



THE WORLD BANK IN VIETNAM



EMBASSY OF DENMARK



EMBASSY OF SWEDEN

# RECOGNIZING AND REDUCING CORRUPTION RISKS IN LAND MANAGEMENT in Vietnam

(Reference book)



NATIONAL POLITICAL PUBLISHING HOUSE

Public Disclosure Authorized

Public Disclosure Authorized

Public Disclosure Authorized

Public Disclosure Authorized

**RECOGNIZING  
AND REDUCING  
CORRUPTION RISKS  
IN LAND MANAGEMENT  
in Vietnam**

**(Reference book)**

**NATIONAL POLITICAL PUBLISHING HOUSE - SU THAT  
Hanoi - 2011**

Code:  $\frac{32(V)1}{CTQG - 2011}$

## Publisher's Foreword

The renovation (“Đổi mới”) launched nearly 25 years ago at the 6<sup>th</sup> Party Congress has achieved major success in many aspects of socio-economic life. The rapid and continuous changes of the social and economic spheres have brought growth prospects for many sectors in which land is a key factor of production; one that has received attention and investment from organizations and individuals from different sectors, both domestic and foreign.

Although Đổi mới brought many achievements and sparked one of the world's most successful economic transformations, we still face many challenges and risks. Corruption is a threat that is capable of slowing down and deflecting the renovation process of the Party and our country. Land is an area with risks that can lead to corruption and hold back the country's economy, undermining the people's faith in the Party's reform in general and policy in land management in particular.

The book: *Recognizing and Reducing Corruption Risks in Land Management in Vietnam* (Reference book) is based on a report of the same name prepared by the Danish Embassy, the World Bank and the Swedish Embassy. The contents of this book were prepared by the group of authors who are experts of these organizations.

The book analyzes and explains the causes of corruption in land administration and the existing types of corruption. Based on the analysis of the types of corruption and identification of the risk factors that are generating corruption in land management, the authors propose actions for each specific type of corruption and make some recommendations for prevention.

This book represents the views of foreign institutions. The views and analysis of political and legal terms in this book only represent the views and opinions of the writers, not the official views of the Party and our State. In order to provide a diverse set of viewpoints, we generally keep the authors' original text, although in some places we edited and footnoted to assist readers of the book.

With that intention, the National Political - Su that Publishing House publishes the book *Recognizing and Reducing Corruption Risks in Land Management in Vietnam* (Reference book).

We have the honor to introduce this book to the readers.

*January, 2011*

NATIONAL POLITICAL PUBLISHING HOUSE - SU THAT

# ACKNOWLEDGEMENTS

This report was prepared in cooperation between the Embassy of Denmark, the World Bank, and the Embassy of Sweden. The core research and drafting team was co-led by Soren Davidsen (Chief Governance Advisor of the Ministry of Foreign Affairs of Denmark) and James Anderson (Senior Governance Specialist, the World Bank in Vietnam), and included Maria Delfina Alcaide Garrido (Consultant to the Embassy of Denmark and to the World Bank), Dr. Đang Hung Vo (Consultant to the Embassy of Sweden), Dr. Dang Ngoc Dinh (Director of CECODES), Dr. Dang Hoang Giang (Expert at CECODES), and Tran Thi Lan Huong (Governance Specialist, the World Bank). The report reflects detailed comments from the peer reviewers, Thomas Markussen (Associate Professor, Department of Economics, the University of Copenhagen), Asmeen Khan (Lead Governance Specialist, East Asia Pacific Regional Governance Hub) and Gregory Kisunko (Senior Governance Specialist, Eastern Europe and Central Asia). The team is grateful to Deepak Mishra, Le Tuan Anh, Yasuhiko Matsuda, Pham Thi Mong Hoa and Nguyen The Dzung of the World Bank for useful comments.

The team is deeply grateful to the Office of the Steering Committee on Anti-corruption (OSCAC) and the Government Inspectorate for their valuable comments on the draft report and their advice and facilitation throughout the study period. The team would also like to thank the General Department of Land Administration of MONRE, the Vietnam Chamber of Commerce and Industry, the local authorities of Bac Ninh, Binh Dinh, Ho Chi Minh City, Lang Son and Tien Giang provinces for having cooperated with us during the study. Our thanks also go to the local people and businesses of the above-mentioned provinces who participated in the case studies, and to key Vietnamese experts and journalists who shared thoughts with us on the subject.

## LIST OF ABBREVIATIONS

|         |   |
|---------|---|
| AC      | Anti-Corruption   |
| CECODES | Centre for Community Support Development Studies                        |
| CPC     | Commune People’s Committee  |
| CPV     | The Communist Party of Vietnam  |
| DOC     | Provincial Department of Construction                                   |
| DONRE   | Provincial Department of Natural Resources and Environment              |
| DPI     | Provincial Department of Planning and Investment                        |
| GDLA    | The General Department of Land Administration                           |
| GI      | The Government Inspectorate   |
| GoV     | The Government of Vietnam   |
| GSO     | The General Statistical Offices   |
| HCMC    | Ho Chi Minh City  |
| HH      | Household   |
| IFC     | International Finance Corporation                                       |
| ILSSA   | Institute of Labour Studies and Social Affairs                          |
| LMIs    | Land Market Intermediaries  |
| LURHOC  | Land-Use Right and House and Land-Attached Assets Ownership Certificate |
| MONRE   | Ministry of Natural Resources and Environment                           |
| OSCAC   | Office of the Steering Committee on Anti-Corruption                     |
| PCI     | Provincial Competitiveness Index  |
| PMU     | Project Management Unit   |
| PPC     | Provincial People’s Committee   |
| DPC     | District People’s Committee   |
| SME     | Small and Medium Enterprise   |
| SOC     | District Section for Construction                                       |
| SONRE   | District Section for Natural Resources and Environment                  |
| VHLSS   | Vietnam Household Living Standard Survey                                |
| WB ES   | World Bank Enterprise Survey  |
| WB ICS  | World Bank Investment Climate Survey                                    |

# CONTENTS

|  |     |
|--|-----|
| PUBLISHER'S FOREWORD   | iii |
| ACKNOWLEDGEMENTS   | v   |
| LIST OF ABBREVIATIONS  | vi  |
| EXECUTIVE SUMMARY  | ix  |
| 1. INTRODUCTION AND CONTEXT  | 1   |
| 2. APPROACH AND METHODOLOGY  | 6   |
| 3. RISK FACTORS FOR CORRUPTION IN LURHOC ISSUANCE  | 14  |
| 3.1. Unbundling Corruption in LURHOC Issuance  | 14  |
| 3.2. LURHOC Issuance: the Process Flow   | 19  |
| 3.2.1. <i>Dissemination of information on procedures</i>                                   | 19  |
| 3.2.2. <i>Submission of application form and related documents</i>                         | 21  |
| 3.2.3. <i>Assessment of application, approval and handover of certificate to land user</i> | 23  |
| 3.2.4. <i>Complaints &amp; denunciations</i>   | 24  |
| 4. RISK FACTORS FOR CORRUPTION IN LAND ACQUISITION AND LAND ALLOCATION                     | 26  |
| 4.1. Unbundling Corruption in Land Acquisition and Allocation                              | 26  |
| 4.2. Land Acquisition and Land Allocation: the Process Flow                                | 27  |
| 4.2.1. <i>Land-use planning and urban planning</i>   | 27  |
| 4.2.2. <i>Investment location introduction</i>   | 33  |
| 4.2.3. <i>Land recovery and allocation/lease decision</i>                                  | 36  |
| 4.2.4. <i>Plan for compensation and resettlement</i>                                       | 43  |
| 4.2.5. <i>Complaints and denunciations settlement</i>                                      | 49  |
| 5. CROSS CUTTING RISK FACTORS FOR CORRUPTION RELATED TO LAND                               | 51  |
| 5.1. Oversight organizations   | 51  |
|  | vii |

|   |    |
|---|----|
| 5.2. Role of the media                  | 53 |
| 5.3. Human resources                    | 55 |
| 5.4. Land market                        | 56 |
| 6. THE WAY FORWARD                      | 60 |
| CLOSING THOUGHTS                        | 68 |
| REFERENCES                              | 69 |
| ANNEX. LEGAL PROVISIONS ON TRANSPARENCY | 71 |

## EXECUTIVE SUMMARY

### Context

Since Doi moi, Vietnam has been in a process of rapid and continuous economic growth and social transformation, in which land issues have come to the fore in a variety of ways. Vietnam's early land reforms, including decollectivization, were, by all standards, clean, efficient and egalitarian.

However, Vietnam is now facing even greater challenges in land management. During the period 2001-2010, nearly one million ha of agricultural land was converted to land for non-agricultural purposes, and more than 5 million ha of unused land (62% of total unused land in the year 2000) were converted into land for various useful purposes. The nature of land rights, including the extent to which these are perceived as predictable, secure and accessible, plays a key role in shaping economic options and livelihood strategies across all sectors of society. Land use policies and practices greatly influence the availability of and access to land, as well as the prospects for sustainable management of natural resources. The ongoing comprehensive land-use transformation poses challenges for integrity, as the rents at stake are enormous, as is the spectre of corruption.

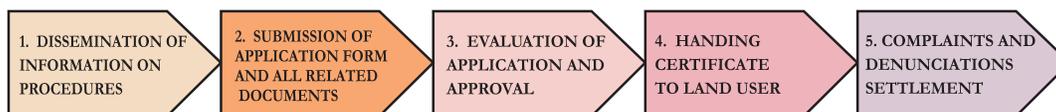
Yet, "corruption" is a term that is too broad to be actionable. Accordingly, this report sets out to illuminate why there is corruption and of what form, and what can be done about it. More specifically, *the report will unbundle corruption by type, identify major risks and forms of corruption in land management, and, based on this analysis, issue some recommendations aimed at strengthening integrity in land management.* To this end, the report applies a so-called Process Flow Approach to analysing (i) the issuance of Land Use Right and House- and Land-Attached Assets Ownership Certificates (LURHOC); and (ii) land acquisition & land allocation. These are the two key land management services provided by the Vietnamese state.

To help unbundle the reasons for corruption, a variety of approaches and analyses were used. Field visits to five provinces afforded the team qualitative information from focus group discussions, in-depth interviews, and an informal survey of focus group participants. These qualitative findings were supplemented by quantitative analyses based on a range of recent surveys of enterprise managers and households. Finally, a companion study provided systematic information on the extent to which transparency rules already in Vietnamese law are applied in practice.

### Key Findings

Vietnam has progressed towards establishing a sound legal framework for integrity and anti-corruption, and also made great headway in regulating for transparency. However, this study has identified several key risk factors along the process flows for the issuance of the LURHOC and for land acquisition and land allocation.

#### *Risk factors in the process flow for issuance of Land User Right and House and Land-Attached Assets Ownership Certificate*



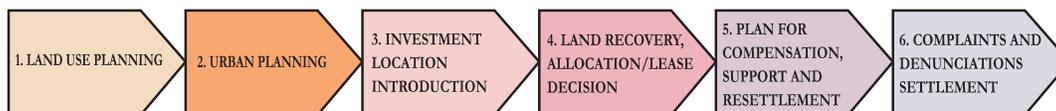
In the first step of the process flow, information on LURHOC procedures is incomplete and hard to understand. This may trigger various forms of corruption and inefficiencies, as applicants may feel overwhelmed and resort to middlemen, both legitimate and nefarious, for assistance, or pay irregular fees in return for the help of officials. And if officials impose illegal requirements to poorly informed applicants, the latter may feel pressured into paying bribes.

In the second step of the process flow, the submission of an application form & documents involves complicated procedures, and applicants are often intimidated by commune officials. This can induce applicants to resort to informal intermediary agents and/or to pay informal commissions in order to speed up the application process. Bribes are also reported to be common to persuade commune officials to stop demanding supplementary documentation not required by law.

The third and fourth step of the LURHOC process flow concern the assessment of the application, approval and handover of the certificate. In this regard, a key risk is posed by the lengthy duration, which often vastly exceeds the legally mandated period. This creates temptations for various dishonest practices, such as payment of bribes, for instance to avoid being relegated to the end of the queue by commune officials, using personal contacts with authorities, and resorting to middlemen to speed up the process.

The final step in the LURHOC process flow is the opportunity for applicants to file complaints and denunciations against perceived irregularities. The settlement is often improper, slow and only partially transparent. This makes it more difficult to bring accountability to other stages of the process.

