions of the Party and the National Assembly. In particular, 03 general goals, 06 specific objectives, 06 groups of solutions and 08 major policy groups have been institutionalized in Resolution No. 18-NQ/TW of the Central Committee and solved the

problems set by the Central Committee. Based on practice, in line with development trends, the Draft Land Law (amended) has many new contents:

Firstly, to renew and improve the quality of planning and use plans: National master plans as well as land use master plans and sectoral and sectoral master plans for land use must be consistent and consistent, synchronized, closely linked to promote each other for development. Land use master plans and plans are made at the national, provincial and district levels, meeting the requirements of the implementation of the Strategy for rapid and sustainable socio-economic development; ensuring national defense and security; environmental protection, adaptation to climate change. The content of land use planning must combine the criteria of land types associated with space, land use zoning, and natural ecosystem, showing information to each land parcel.

Second, perfecting regulations on land allocation, land lease, and land use purpose change: Land allocation and land lease are mainly done through auction of land use rights, bidding for projects that use land. Strictly stipulate cases of land allocation and land lease without auction of land use rights or bidding for projects using land. Basically implement the form of land lease with annual payment and specify the cases of land lease with one-time payment in accordance with the nature and purpose of land use, ensuring a stable source of income. To stipulate conditions for land allocation, land lease, and usage limits for religious organizations in accordance with the existing land fund of the locality; Religious organizations that use land for other purposes must pay land rent to the State in accordance with law.

Third, more specific regulations on authority, purpose, scope of land recovery, conditions and specific criteria for land recovery for socio-economic development for national and public interests: regulations on compensation, support, resettlement and land recovery for defense and security purposes; socio-economic development for national and public interests. The compensation, support and resettlement must go one step ahead, ensuring publicity, transparency and harmonization of the interests of the State, the people whose land is recovered and the investors, so that the people with the confiscated land must have a place to live, equal or better quality of life. Specifying the effective exploitation of the adjacent land fund to promote land resources for socio-economic development and the mechanisms for contributing land use rights, adjusting the land, embellishing urban areas and residential areas. rural residents.

Fourth, improve the mechanism for determining land prices according to market principles, and the inspection and supervision mechanisms of the Central Government and the People's Council in the development of land price lists. Supplement and complete regulations to ensure publicity and

transparency such as: Publicizing land prices, trading through trading floors for residential, urban and commercial housing projects. (source: <https://quochoi.vn/tintuc/>)

## DISCUSSION AND CONCLUSION

The amendment of the Land Law is necessary in order to overcome the shortcomings and promote the land resources to meet the development requirements of the country in the new period according to, Resolution No. 18-NQ/TW of the 13th Central Committee of the Communist Party of Vietnam on continuing to renovate and perfect institutions and policies, improve the effectiveness and efficiency of land management and use, and create a driving force for water development.

### Limitation of research

We can expand our research for solutions for industrial zones land.

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