#### *Risk factors in the process flow for land acquisition and land allocation*



In the two first steps of the process flow for land acquisition and allocation, namely land use and urban planning, two key risk factors for corruption have been identified. The first springs from the tendency of land-use/urban plans to be formulated, revised and approved on the basis of investors' commercial plans. This generates incentives for a form of corruption in which investors pay state officials a share of the rents/profit obtained by increasing land value through conversion to other purposes. The second risk is caused by difficult and unequal access to information on land-use planning among investors. This has given rise to illegal payments by investors to officials in charge of land use/urban planning in exchange for information privileges.

The third step in the process flow, identification of investment location, is encumbered by complexity and subject to manipulation through acceptance of projects pushed by investors without or with only limited basis in land-use/urban plans. This results in corruption forms such as payment of "diplomatic" expenses, use of brokers to identify and pre-arrange attractive sites for investment projects, and investors' bribery of public officials in exchange for approval of their own project overriding prior planning.

The fourth step, land recovery and land allocation/lease, includes three risk factors. The need for compulsory land acquisition, with land being allocated by direct appointment, may prompt investors to pay bribes in exchange for officials approving a low price of land allocation/lease. The second risk factor is the lack of independence in the determination of land allocation/lease prices. This can result in investors promising that, upon completion of their project, they will sell land, housing or office space at favourable prices to state officials. It also gives rise to a danger of land allocation/lease being approved in exchange for "diplomatic expenses". The third risk factor, the failure to disclose information on the process and resulting land allocation/lease decision, increases opportunities for corruption and hampers accountability. Land recovery and land allocation are among the most vulnerable points in the process flow.

The fifth step, the compensation and resettlement plan, entails at least two risk factors: the potential abuse of officials' and land surveyors' ample discretionary powers in the approval of compensation plans and the recording of land inventories; and a lack of objective and technical determination of the compensation amount. These two factors raise the risk of two forms of corruption. The first is that people who lose land to expropriation receive compensation above the actual market value of their land and attached properties, either in exchange for bribing state officials or sharing the resulting gains with them. The second is that some of the approved funds for the beneficiaries are not paid to the beneficiaries, but instead they are appropriated by the district-level land officials, resulting in lower compensation for

the affected land-users. As a whole, a duality emerges in the effects of corruption on the actual compensation amount. That is, in some cases the initial land-users are overcompensated and in other cases undercompensated.

*Corruption in land management from the perspective of a simple risk framework.* These risk factors and forms of corruption spring from more general shortcomings in the integrity framework. In this regard, this report argues that corruption is most likely to occur when an official or office has a *monopoly*, when the official or office has a great deal of *discretion* over how the decision is taken, and when there is little *accountability* for that decision or *transparency*, which might make it harder for the corruption to proceed unabated. Some public services may often require monopoly or a measure of discretion in provision, and in such cases, transparency and accountability are especially needed. And of course, there are often alternatives that better circumscribe the discretion and monopoly in the first place.

***Corruption = Monopoly + Discretion – Accountability – Transparency***

This is a simple framework, but one that nevertheless provides many clues to the reasons for corruption in land, and clear options for reducing risks. While not an equation in the mathematical sense, this simple equation highlights the risk factors in the various forms of corruption.

| Application of the “corruption equation” along the process flows for LURHOC issuance and Land Acquisition & Allocation |          |            |                            |                          |
|--|----------|------------|----------------------------|--------------------------|
| PROCESS FLOWS  | MONOPOLY | DISCRETION | SHORTAGE OF ACCOUNTABILITY | SHORTAGE OF TRANSPARENCY |
| LURHOC ISSUANCE  |          |            |                            |                          |
| Dissemination of information on procedures   | √        |            |                            | √                        |
| Submission of application form & documents   |          | √          | √                          |                          |
| Assessment of application, approval & handover   | √        | √          | √                          |                          |
| Complaints and denunciations settlement  |          | √          | √                          | √                        |
| LAND ACQUISITION & ALLOCATION  |          |            |                            |                          |
| Land-use planning & urban planning   | √        | √          |                            | √                        |
| Investment location introduction   | √        | √          | √                          | √                        |
| Land recovery and allocation/lease decision  | √        | √          |                            | √                        |
| Plan for compensation and resettlement   |          | √          | √                          |                          |
| Complaints and denunciations settlement  |          | √          | √                          | √                        |

**Recommendations aimed at strengthening integrity in land management**

*The first set of reforms are those that are relatively easy to enact.* The most obvious step here is to thoroughly enforce the transparency provisions already in Vietnamese law. Access to information on key documents such as land-use plans, maps and urban plans is not easy-legal provisions guaranteeing transparency of these documents are not thoroughly implemented and, indeed, many officials are not even aware of their legal obligations to provide the information.

A similar set of reforms that could be undertaken fairly quickly involves enhancing the transparency of the process and results of land allocation decisions, including land allocation prices. Many key documents and pieces of information related to land allocation decisions are not currently required to be public information, including agreed minutes of consultations on draft compensation, support and resettlement plans and the minutes of draft urban planning. Making such documents mandatory public information would greatly reduce the chances of hiding corruption.

For LURHOC issuance, it is important to continue simplifying procedures, removing the complexity and opacity that breed corruption. In addition, assigning personal responsibilities at all levels for clear dissemination of information would benefit the public and make corruption more difficult to hide. The simplification process is underway and there are in place mechanisms for collecting public feedback.

For land acquisition and land allocation, greater public oversight including community participation would reduce the chances for corruption. Strengthening the legal provisions and implementation of ex-ante public consultations of land-use/urban plans, investment projects, and their revisions would help. The culture of public consultations is in many ways strong in Vietnam and although consultations are sometimes pro forma, the opportunity to be heard should always be made.

*Some reforms would require significant institutional strengthening.* Recognizing that there is a great deal of discretion in the hands of officials in key power positions, such as those on boards of compensation, a key challenge is to enhance accountability of these offices. A range of tools could be used: financial inspections, independent audits of land surveyors, and reviews by People's Councils of the draft, approved and actual compensation plans would provide greater accountability.

Developing regulations for the outsourcing of the land valuation services to independent organizations and for the creation of independent committees to review compensation and allocation prices, backed by a transparent national database with reference land prices, would help reduce rents and make corruption easier to uncover. Although such a reform would be difficult, the fact that some provinces are already doing it shows that it is feasible.

The implementation of the legal provisions on disclosure and consultation would be significantly enhanced if a central-level department was assigned the responsibility of systematically monitoring and evaluating compliance at local levels.

*There is ample space for cross-cutting accountability shifts.* Several important risk factors could be countered by enhancing the accountability of land officers individually. Ensuring that the personnel system is meritocratic, that poor performers are punished and those who provide fair and fast services are rewarded, is a key reform. While this is true for civil servants in general, it is even more important for positions of public trust and with considerable discretion over decisions that involve large sums of money. Indeed, the importance of such positions makes them good candidates for piloting stronger approaches to verification of income and assets declarations, such as random verifications and publication of the declarations for high level officials and those in sensitive positions.

Improving accountability does not always mean focusing on corruption. Building downward accountability for performance to the citizenry and to firms removes the space in which corruption operates. For example, accountability of land officers could be enhanced by systematic assessments by the public through customer satisfaction surveys. Again, there is a clear precedent in Vietnam. The HCMC Citizen's Report Cards show that such an approach is possible and useful.

Accountability across the board could be strengthened by improving the role of the institutions of oversight, more specifically by making the land inspection system more proactive and independent. Enhancing the objectivity and user-friendliness of the complaints and denunciation system, and stepping-up the engagement of People's Councils and mass-organizations in monitoring land management would help improve external oversight.

*A key way to reduce corruption in land is to shift the way land is handled in Vietnam.* A great many of the largest rents could be dissipated by restricting the application of compulsory land acquisition to cases meeting the "public benefit" criterion, leaving projects that are essentially private in nature to negotiate with current land holders on a voluntary basis. Even if moving fully to voluntary transactions is not possible, an intermediate step, such as the use of "mixed methods" would still be an improvement over the status quo. As the vast majority of complaints related to land concern the amount of compensation, such reforms would also reduce the prospect of social unrest.

Similarly, reducing the use of direct appointment in land allocation, and creating financial mechanisms for the implementation of land auctions and project bidding would make the processes more competitive and allow prices to more accurately reflect market prices. Such an approach would no doubt take time to develop, test and put in practice, but the benefits of removing the rents created by the wedge

between prices determined by administered decision and market prices would be worth it.

\*\*\*

Finally, although the risk factors identified in this report are many, there is also ample evidence that they can be addressed. Even the more complex reforms, such as the outsourcing of land valuation services, are already underway in Ho Chi Minh City and Binh Dinh. And although transparency of various land-related documents is generally wanting, some provinces and districts and communes are quite proactive, in some cases making even more information accessible than is required by law. These positive examples show that where the will is strong, reducing risks of corruption, easing administrative burdens, and strengthening property rights are not dreams reserved for richer countries, but realities that could be firmly within Vietnam's grasp even now.

# 1. INTRODUCTION AND CONTEXT

In the years since Doi moi, Viet Nam has been in a process of ongoing and accelerating economic and social transformation, in which land issues are implicated in a variety of significant ways. Most international research on Vietnam's early land reforms highlights that the decollectivization by all standards were surprisingly clean, efficient and egalitarian<sup>1</sup>.

The nature of rights to land and the extent to which they are perceived as predictable, secure and accessible play key roles in shaping economic options and livelihood strategies across all sectors of society. Land use policies and practices greatly influence access to land and the prospects for sustainable management of natural resources. Land as a source of revenue is gaining increasing prominence in thinking about public and private finances at all levels. Land-its allocation, use, governance and finance-will inevitably play a central role in shaping Viet Nam's economic, environmental and social future and stability.

The Government of Vietnam (GoV) has recognized the importance of land issues across different contexts and addressed land policy with special attention and caution. And significant policy reform in the land market has been achieved (Table 1). However, up till now, land policy and its implementation in Viet Nam, as in many other developing countries, is still characterized by segmentation and a degree of fragmentation.

As part of its social and economic transformation, Vietnam is experiencing an intense process of land conversions. During the period 2001-2010, 0.9 million ha of agricultural land (4% of total agricultural land in the year 2000) were converted to land for residential use, commercial non-agricultural establishments use, public works and other non-agricultural purposes. During the same period of time, 5.4 million ha of unused land (62% of total unused land in the year 2000) were converted into land for various purposes<sup>2</sup>.

Vietnam is also undergoing an intense process of LURHOC issuance. Until 2008, nationwide 10.53 million LURHOCs had been granted for an area of 413,060 ha, accounting for 79.9% of the

---

1. One of the most authoritative studies is Ravallion, M., van de Walle D., 2008: "Land in Transition. Reform and Poverty in Rural Vietnam", World Bank, 2008.

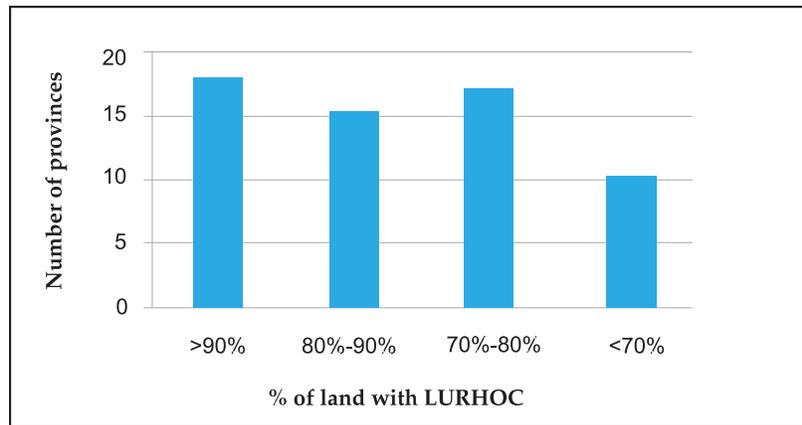
2. 2010 Report of the Centre for Inventory and Evaluation of Land Resources of the General Department of Land Administration of MONRE.

total area requiring LURHOC. As of October 2010, the vast majority of provinces in Vietnam have issued LURHOC for 70% or above of the total land area requiring LURHOC (Figure 1).

**Table 1. Land Policy Renovation**

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

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

**Figure 1: Number of provinces with various proportions of land with LURHOC**

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

In this challenging process of land transformation, it is not surprising that corruption in land management remains a key problem—at least as reported in the media and at the anecdotal level. The GoV has duly recognized the need for sector specific approaches in Vietnam’s legal framework for curbing corruption. The Anti-Corruption Law (AC-Law) passed by the National Assembly in November 2005 provides a legal landmark in GoV’s efforts. The AC-Law and its secondary legislation provide provisions for addressing corruption at the sector and thematic levels, e.g., curbing corruption in land management. As such, the Vietnamese government deserves credit for approaching integrity issues at the generic as well as thematic levels. In May 2009 the GoV promulgated the “Strategy for Preventing and Combating Corruption towards 2020” (henceforth Anti-Corruption Strategy) applying a systemic approach to anti-corruption including preventive, demand-side and sector specific solutions and development of a framework for monitoring progress.

At a deeper level, there are at least four reasons warranting an in-depth study about the level and nature of corruption in land in Vietnam. First, corruption in land management is often *regressive*. It tends to involve transfer of land at lower than market prices from poorer rural segments of society to relatively well-off investors and urban residents. Second, corruption seems to be *widespread* – at least compared to other areas of service delivery and other sectors. Third, there is a *welfare loss* associated with the current practices and where corruption does occur the government is losing valuable revenue. Fourth, it is a *source of social instability*. In the Government’s Anti-Corruption Strategy land is identified as one of the prime areas of concern that could “erode the confidence of the people in the leadership of the CPV and the State’s Management, giving rise to potential conflicts of interests, social resistance and protest, and widening the gap between the rich and the poor”. Box 1 below provides some illustrations of these negative consequences, as

cited by various consulted stakeholders in Vietnam. As will be shown throughout this report, the challenges are solvable through a specific and targeted set of institutional and policy reforms.

**Box 1. The Consequences of Corruption in Land Management in Vietnam, as cited by various Consulted Stakeholders**

*“Everybody can guess why the land administrative officers are so rich. If they have the same salary as other officers, why they become rich so fast?”* Consultations in Bac Ninh Province

*“The businesses just keep land without any investment, after 5 years, the land itself becomes profitable, but the state cannot collect any additional tax. Consequently, the businesses earn profit, the farmer loses land, the state loses tax”* Consultations in Tien Giang Province

*“There is the case that a rich field is being cultivated, the state takes it into project and acquires it but leave it unused for years, it is very wasteful”* Consultations in Bac Ninh Province

*“Even retired senior officials find it hard to obtain an LURHOC if they do not give bribes. This causes much trouble for citizens who are poor and cannot afford these services.”* Consultations in Binh Dinh Province

*“The majority of enterprises suffer from lack of information [on land management]. Only a minority of them have financial powers and can make good deals with government”* Consultations with Vietnamese Experts

*“Corruption in land management is the biggest and most frustrating issue in our society. Farmers were happy at the beginning as their income was increasing, but now they are feeling that they are left behind”* Consultations with Vietnamese Experts

*Source: 2010 CECODES Reports on the Results from the Field Surveys on Integrity in Land Management in Vietnam (available in Vietnamese only).*

Corruption in land management is not a problem specific to Vietnam. Other countries in Southeast Asia are also facing the same problem. In Lao PDR the weak management and monitoring of land concessions have led to corruption, speculation and a parallel land market characterized by lack of security<sup>1</sup>. In Indonesia changes in land use are made difficult by a permit process whereby land use must conform to what is specified in the title and any change of land use requires *de-facto* a reversion to the state and a new grant of land rights. This introduces an enormous element of bureaucratic discretion that can be perceived as an invitation to corruption and mismanagement<sup>2</sup>.

Nor is corruption in land management a Southeast Asian phenomenon. Large-scale and serious corruption associated with acquisition and disposal of public lands is more notorious in some contexts. For example, in Kenya “land grabbing” by public officials reached systemic

1. “Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?”. World Bank, 2010.

2. “Assessing & monitoring governance in the land sector: The Land Governance Assessment Framework”, World Bank, 2010.

proportions during 1980-2005 and was identified as “one of the most pronounced manifestations of corruption and moral decadence in our society” (Government of Kenya, 2004)<sup>1</sup>. In the city of Mumbai, India, the weak institutional structures pertaining to land management have led to high transaction costs and rampant rent seeking by government authorities as well as private sectors players such as builders and land owners<sup>2</sup>.

Against this backdrop, this report intends to broaden the understanding of corruption and integrity issues in land management in Vietnam. More specifically, *the report seeks to unbundle corruption, identify major risks and forms of corruption in land management and on the basis of this provide some recommendations for strengthening integrity in land management*. In doing this, the report applies a so-called Process Flow Approach—elaborated in detail in section 2—in analysing the issuance of land use right and house & land-attached assets ownership certificates (LURHOC)<sup>3</sup> and land acquisition and land allocation. These are the two key services provided by the state in land management.

The objective and the approach of the research have guided the structure of the report. Section 2 presents the approach and methodology of the research. Sections 3 and 4 unbundle the extent of corruption in land management and provide a detailed analysis of each step in the process flow of the two services provided by the state in land management. The focus is on identifying the key risk factors and the existing forms of corruption these risk factors trigger. Section 5 identifies some risk factors for corruption cutting across the various stages of the two process flows. These risk factors are related to the institutions of oversight, human resources in the public sector and the characteristics of the land market. The last section sums-up the key findings and highlights the priorities for reducing the opportunities for corruption related to land.

---

1. “Assessing and monitoring governance in the land sector: The Land Governance Assessment Framework”, World Bank, 2010.

2. “Collusion, Conflict, Informal System & Rent-Seeking: The Great Prototype Indian Story of Urban Land Management in Mumbai”. Professor Abhai Pethe, University of Mumbai, 2010.

3. As of September 1, 2009 one type of certificate for land, house and other land-attached assets called the “Land-Use Right and House and Land-Attached Assets Ownership Certificate” (LURHOC) regulates land tenure. Up to August 31, 2009, Vietnam operated with two different land tenure certificates: Land-Use Right Certificate (LURC) and House Ownership Certificate (HOC). The term LURHOC will be applied in this report – as opposed to the more common term LURC.

## 2. APPROACH AND METHODOLOGY

There is an increasing recognition of the need to address both the general systems issues of corruption, e.g., making sure that national integrity mechanisms like accountability in budget execution are in place, and the specifics of corruption either at the sector or issue-specific levels. This study addresses the issue-specific theme of land.

To understand the integrity challenges in land management, the study first unbundles the focus into the two key service functions provided by the state, issuance of the LURHOC and land acquisition & allocation. In doing this, a so-called value-chain or process flow approach is applied.<sup>1</sup> This implies a detailed mapping of all steps in the way the two key service functions are provided and flow. Boxes 2 and 3 describe the processes of issuing LURHOCs and land acquisition & land allocation, respectively, based on the legal provisions. While this is sometimes referred to as a “value chain”, we prefer the term “process flow”, since value is not necessarily being created at each stage of the process. The study is focusing on the broader categories of steps, rather than the detail within each steps. More extensive mappings have been done in other countries but as this is the first analysis of its kind in the Vietnamese context a broader approach was applied.<sup>2</sup>

The advantages of using a process flow approach are at least two-fold. First, it provides a structured and detailed picture of the vulnerabilities specific to the LURHOC Issuance and Land Acquisition & Land Allocation. Second, the specificity helps identify remedial measures for curbing corruption in this field.

In order to understand better the vulnerabilities to corruption for each stage of the process flow, this report also takes advantage of two simple concepts. The first is the concept of *economic rents*. Such rents are created when laws, rules, or market structures open the possibility for economic gain that exceeds opportunity cost. Rents can be generated by privileged access to information or abilities not available to others. Importantly in this context, the report looks at how government-determined prices co-exist with market prices. A gap between the two prices could generate powerful incentives for firms to engage in “rent-seeking”, possibly by bribing the government authorities making the land allocation decision.

---

1. This approach is inspired by Campos, Ed et al “The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level”, the World Bank, 2007.

2. For an example of a more extensive and in-depth study see “Russia the Survey of Land and Real Estate Transactions” 2006 (<http://go.worldbank.org/ODE06E50I0>) .

The conceptual tool used throughout the report is a famous “equation” that helps to identify the factors affecting opportunities for corruption<sup>1</sup>. Robert Klitgaard’s equation suggests that corruption is most likely to occur when an official or office has a *Monopoly*<sup>2</sup>, when the official or office has a great deal of *Discretion* over how the decision gets made, and when there is little *Accountability* for that decision. In this report, we add a fourth factor, *Transparency*, to highlight the differences between transparency and accountability. As we will refer to this equation throughout the report, some elaboration is in order.

$$\text{Corruption} = \text{Monopoly} + \text{Discretion} - \text{Accountability} - \text{Transparency}$$

Whether an office or official has a monopoly to make decisions is not always something that can be corrected. The main point is that if a citizen or firm has choices in where to obtain a particular service, then the less scrupulous officials lose their bargaining power. In some cases this can be addressed by setting up multiple service access points, as some countries do with driver’s license renewals, but in other cases the monopoly is unavoidable. In those cases, the need for stronger checks and balances over the performance of both the office and individual officer are even more important.

If an official has little discretion over how to make a decision, then the official will have little room to demand unofficial payments. While some measure of discretion is unavoidable for many key jobs, the extent of discretion can be circumscribed through clear standards of performance and decision making—a judge’s job, for example, is to exercise discretion, but when there are clear guidelines and precedents, the discretion is constrained. And if the extent of discretion is unnecessarily large, as this report will show to be the case for land, then identifying alternative systems would be in needed.

Finally, we have added a fourth term, transparency, to the famous corruption equation. While transparency is arguably embedded in the concept of accountability, the two are not synonymous. The two factors are better understood as mutually reinforcing factors, but with their own sets of reform solutions. Indeed, yet another innovation could be added to the equation, that of *simplicity*. Where procedures are highly complex and cumbersome, the transparency of the procedures is weakened. Thus, transparency can be weak either because information is not available, or because information is available but is too complex for the lay person to understand. In either case, corruption becomes more likely, but the two sets of problems suggest different solutions.

---

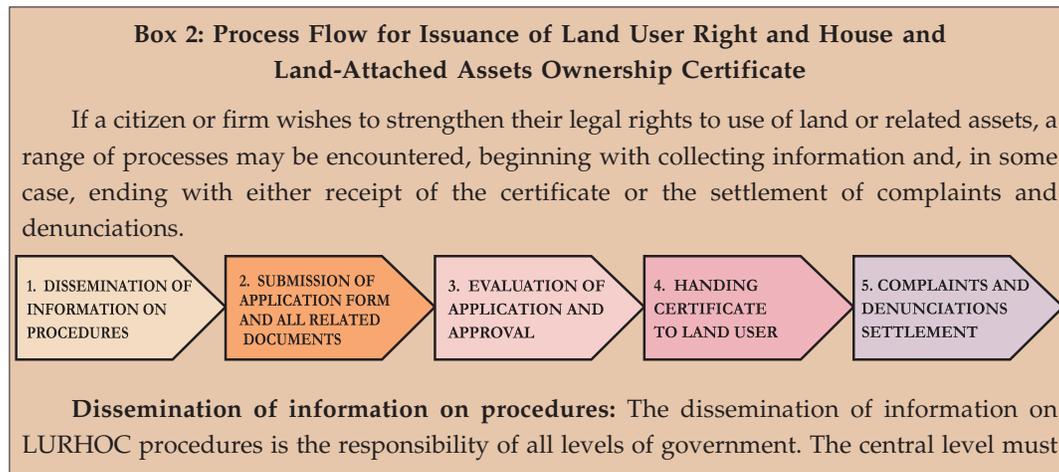
1. Klitgaard, Robert E. 1988. Controlling Corruption. Berkeley: University of California Press.

2. In this study we understand “monopoly” as the implementation of land management activities by certain government agencies only. Nonetheless, the study is not trying to advocate for the creation of multiple agencies (either public or private or both) so as to reduce corruption. The solutions contemplated in this study for the monopoly power are along the lines of introducing more checks and balances, and outsourcing certain tasks in a competitive market.

While further nuances could be introduced to allow for more complex forms of corruption, this simple *corruption equation* is instructive nevertheless for identifying where there might be vulnerabilities to corruption, in a simple and memorable way. In a nutshell, finding the vulnerable factors to corruption involves identifying policies that create *rents* and then identifying factors that make divvying up rents easy.

The report draws on a number of data sources. Vietnam has made progress during the last decade in establishing hard data on issues relating to systems, institutions, policies and service delivery affecting businesses and citizens at large. The data of the governance module attached to the 2008 Vietnam Household Living Standard Survey (VHLSS), as reported in the Vietnam Development Report 2010 on Modern Institutions, is an example. Among other things, it includes a few questions related to land and integrity<sup>1</sup>. In addition, the research team made use of the Provincial Competitiveness Index (PCI)<sup>2</sup>, the 2009 Enterprise Survey, the 2005 Investment Climate Survey (the two latter undertaken by the World Bank)<sup>3</sup>, and the 2009 SME Survey from ILSSA and the University of Copenhagen.<sup>4</sup>

The data provided by these surveys are, however, largely confined to the LURHOC process flow. Thus major challenges still exist in mapping the nature and extent of corruption in land acquisition and land allocation.



1. See also p.8, box 1.2. *Vietnam Development Report 2010-Modern Institutions*.

<http://www.worldbank.org/vietnam/baocaophattrien>.

2. Edmund Malesky. 2009: "The Vietnam Provincial Competitiveness Index: Measuring Economic Governance for Private Sector Development. 2009 Final Report." Vietnam Competitiveness Initiative Policy Paper #14. Vietnam Chamber of Commerce and Industry (VCCI) and United States Agency for International Development's Vietnam Competitiveness Initiative (VNCI): Ha Noi, Vietnam.

3. See <http://www.enterprisesurveys.org>.

4. See <http://www.econ.ku.dk/rand/sme.html>.

**Box 2: Process Flow for Issuance of Land User Right and House and Land-Attached Assets Ownership Certificate** *(continue)*

publicize an on-line database on administrative procedures. The provincial government must publicize in its website all the administrative procedures carried out by its dependent units. The commune government must disseminate information on the procedures through various forms, including through office posting and broadcasting systems.

**Submission of application form and all related documents:** The application form and related documents need to be submitted to the Land Use Right Registration Office (LURRO) at district level in the case of households, individuals, communities living in wards; to the LURRO at district level or to Communal People's Committee (CPC) in the case of households, individuals, communities living in communes and towns; and to the LURRO at provincial level in the case of organizations and religious units. LURROs/CPCs have 3 days for checking the completeness of LURHOC application form and related documents and communicating to the applicants the supplementary information needed for completion of the application.

**Evaluation of application form and approval:** The District People's Committees (DPC) are responsible in the case of households, individuals and communities, and the Provincial People's Committees (PPC) are responsible in the case of organizations (including enterprises) and religious units. The CPCs assist DPCs and PPCs in the verification of the LURHOC application form and related documents, and must disclose the results of the verification in the CPC's Office. The DPCs/PPCs have 20 to 50 working days for the evaluation of the application form and the approval of the LURHOC, depending on the type of application. The results of the verification of the application must be posted in the CPC office for at least 15 days.

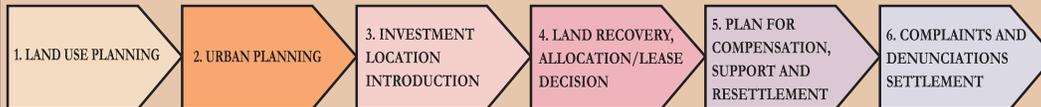
**Handing over the certificate:** In the case of households, individuals and communities, the certificate is handed over by the LURRO at district level or by the CPC where the application form is submitted. In the case of organizations, religious units, the certificate is handed over by the LURRO at provincial level.

**Complaints and denunciations settlement:** In the event of a problem, a complaint or denunciation can be lodged. The chairmen of the DPCs are responsible for the first settlement of complaints/denunciations on LURHOC issuance from households, individuals, communities, and the chairmen of the PPCs is responsible for the second settlement of complaints/denunciations from households, individuals, communities and the first settlement of complaint/denunciations from organizations, religious units. The settlement decisions must be disclosed. After the settlement by a local People's Committee, the complaint/denunciation can be lodged to the court.

*Source:* Decree No. 88/2009/ND-CP dated 19 October 2009 on grant of certificates of land use rights and house and land-attached asset ownership; 2007 Ordinance on Grassroots Democracy; 2006 Law on Information Technology; 2003 Land Law, amended and supplemented in 2009; 1998 Law on Complaints and Denunciations, amended and supplemented in 2004, 2005.

### Box 3: Process Flow for Land Acquisition and Land Allocation

If a piece of land is to either change “ownership”, for example when land is taken for an investment project, or put to a different use, as with the conversion of land from agricultural to industrial uses, a number of steps need to be taken by one or another of the parties.



**Land-use planning:** Land-use plans indicate the amount of land that is going to be used for a general purpose. Provincial land-use planning and plans are prepared by DONRE, accepted by the Provincial People’s Committee (PPC), appraised by MONRE, adopted by the Provincial People’s Council and approved by the central Government. District land-use planning and plans are prepared by SONRE, accepted by the District People’s Committee (DPC), appraised by DONRE, adopted by the District People’s Council and approved by the PPC. Commune land-use planning and plans are prepared by the Communal People’s Committees (CPC) in consultation with the people, appraised by SONRE, adopted by the Communal People’s Council and approved by the DPC. After the approval, the land-use planning and plans of all levels must be disclosed.

**Urban planning:** Compared to land-use planning, urban planning is more specific and includes more detailed maps. Legally, urban planning should be prepared and approved after the approval of land use planning and plan. In practice, in several localities, urban planning has been prepared and approved before land use planning consideration. Urban planning is prepared by the SOC or the DOC or the PPC, depending on the type of planning, and approved respectively by the DPC, the PPC and the MOC or central Government. All draft urban planning must be publicly consulted by the urban planning agencies. After approval, all urban planning must be publicized.

**Investment location introduction:** This is the responsibility of the PPCs, which must assign this task to an agency/department. Typically, the DPI is assigned the task.

**Land recovery, allocation/lease decision:** The PPC or the DPC with the PPC’s authorization are responsible for announcing the land recovery plan to all related people. Investors then prepare the Investment Project and the land allocation/lease request file. DONRE/SONRE are responsible for preparing the land recovery, land allocation/lease decision and submitting it to the PPC/DPC for approval.

**Plan for compensation, support and resettlement:** In the event that people lose land, the process of determining compensation, support and resettlement takes place. The District Board of Compensation, Support, Resettlement (BCSR) or the Provincial Organization of Land

**Box 3: Process Flow for Land Acquisition and Land Allocation** *(continue)*

Development (OLD) prepares the Plan of Compensation, Support, and Resettlement (PCSR). When the plan affects only one district, it is prepared by the BCSR and approved by the DPC, and when it affects more than one district, it is prepared by the OLD and approved by the PPC. The plan must be publicized for collection of people's opinions in the CPC's office and residential points where the land is recovered. On the basis of the collected opinions, the BCSR/OLD prepare the adjusted PCSR. DONRE/SONRE conducts the appraisal of the PCSR. The approved PCSR is then publicized.

**Complaints and denunciations settlement:** If a problem arises, the system of complaints and denunciations settlement comes into play. The chairmen of the DPCs are responsible for the first settlement of complaints/denunciations about decisions which have been issued by DPCs and the chairman of the PPCs is responsible for the second settlement of complaints/denunciations about decisions of DPCs and the first settlement of complaint/denunciations about decisions which have been issued by PPCs. The settlement decisions must be disclosed. After the settlement by a local People's Committee, the complaint/denunciation can be lodged in court.

*Source:* Decree No. 69/2009/ND-CP of 13 August 2009 on additional provisions on land use planning, land prices, land recovery, compensation, support and resettlement; 2009 Law on Urban Planning; 2007 Ordinance on Grassroots Democracy; Decree 181 of 29 October 2004 implementing the Land Law; 2003 Land Law, amended and supplemented in 2009; 1998 Law on Complaints and Denunciations amended and supplemented in 2004, 2005.

The survey data basically served four purposes: it supported the unbundling of corruption in land management; it suggested possible risk factors for corruption in the process flow; it helped review policy implementation of integrity mechanisms in land management; and provided some preliminary suggestions of the causes of corruption.

In addition to the survey data, five provincial case-studies were carried out in order to test the reality at the local level. A prior review of the legal framework for land management underscored the extensive devolution of authority to the local levels<sup>1</sup>. The five provincial case-studies were commissioned in 2010 by the Embassies of Denmark and Sweden in Vietnam and selected based on three typologies constructed by three criteria:

1. Low poverty & many land conversions and a perceived high level of corruption. Here Ho Chi Minh City and Bac Ninh were selected.

---

1. "Modern Institutions" Vietnam Development Report 2010 provides an elaborate analysis of the wider aspects of devolution and decentralization.

2. High poverty & low number of land conversions and a perceived high level of corruption. Here Lang Son was selected.
3. Low poverty & many land conversions & a perceived low level of corruption. Here Binh Dinh and Tien Giang were selected.

The typology was undertaken based on the poverty ranking provided in the VHLSS 2008, the perceived level of corruption as measured by the PCI<sup>1</sup> 2009 and number of land conversions by the studies “Improving Land Acquisition and Voluntary Land Conversion in Vietnam” (World Bank, 2009) and “Rural poor pay price of industrialization” (Vietnam Law and Legal Forum, August 2007).

Focus group discussions and semi-structured interviews were undertaken with four groups (public servants, business people, mass organisations and people) at provincial, district and commune levels<sup>2</sup>. In general the provincial case-studies yielded a wealth of information in particular about the LURHOC process flow while the sensitivity and more covert process in land acquisition and land allocation constrained data collection for the latter process.

As part of the provincial case-studies, a quantitative survey was undertaken. The sampling of the survey was not designed to ensure statistical representation of the whole population, but rather to obtain the written views of all the participants of the focus group discussions. The participants of the focus group discussions were only partly randomly selected, as in some cases the invitations were sent to a selection of interviewees made by the corresponding local government. The questionnaires covered roughly the same questions that were discussed in the focus groups and had predetermined multiple choice answers. The questionnaires were distributed before the focus groups discussions and collected at the end of the discussions. The sample size is 400 participants and the strata of respondents included 215 citizens, 37 representatives from businesses, 28 representatives from mass-organizations, and 120 government officials.

To supplement the local perspective gained through the five provincial case-studies, interviews and meetings with key stakeholders at the central level were conducted. They included representatives of the OSCAC, representatives of the General Department of Land Administration of MONRE, representatives of the Vietnam Chamber of Commerce and Industry, a selection of Vietnamese experts, and a selection of journalists from different media agencies.

The survey data and the five provincial case-studies are useful to bring the perspective of individuals and organizations on the results of policy implementation, but they do not provide information on the actual implementation of policies by government officials. To fill-in this gap,

---

1. Question “Percentage of firms that felt that enterprises in their line of business were subject to bribe requests from provincial authorities”, see the <http://www.pcivietnam.org/>

2. The Vietnamese versions of the 5 provincial reports are available upon request to one of the authors of this report.

another study was commissioned by the World Bank and conducted by DEPOCEN in 2010 aiming at checking the compliance at local levels with the implementation of the existing regulations on transparency in land management.<sup>1</sup> Two types of checks were undertaken: (i) physical visits to government offices at provincial, district and commune levels; (ii) visiting the websites of the provincial governments and relevant central-level agencies. For the physical site visits, a total of 12 provinces, 24 districts and 120 communes/sub-districts were sampled. However, due to physical and weather conditions, three of the communes could not be visited. For the web site checks, 66 web sites were checked including the 63 provinces and three key ministries.

---

1. Nguyen Ngoc Anh, Nguyen Duc Nhat, Tran Thanh Thuy, Kirby Prickett. 2010: "Survey Report On Information Disclosure Of Land Management Regulations". DEPOCEN for the World Bank.

### 3. RISK FACTORS FOR CORRUPTION IN LURHOC ISSUANCE

This section aims to understand the nature and causes of corruption by unbundling corruption in LURHOC issuance and then analyzing the risk factors for corruption for each of the steps of the process flow. The analysis of the risk factors is mainly based on the opinions collected in the five provincial case-studies, but it also draws on national-level survey data, a review of the existing legal framework, and the recent DEPOCEN study on compliance with the transparency regulations. The section tries to explain the linkage between the risk factors and the occurrence of corruption. Among other ways, this is done by describing existing forms of corruption that are related to each of the risk factors, analysing the underlying economic rents that create incentives for corrupt behaviour, and by translating the risk factors into the “corruption equation”<sup>1</sup>.

#### 3.1. Unbundling Corruption in LURHOC Issuance

As perceived by the people and mass-organizations consulted in the 2010 provincial case-studies, corruption in the issuance of LURHOC is widespread. Citizens often have to pay extra to obtain their LURHOC more quickly. In the three provinces where the quantitative information from the case-studies could be disaggregated by stakeholder<sup>2</sup>, 61% of the citizens with opinion agreed with the statement that if “extra money” is paid then the granting of the LURHOC will be favourable and quicker<sup>3</sup>. (However, as will be discussed in section 4, this type of bribery involves small amounts compared to the land allocation/lease and compensation process.)

The provincial case-studies revealed that enterprises seem to have less difficulty than citizens in getting the LURHOC in a timely manner, or in getting it at all, and that the perceived corruption in LURHOC issuance is slightly lower among enterprises than among citizens. In the three provinces where the quantitative information from the case-studies could be disaggregated by

---

1. Please see section 2 for more details about this equation.

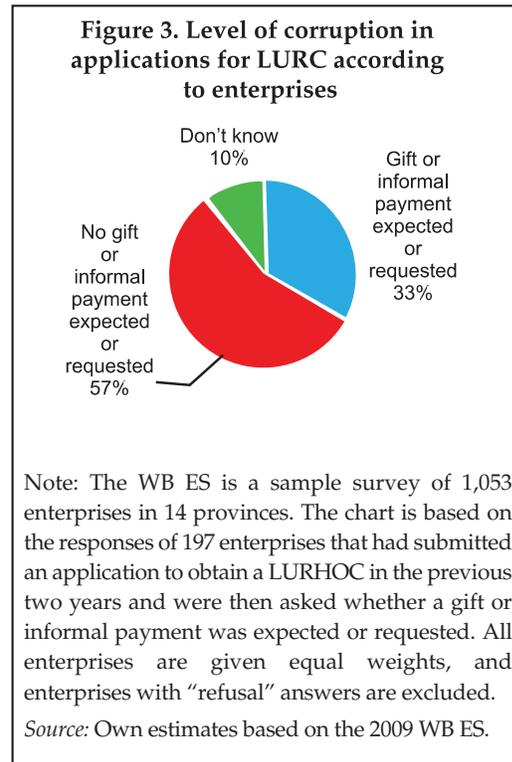
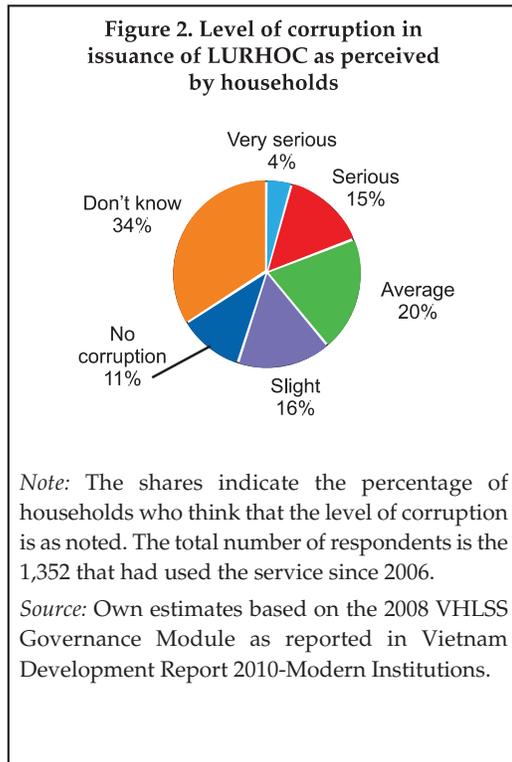
2. The three provinces are HCMC, Lang Son and Binh Dinh. Due data collection problems, it was only not possible to disaggregate the data into the four stakeholder groups (citizens, business representatives, mass-organizations representatives and government officials) for the provinces of Bac Ninh and Tien Giang.

3. “Citizens with opinion” excludes: (a) no answers; (b) answer is unknown. Out of the 135 citizens that participated in the quantitative survey in HCMC, Lang Son and Binh Dinh, 34 gave no answer to the question referred in this paragraph and 21 answered “don’t know”.

stakeholder, half of the business representatives with opinion agreed with the statement that if “extra money” is paid the granting of the LURHOC will be favourable and quicker<sup>1</sup>.

The likelihood of corruption in LURHOC depends on the location of the land. In underdeveloped rural areas, there is hardly any corruption as agricultural land users are not interested in obtaining the LURHOC because of the fees they must pay. In contrast, in developed rural areas and in urban areas land users are interested in obtaining the LURHOC because the value of the land is very high and because land-use rights for non-agricultural land are transferable<sup>2</sup>.

Based on the 2008 VHLSS, the majority of households think that there is corruption in the issuance of LURHOC of one degree or another, and about one fifth of them think that it is serious or very serious (Figure 2). In the 2009 World Bank Enterprise Survey (WB ES), one out of three enterprises in Vietnam answered that informal payments or gifts were expected or requested when they applied for LURHOC (Figure 3).



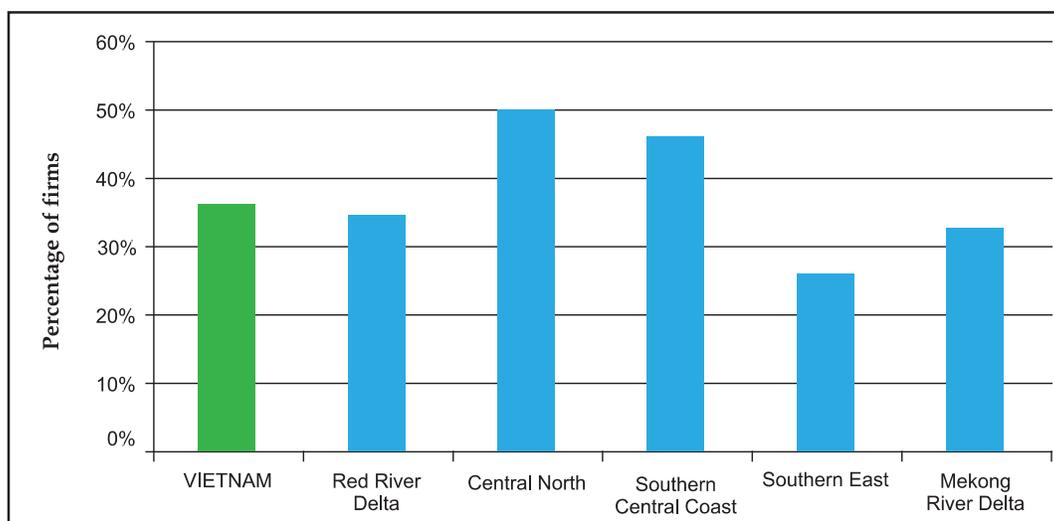
1. “Business representatives with opinion” excludes: (a) no answers; (b) answer is unknown. Out of the 37 business representatives that participated in the quantitative survey in HCMC, Lang Son and Binh Dinh, 1 gave no answer to the question referred in this paragraph and 7 answered “don’t know”.

2. Based on the opinions collected in the focus group discussions of the provincial case-studies and on DONRE’s annual reports on the issuance of LURHOC in provinces in mountainous areas.

There are significant differences across provinces in the levels of corruption perceived by both households and enterprises. The 2009 WB ES does not provide information for all the provinces in Vietnam, but it does provide regional-level information. The central north and southern central regions show a much higher incidence of corruption in the applications for LURC than the south east region (Figure 4).

The level of LURC-related corruption reported by enterprises has fallen from 2005 to 2009. The fall is even larger after controlling for the different composition of the enterprise samples of the two years (Figure 6). As perceived by a significant share of households, the level of LURHOC-related corruption has also fallen. Importantly, the percentage of households who think that LURHOC-related corruption has improved is higher than the percentage of households who think that corruption has deteriorated in relation to the period before 2006 (Figure 5).

**Figure 4: Regional Differences in Gifts or informal payments expected/requested from enterprises when applying for LURC**

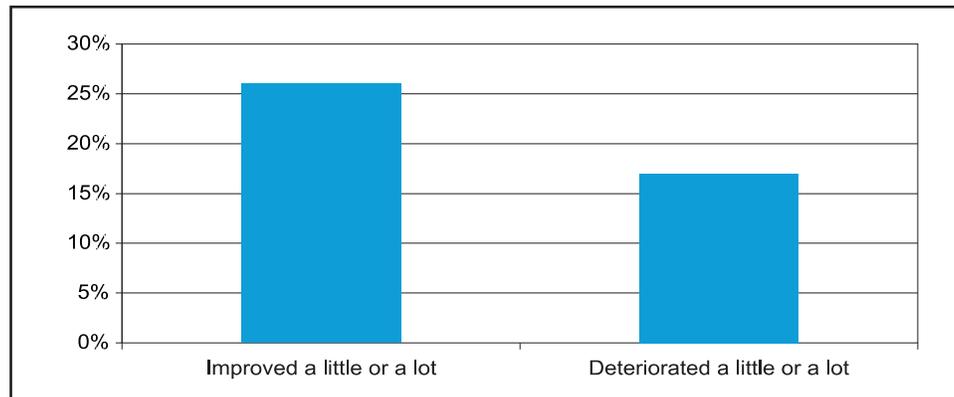


*Note:* Based on a sample of enterprises in 14 provinces. The respondents are only those enterprises who submitted an application to obtain a LURC. All enterprises are given equal weights, and enterprises with “don’t know” and “refusal” answers are excluded. After all these exclusions, the number of enterprises giving opinion is 177 for Vietnam, 60 for Red River Delta, 24 for Central North, 30 for Southern Central Coast, 42 for South East and 21 for Mekong Delta.

*Source:* Own estimates based on the 2009 WB ES.

Compared to other services and licenses, the perceived corruption in the issuance of LURHOC is one of the highest. Based on the 2008 VHLSS, the percentage of households saying that the level of corruption in the issuance of LURHOC is serious or very serious is comparable to that in the

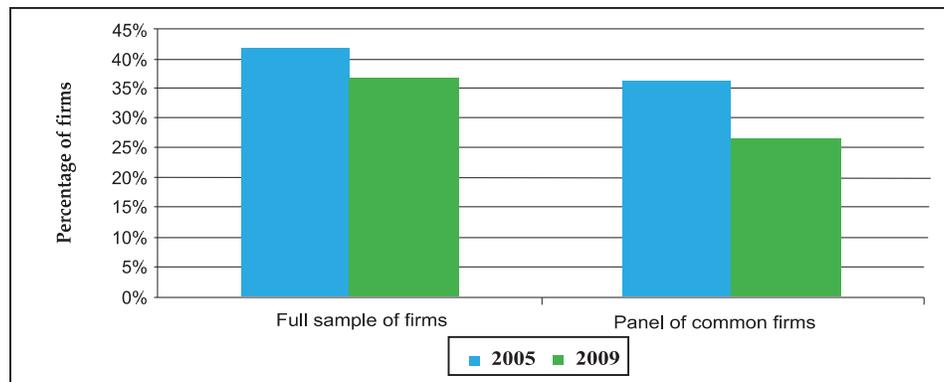
**Figure 5: Change in the level of corruption in the issuance of LURHOC perceived by households, compared to pre-2006**



*Note:* Includes only respondents who had used the service since 2006. The total number of respondents is 1,352 including those with “don’t know” answers.

*Source:* Based on the 2008 VHLSS Governance Module as reported in Vietnam Development Report 2010-Modern Institutions.

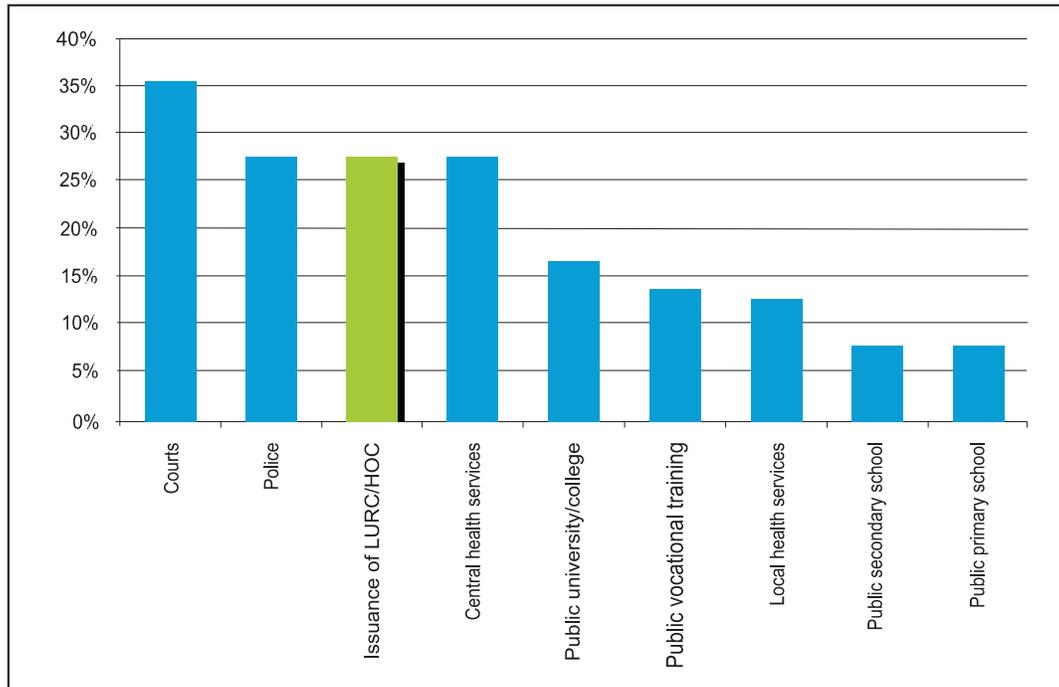
**Figure 6: Gifts or informal payments expected/requested from/to enterprises when applying for LURC**



*Note:* The full sample consists of a sample of firms in 14 provinces of the 5 regions (2009 survey) and a sample of firms in 24 provinces of the 5 regions (2005 survey). All the 14 provinces of the 2009 survey are also in the 2005 survey. The panel sample of enterprises consists of a sample of enterprises from 14 different provinces that were included in both rounds of the two surveys. The questions on LURC informal payments in the 2005 and 2009 surveys are nearly identical. The respondents are only those enterprises who submitted an application to obtain a LURC. All enterprises are given equal weights, and enterprises with “don’t know” and “refusal” answers are excluded. The number of observations from the full sample is 177 for the year 2009 and 187 for the year 2005. The number of observations from the panel of common enterprises is 60 for the year 2009 and 55 for the year 2005. Although these are not necessarily the same enterprises in both years, using the panel data in this way allows for a stronger set of comparisons since the samples are more consistent across years than when using the full sample of firms.

*Source:* Own estimates based on the 2009 WB ES and 2005 WB ICS.

**Figure 7. Cross-sectoral comparison of the seriousness of corruption as perceived by households**

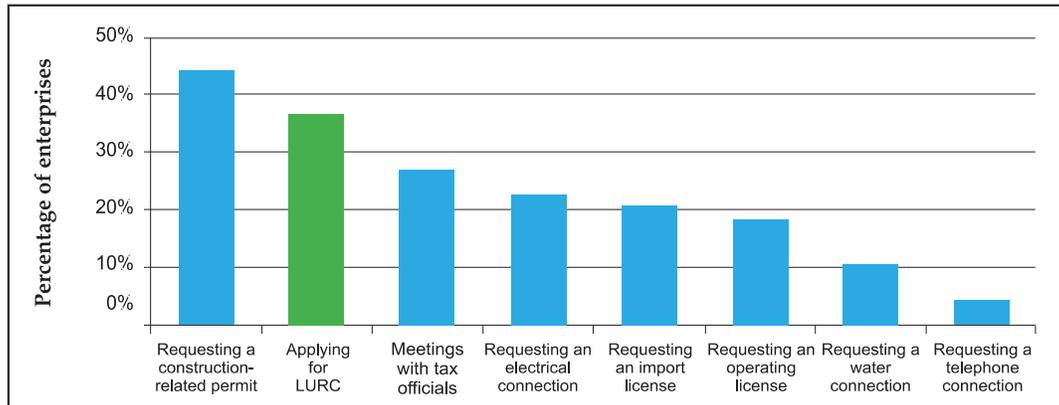


*Note:* The chart shows the percentages saying corruption is serious or very serious as a share of respondent who had used the service and did not answer “don’t know.” The numbers of observations are smallest for the courts (56) and range from 467 to 6,304 for the other services.

*Source:* Vietnam Development Report 2010-Modern Institutions, based on the 2008 VHLSS Governance Module.

police and central health services, but is significantly higher than that in local health services, primary education, secondary education, tertiary education and vocational training (Figure 7). Based on the 2009 WB ES, the level of corruption in enterprises’ applications for LURC is below the level of corruption in requests for construction-related permits, but above the levels of corruption in meetings with tax officials, requests for import licenses, requests for operating licenses and requests for water, electrical and telephone connections (Figure 8).

**Figure 8: Gift or informal payment expected/requested from/to enterprises, for a selection of administrative procedures**

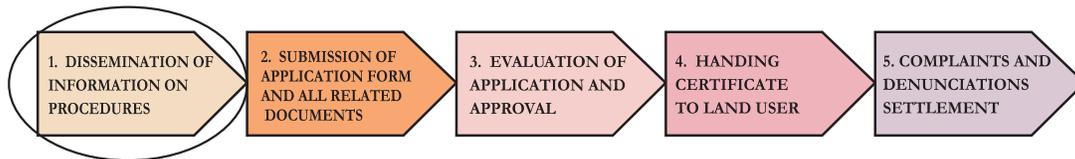


*Note:* The data is based on a sample of enterprises in 14 provinces. The respondents are only those enterprises who submitted an application to obtain the license, connection or permit. All enterprises are given equal weights, and enterprises with “don’t know” and “refusal” answers are excluded. The number of observations varies depending on the sector. For the application for LURC, the number of observations is 177. The highest number of observations is for the meetings with tax officials (605 observations) and the lowest number is for the request for water connection (102 observations).

*Source:* Own estimates based on the 2009 WB ES.

### 3.2. LURHOC Issuance: the Process Flow

#### 3.2.1. Dissemination of information on procedures



**Information on procedures is reportedly limited and hard to understand.** Despite the overall strength of the legal framework on transparency of LURHOC procedures, not all local governments implement the legal provisions and it is reported that the disclosed information is limited and hard to understand. As explained below, this makes it easy for corruption to occur.

Vietnam has strong legal provisions on transparency of LURHOC administrative procedures, requiring publicity at grassroots level and stipulating various forms of dissemination to increase outreach. The main weakness of the legal framework is in terms of the content of the information to be publicized. This is well stipulated for the on-line publication, but it is only partially stipulated for the dissemination at grassroots level (Table 3 in Annex).

The 2010 DEPOCEN study on compliance with transparency regulations found that not all local governments are complying with the legal provisions on publicity of LURC procedures. Out of the 66 visited websites, the procedures and forms related to LURCs were published in 59 of

them and the contact details of officials in charge and clarification or feedback on queries relating to LURC were available in 22 of them (Table 2). Out of the 117 visited communes, 93 had disclosed the LURC procedures and 35 had disclosed the verification results of the submitted LURC applications<sup>1</sup>.

**Table 2. On-Line Disclosure of LURC-Related Administrative Procedures**

|  | Legal requirement on publication | Frequency (no. of websites out of total) | Percent (%) |
|--|----------------------------------|--|-------------|
| 1. List of procedures and forms related to Certificates for Land Use Rights  | Mandatory on-line                | 59/66                                    | 89.39       |
| 2. Contact information on the address, phone number, and the email address that organizations and individuals can use to send their feedback and recommendations regarding regulations of administrative procedures for granting Certificates of Land Use Rights | Mandatory on-line                | 22/66                                    | 33.33       |
| 3. Information on feedback and recommendations of individuals and organizations regarding regulations of administrative procedures for granting Certificates of Land Use Rights  | Mandatory on-line                | 23/66                                    | 34.85       |
| 4. Solutions that have been adopted in response to feedback and recommendations on land-related administrative procedures  | Mandatory on-line                | 18/66                                    | 27.27       |
| 5. Documents regulating the rate/charge for granting Certificates of Land Use Rights   | Not mandatory                    | 33/66                                    | 50.00       |
| 6. Online service for granting Certificates of Land Use Rights   | Not mandatory                    | 9/66                                     | 13.64       |

*Note:* The 66 consulted websites correspond to the 63 provinces and the websites of MONRE, MOC & MPI

*Source:* Nguyen Ngoc Anh, Nguyen Duc Nhat, Tran Thanh Thuy, Kirby Prickett. 2010: "Survey Report On Information Disclosure Of Land Management Regulations" DEPOCEN for the World Bank.

The 2008 VHLSS shows that access to information on LURC procedures is far from easy for the majority of households. Only about one third of the households who applied for LURC think that it is "simple or very simple" to find guidance information<sup>2</sup>.

1. This is required in Article 14 of Decree 88 (2009).

2. *Vietnam Development Report 2010 – Modern Institutions.*

The focus group discussions of the provincial case-studies revealed that one of the factors that could be generating corruption is that information of LURHOC procedures is limited and hard to understand. The quantitative survey conducted during the provincial case-studies shows that 34% of the respondents with opinions<sup>1</sup> think that LURHOC procedures are not publicized or partially publicized.

In the HCMC case studies, citizens reported finding it hard to obtain information and advice on LURHOC procedures, and complained about the lack of specific instructions on procedures, leading to difficulties in identifying the required documents. This situation is reportedly abused by land officers, who are often able to intimidate people with little knowledge about the LURHOC procedures.

In the Bac Ninh and Binh Dinh case studies, people complained that LURHOC procedures are only partly published, and that they face difficulties in understanding the contents due to a lack of guidelines. In many cases, procedures are made public, but people do not understand them, being told that their application forms have not been correctly filled in, prompting them to use “informal intermediary services” instead.

In Lang Son province, the case study found that announcements about LURHOC issuance sometimes only reach officials and not ordinary people. It is difficult for communities in mountainous areas to access information, which is only listed at the commune’s PC office.

The provincial case-studies identified three sets of forms of corruption associated with limited access to information on LURHOC procedures and regulations: (1) officials imposing illegal requirements on poorly informed applicants and pressuring them into paying bribes; (2) applicants feeling overwhelmed and resorting to middlemen or “informal intermediaries”<sup>2</sup> for assistance; (3) applicants feeling overwhelmed and paying irregular fees in return for the help of officials.

Corrupt behaviour is basically driven by the time saved and difficulties avoided in finding information. Returning to the “corruption equation” described in section 2, the shortage of transparency, and the monopoly power that government agencies have in the dissemination of LURHOC information, increase the vulnerability to corruption.

### 3.2.2. Submission of application form and related documents



1. “Respondents with opinions” excludes: (a) no answers; (b) answer is “unknown”.

2. In Vietnam there are two types of LURHOC intermediary services: (a) notaries; and (b) informal intermediaries. The notaries are legitimate intermediaries and resorting to them is not a corrupt practice. They are responsible for conducting on behalf of the customer all the LURHOC procedures and bring the certificate to the customer. They normally charge a very high price. The informal intermediaries are not legitimized by the law. Resorting to them could be considered a corrupt practice if part of the informal fee paid by the LURHOC user to the informal intermediary is shared with government officials.

*The procedures are complicated and applicants are intimidated by commune officials.* Based on survey data it is undeniable that the governments' efforts to simplify LURHOC procedures have generated improvements as perceived by both households and enterprises. Yet, during the submission of the LURHOC application form and related documents, individuals and organizations are still faced with complicated and lengthy procedures and, reportedly, with forms of intimidation by commune officials, which might push LURHOC service users into bribery.

The Government of Vietnam has made remarkable and sustained efforts to simplify administrative procedures for citizens and enterprises, including procedures related to the LURHOC. Initiatives such as the wide application of the one-stop-shops in all local levels, the collection and handling of user feedback on administrative procedures<sup>1</sup>, and the "regulatory guillotine" of Project 30<sup>2</sup> are admirable steps forward.

Both households and enterprises report improvements in LURC procedures. Based on data from the 2008 VHLSS, nearly three-fourths of LURC users say LURC procedures have become easier than before 2006<sup>3</sup>. The PCI data also suggest that the time enterprises wait for LURC has been significantly reduced. In the median province, the waiting time reported by the surveyed enterprises was 121 days in 2006, 60 days in 2007, 49 days in 2008 and 33 days in 2009.

Nonetheless, important challenges remain. The 2008 VHLSS shows that more than one in four households experienced difficulties when dealing with LURCs. The time spent was the most often cited reason, affecting 43% of the respondents who encountered difficulties. The lack of knowledge on procedures and the serving attitude of officials were the second and third most cited reasons, respectively<sup>4</sup>. A recent online survey of 1,500 respondents organized by *Vietnamnet.vn* online newspaper found that nearly half found land-use rights related procedures the most annoying of all administrative procedures<sup>5</sup>.

The consulted stakeholders in the provincial case-studies explained that for residential land, particularly in urban areas, the duration of the LURHOC issuance process often exceeds the legal time limit. For the granting of LURHOC for enterprises, the situation looks quite different. The waiting time for LURC reported by enterprises in the 2009 PCI (33 days in the median province) does not exceed the legal time limit for new certificates. Decree 88 of 2009 stipulates that the time limit for completing the procedures to grant the LURHOC from the date of reception of the complete and valid dossiers is 50 working days for granting new certificates and 20 or 30 working days for granting renewed certificates<sup>6</sup>.

1. This is stipulated in Decree No. 20 (2008) on handling individuals' and organizations' feedback on policies and administrative regulations.

2. "Project 30" refers to Government Decision no. 30 of January 2007 on the Master Plan for the Simplification of Administrative Procedures for the period 2007-2010.

3, 4. *Vietnam Development Report 2010 – Modern Institutions*.

5. "Red tape still a major headache: poll" 20-10-2010. <http://english.vietnamnet.vn/en/politics/541/red-tape-still-a-major-headache-poll.html>

6. Prior to Decree 88 of 2009, the exact time limit was not legally stipulated. Article 122 of Decree 181 of 2004, now replaced by Decree 88 of 2009, gave the power to decide the specific time limit to the Provincial People's Committees.

The quantitative survey conducted during the provincial case-studies shows that 85% of the respondents with opinions think that in several provinces land officials are intimidating organizations and citizens in implementation of LURHOC issuance procedures. One of the forms of intimidation that the survey found is that land officials make it difficult to accept application forms (22% of the respondents with opinion believed this is a form of intimidation that LURHOC applicants are often facing).

The focus group discussions of the case-studies revealed that the completion of forms is often complicated and applications often have to be re-submitted several times. In Lang Son, people reported that they do not receive proper instruction from land officials, and in practice the LURHOC application can hardly be completed without extra payment.

In Bac Ninh province, guidelines of the “one-stop shop” of the city are inconsistent with those of the ward, so people must request help from the local leadership or pay commissions, or use “informal intermediary services”. One leader of a mass organization said: “In 2009, I have done this myself for my family. I have gone there several times within four months to finish the required procedure. At the end, I had to request one city leader to ask the “one-stop shop” officer to speed up the work. Finally, I was granted the LURHOC, but how about other people?”

In Binh Dinh, people reported that they had to use a “broker” to complete the application. Land officers would refuse to help individual applicants, though they were willing to process an application quickly if “informal intermediary agents” were involved. In HCM City, some people had to submit 10 sets of documents and 2 cadastral maps.

In a nutshell, several forms of corruption appear likely in this stage of process flow: (1) land officers complete application process quickly if informal intermediary agents are involved or a commission is paid; (2) bribes are paid to avoid intimidation by commune officials who ask for extralegal supplementary documentation.

Corrupt behaviour is basically driven by the time and difficulties that applicants can save in submitting the application and related documents. The above-mentioned problems in the submission of the LURHOC application, a shortage of accountability to the service user and unchecked discretion on the part of officials, open the door for corruption.

### 3.2.3. Assessment of application, approval and handover of certificate to land user



*The process is lengthy and applicants might be intimidated by commune officials.* The assessment of the application and the approval and handover of the LURHOC is a lengthy process and can involve the intimidation of applicants by commune officials. As a result, incentives for requesting and/or offering bribes arise.

In the focus group discussions of the provincial case-studies it was reported that the duration of assessment and approval exceeds the legal time limit, although a good relationship with the authority will speed things up, which was confirmed by one leader of a provincial business association.

The quantitative survey conducted during the provincial case-studies shows that six out of ten respondents with opinion think that the illegal extension of the time for LURHOC evaluation and approval is a form of intimidation that LURHOC applicants are often facing.

The provincial case studies identified the following forms of corruption in this stage of the process flow: (1) discrimination of applicants by allowing faster processing for those who pay bribes or have personal contacts to the authorities; (2) people resorting to middlemen (who reportedly charge for their good contacts with officials, whom they know how to bribe); (3) a bribe is paid to avoid intimidation by commune officials, such as the illegal extension of the time for LURHOC evaluation and approval; (4) officials retain the approved LURHOC certificate and do not hand it to the user unless he/she pays a bribe.

Like in the previous stages of the process flow, corrupt behaviour in this stage is basically driven by the time and difficulties that applicants can save. In the absence of accountability to the service user, the monopoly power of the officials, and unchecked discretion on the part of the official, the risks of corruption are no surprise.

#### 3.2.4. Complaints and denunciations



*The settlement is often improper, slow and only partially transparent.* People are often dissatisfied with how officials at the commune level handle their complaints on LURHOC affairs. Complaints often fail to be addressed properly, if at all, including cases of irrelevant and contradictory replies. Moreover, the settlement process is often slow and in many cases only partially transparent. This reduces the risk of getting caught if a public official in charge of LURHOC issuance has committed a corrupt act.

People in BD province reported that letters of complaint sent to ward or district authorities received no response. One of the consulted stakeholders in TG province stated: “My family has paid for handling the LURHOC since 1995, the fee payments are now returned by the commune<sup>1</sup>. We are now very discontented. We have sent complaints but have got no answer”.

People face barriers in lodging complaints, including discouragement from officials. For example, officials may insist on seeing evidence of bribes being requested, which is of course hard

1. The reason why the payments were returned is that the LURHOC application of the family could not be resolved by the local government due to some problems with the land.

to produce. In one of the provincial surveys, one leader of a district unit for land administration stated: “people complain about “informal intermediary services” but SONRE are not sure of this.”

People are sometimes confused by contradictory decisions of authorities. In some cases, court rulings differ from the letter of the law and from opinions of DONRE and the Province Inspectorate (Binh Dinh province). Citizens often do not know where to appeal to. Administrative bodies pass on the ball to the Court of Justice, which, in turn, refers back to administrative bodies (HCM City, Binh Dinh province).

The quantitative survey conducted during the provincial case-studies shows that 35% of the respondents with opinion think that the settlement by local People’s Committees of complaints on LURHOC affairs is only partially transparent, and 7% of the respondents with opinion think that the settlement is not transparent. The same survey shows that 48% of the respondents with opinion believe that the settling time is longer than the legally regulated time.

## 4. RISK FACTORS FOR CORRUPTION IN LAND ACQUISITION AND LAND ALLOCATION

This section aims at understanding the nature and causes of corruption in the land acquisition and allocation process. Building on the limited available data, the section first tries to unbundle corruption in the land allocation and acquisition process. It then moves to identify the key risk factors for corruption in each of the steps of the process flow for land acquisition and land allocation, following the same methods as in the previous section. Arguments are based on an analysis of the legal framework and data from various sources, including the recent case-studies carried out in the provinces Lang Son, Bac Ninh, Binh Dinh, Tien Giang, and in Ho Chi Minh City. The risk assessment is also substantiated by specific cases made public<sup>1</sup>. As in Section 3, the linkage between the risk factors and the occurrence of corruption is explained by describing existing forms of corruption related to the risk factors, analysing the underlying economic rents that create incentives for corrupt behaviour, and translating the risk factors into the “corruption equation”<sup>2</sup>.

### 4.1. Unbundling Corruption in Land Acquisition and Allocation

The informal 2010 quantitative survey conducted in the five provinces of the case-studies found that 78% of the respondents with opinion<sup>3</sup> believe that there are instances of “corruption related to the process of land allocation, land recovery, compensation, support and resettlement”. Those believing that this type of corruption is “very widespread” constitute 38% of the respondents with opinion.

The quantitative survey also included a question to participants on whether they agreed on the following opinion of a law enforcement official: “Corruption in land management is not so difficult to make, in every province there are cases of illegal land selling, illegal land allocating”.

---

1. This broadly refers to cases where the facts have been well-established through court cases, media investigations and coverage, etc.

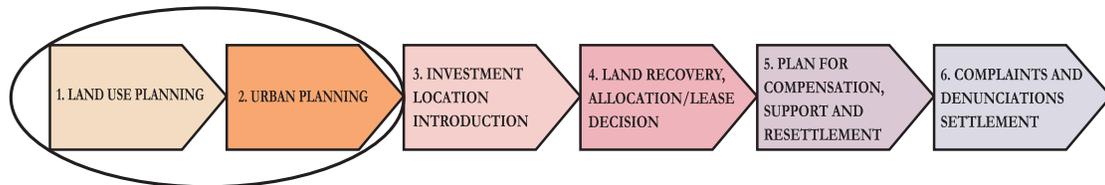
2. Please see section 2 for more details about this equation.

3. The respondents are citizens, representatives from businesses, representatives from mass-organizations, and government officials in the five provinces of the case-studies. Please, see Section 2 for more information about the composition of the sample of this survey. “Respondents with opinion” excludes: (a) no answers; (b) answer is unknown. Out of the 400 participants in the survey, 48 gave no answer to the question referred in this paragraph and 49 answered “don’t know”.

Out of all the respondents with opinion<sup>1</sup>, 92% agree either fully or partly with the statement. Those agreeing “fully” constitute 41% of the respondents with opinion.

## 4.2. Land Acquisition and Land Allocation: the Process Flow

### 4.2.1. Land-use planning and urban planning



According to the Constitution of Vietnam (1992), land-use planning is considered an important tool of land management. Land-use planning is at the heart of the 2003 Land Law, amended, supplemented in 2009 and of the guidelines for its implementation laid down in Decree No. 181/2004/ND-CP.

Construction planning in general and urban planning in particular are crucial in guiding the rapid process of urbanization. Urban planning is regulated by the 2003 Construction Law, amended, supplemented in 2009 and the 2009 Urban Planning Law, as well as by the decrees regulating implementation of these laws.

Land conversion, land allocation/lease, and land acquisition should-according to the Land Law and the Planning Law-be undertaken in consistency with land-use planning, urban planning and its revisions.

According to experts and focus group participants, the actual implementation of land-use planning and urban planning suffer from a number of problems: (1) overlaps in certain contents between land-use planning and urban planning (e.g., inconsistency in sequencing with the urban plan sometimes being approved before the land-use plan); (2) limited quality and feasibility of the plan, in particular in terms of development impact; (3) the approval of planning or its revision appearing, in some cases, to be manipulated to benefit certain groups in collusion with government officials; (4) planning being revised too quickly, without legitimate reasons, possibly for private gain; (5) difficult access to information about land-use planning, urban planning, as well as its revisions.

*Land-use/urban planning and its revisions are said to be distorted because of the commercial interests of individual investors.* Land-use plans<sup>2</sup> have often been revised quickly, completely rewriting the

1. “Respondents with opinion” excludes: (a) no answers; (b) answer is unknown. Out of the 400 participants in the survey, 55 gave no answer to the question referred in this paragraph and 44 answered “don’t know”.

2. In this section, the term “land-use plans” refers to both land-use planning and land-use plans. In the land legislation of Vietnam, land use planning focuses on land use for the purpose of socio-economic development for a period of 10 years. Land use plans focuses on the implementation of the approved land use planning for a period of 5 years.

development objectives and radically changing the price of the land plots from one day to another. Such practices pose the risk that decisions on land-use planning and urban planning are distorted by rent-seeking of individual investors, which is easy to do with the vague objectives that characterise land-use and urban planning.

The quantitative survey of the provincial case-studies found that half of the respondents with opinion believe that land-use planning, urban planning and rural residential planning are illegally approved/revised for the private benefit of state officials<sup>1</sup>.

The case study from H City highlights how investors in association with state officials were able to buy a large area of agricultural land (land-use right), and then exert influence in favour of revising land-use planning to convert their new property into non-agricultural land<sup>2</sup>. Obviously, the land value increased after this revision was approved, and it is hard to control if gains were illegally shared between investors and officials.

On a national scale, there is a strong interest in implementing golf course investment projects, which offer high rents. Land is initially set aside for public sporting purposes, which results in low prices. Once the investment project is approved, the investor can build villas for rent, hotels, and entertainment areas within the golf course compound. Moreover, because golf courses need a wide area, the investor can hold such land, waiting for land conversion to use it for commercial/residential purposes (after securing an approved revision of land-use planning)<sup>3</sup>.

The following forms of corruption risks related to the approval and revisions of land-use/urban plans were identified in the provincial case-studies: (1) Investors and state officials sharing out rents/profits from increase in land value after the land is allocated to other purposes upon approval of land-use planning/urban planning or its revisions; (2) Bribery in exchange for changing the purpose of land use, based on approval of land-use planning/urban planning or its revisions.

Corruption behaviour basically occurs because the increase in the land value that the investor can obtain through modified land-use/urban plans generates an economic rent large enough for the investor to offer bribes to planning officials. Land-use/urban plans often sets out vague development objectives and consequently unclear criteria for land allocation, making it easier for planning officials to modify the land-use/urban plans if persuaded by individual investors.<sup>4</sup> And when officials have unchecked discretion and monopoly power over the decisions, divvying up those rents through corruption is not difficult.

The existing distortions in land-use plans and urban plans created by the interests of individual investors could be significantly reduced if the formulation and revisions of the plans

---

1. Out of the 50% of respondents believing so, 68% think that the illegal approvals/revisions happen but not significantly.

2. Based on interviews with mass organizations in the HCMC provincial case study.

3. Several provinces have at least four or five golf courses in their land-use planning. E.g., the Long An province includes 13 golf courses in its provincial land-use planning.

4. This is evidenced by the legal regulations on land-use planning/urban planning, and the group discussion with leaders of mass organizations during the provincial case-studies.

were done on the basis of prior consultation with the key stakeholders. With the new Law on Urban Planning, all urban plans are required to be publicly consulted prior to approval, but the other legislation covering land-use planning is generally weak in terms of the provisions on ex-ante consultation. The Ordinance on Grassroots Democracy has strong provisions on consultation of draft land-use plans but they are only applicable for the commune-level land-use plans. Similarly, the consultation provisions of the Land Law only apply to the commune level. The Law on Anti-Corruption mandates consultation of land-use plans but in very general terms, i.e., “ensuring democracy and publicity”. Worryingly, there is no piece of legislation explicitly requiring prior consultation of “revisions” of land-use plans and urban plans (Table 4 in Annex).

The 2008 VHLSS Governance Module found that household participation in land-use planning is very modest. The vast majority of households with interest had not provided any opinions on land use plans at commune level, and the most cited reason was that the respondent had not been consulted<sup>1</sup>.

The 2010 DEPOCEN study on compliance with transparency regulations found that draft urban plans were only accessible in 8 of the 66 visited websites, 2 of the 12 visited provinces, 1 of the 24 visited districts, and 4 of the 117 visited communes. However, this data needs to be interpreted with caution because of various reasons. First, on-line posting is not one of the mandatory forms of disclosure. Secondly, some of the mandatory forms of consultation (e.g. distribution of survey card questionnaires, introduction of planning options in mass media) were not possible to be tracked. And importantly, in some cases inaccessibility could be due to the fact that the spot checks were conducted well before or after the consultation period. Notwithstanding these caveats, the study shows that there is ample room for improvement in transparency.

*Difficulties in accessing information on land-use planning and uneven access to information for investors.* The disclosure of information about land-use planning/urban planning is subject to clear regulations although with some important gaps. In practice, the existing regulations are not well implemented, giving rise to opportunities for corruption.

The Law on Urban Planning in 2009 has set high standards for the publicity of all urban plans, including some requirements on the specific content to be disclosed. The publicity of the land-use plans of all levels of government is also mandatory, but there are no requirements on the content. The current legal framework has weak provisions on the publicity of the “revisions” of land-use plans and urban plans: the implementing legislation of the Land Law does not include any guidance on this; the Law on Anti-Corruption mandates the public announcement of “adjustments” in land use plans but the provisions are too general; the Law on Urban Planning requires the publicity of “full updates on the implementation” of the approved urban plans but it is unclear whether this applies to the revisions of the plans (Table 4 in Annex).

The focus group discussions of the provincial studies revealed that information on land-use planning/urban planning is publicly disseminated at various administrative levels, but

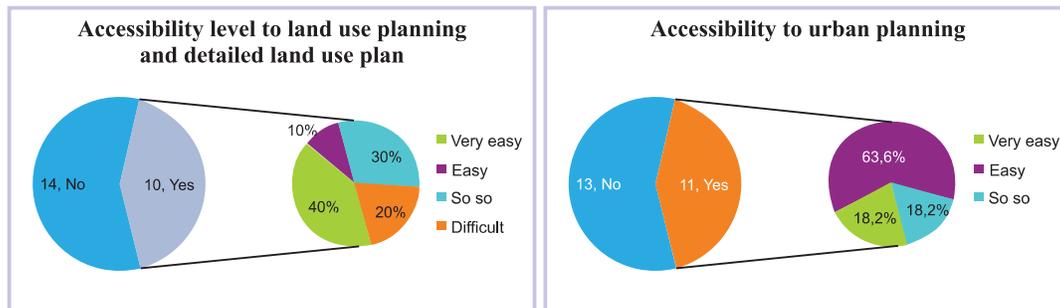
---

1. *Vietnam Development Report 2010 – Modern Institutions.*

hard to find, incomplete and difficult to understand. One particular problem for investors looking for land for investment projects is that it is difficult to locate such land based on land-use planning information. The informal quantitative survey undertaken as part of the provincial case-studies found that 43% of the respondents with opinion think that the approved land use plans are not publicized or are publicized without fully implementing the legal regulations.

That land-use plans are not always publicized is confirmed by anecdotal evidence from HCMC (Box 4) and by the 2010 DEPOCEN study on compliance with transparency regulations. Based on the DEPOCEN study, the land-use plans are publicized on-line in 34 of the 66 visited websites, and the approved urban plans in 21 of the websites<sup>1</sup>. The spot checks of the DEPOCEN study also show poor compliance with the disclosure provisions. At provincial level, land use plans were only accessible in 6 of the 12 surveyed provinces, and urban plans in 8 out of the 12 provinces. At district level, land-use plans were accessible in 10 out of the 24 surveyed districts, and urban plans in 11 out of the 24 districts<sup>2</sup> (Figure 9). At commune level, land-use plans were accessible in 60 of the 117 surveyed communes, and urban plans in 27 out of the 117 communes<sup>3</sup>.

**Figure 9. Disclosure of Land-Use and Urban Plans at District Level, based on Spot-Checks**



*Note:* The numbers in the circles on the left indicate the number of districts in which information on the plans was accessible (right side of the circle) or inaccessible (left side of the circle) during the spot checks. The total number of visited districts is 24.

*Source:* Nguyen Ngoc Anh, Nguyen Duc Nhat, Tran Thanh Thuy, Kirby Prickett. 2010: "Survey Report On Information Disclosure Of Land Management Regulations" DEPOCEN for the World Bank.

1. On-line publicity of approved urban planning is not mandatory, but it is legally required to publicize in the "information network of the provincial government" the land-use planning and detailed land-use plans.

2. It should be noted that the disclosure of urban plans is only mandatory for urban districts and for rural districts of centrally-run cities. Lack of accessibility to urban planning in some districts could be explained by the fact that they do not fall under the scope of the Law on Urban Planning.

3. When only urban communes are considered (59 communes), the percentage of communes in which urban planning was accessible is 24%.

**Box 4: Planning a Road Intersection in H City**

In H City, the intersection TSN - BL of the Ring Road No. 2 has been subject to several CPC's decisions on planning/plan approval. H CPC had the Announcement No. 731 dated 27 July, 1996 on approval of the planning of the intersection from TSN to BL as a straight line. Based on H CPC's submission, Prime Minister issued the Decision No. 4557/QD-TTg to approve this planning. After that, H CPC has again had Announcement No. 375 dated 10 June, 2005 on another approval of the intersection TSN - BL as 2 curved roads. During 1996-2005 in the planning/plan approval, this intersection has had the same two ends but different types and directions of road. The contents of two approved planning/plans have not been publicized to residents in this area. As a consequence, many people have had to dismantle newly built permanent houses according to the older planning of the road but not suiting the newest, approved plan. In this context, residents questioned why the authorities of H City issued plans different from the Prime Minister's decision on planning and why the City's People's Committee did not disclose information on the most recently approved planning/plans.

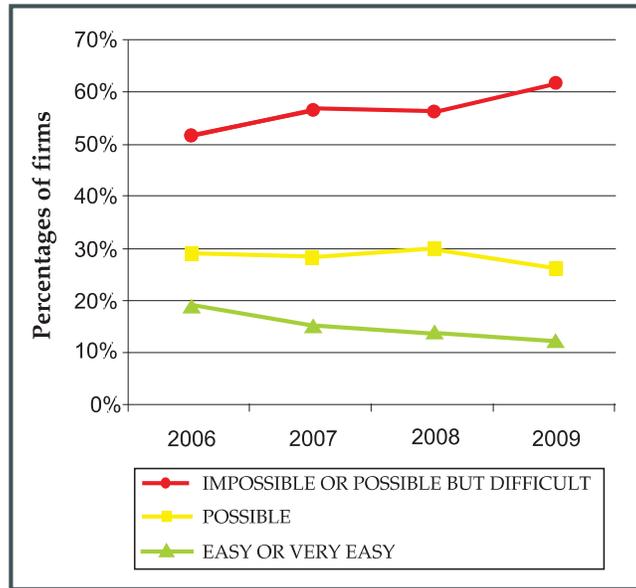
*Source:* People's Police on line, 30 April, 2010, Houses are "monstrous" because "Mr. Planning" is idle and VietnamNet, 11 August, 2009, "An ambiguous explanation, houses are newly built and then they must be dismantled".

The PCI data show that as a whole access to information on land use plans and maps for enterprises in Vietnam remains rather weak and is deteriorating over time (Figure 10). The 2008 VHLSS shows that the information on land-use plans largely fails to meet the needs of households. Although those households who are interested in commune level land use plans generally say they have access to a little information, fewer than half say that they have information that meets their needs<sup>1</sup>.

---

1. *Vietnam Development Report 2010-Modern Institutions.*

Figure 10: Trend in firms' access to information on land use plans and maps



Source: Own estimates based on 2006-2009 PCI.

The provincial case-studies found that one existing form of corruption risk is investors' "diplomatic expenses"<sup>1</sup> with the land-use/urban planning officials so as to obtain information.

Corrupt behaviour basically occurs because those investors who gain privileged access to information can potentially benefit from big economic rents in the future, and hence are willing to offer informal payments or pay "diplomatic expenses" in exchange for the information.

The corruption equation is a convenient tool for understanding why the problems to access land-use planning information lead to corruption. A shortage of transparency, combined with the monopoly power of government in land-use/urban planning, increases corruption risks.

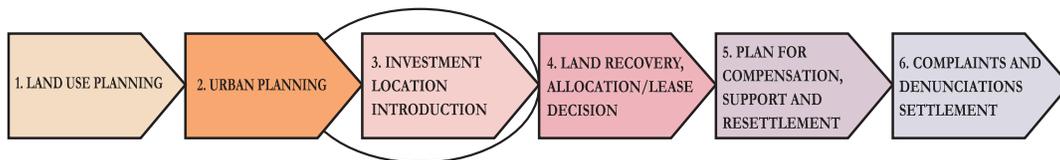
Provincial-level data from the PCI is consistent with the above-mentioned findings. The data shows a negative correlation between the ease with which firms access land-use plans and maps and the perception of corruption, measured by the percentage of enterprises feeling that bribes are requested from them by provincial authorities<sup>2</sup>. Difficulty in accessing land use

1. Diplomatic expenses are understood in Vietnam as informal expenses that investors should pay for state officials' requirements such as dinner parties, consumer goods, overseas trips, gift in cash or in kind, etc.

2. In all the figures in sections 3.4 and 3.5, the corruption is measured by an indicator that is not land-specific i.e. "percentage of firms subject to bribe requests from provincial authorities". There is no available data specifically on corruption in the land acquisition and allocation process.

plans/maps makes it difficult for the public to provide oversight in land use. At the same time, less scrupulous officials may have incentive to deliberately obscure land use plans/maps some time in advance.

#### 4.2.2. Investment location introduction



*Complex introduction to investment locations.* Investors have to interact with several government officials in state agencies at all levels to find a suitable site for investment projects, and as a consequence they have incentives to offer bribes to make the process simpler.

The legal framework of Vietnam has some provisions on disclosure of proposed and approved investment projects but they are partial and regulated in many different laws, e.g., Land Law, Construction Law, Housing Law, Law on Real Estate Business, Investment Law. Decree 181 of the Land Law requires publicity of the list of proposed investment projects together with the land-use planning documents, but the content is minimal. The Law on Bidding requires the publicity of information on investment projects prior to the implementation of bidding or prior to the approval of the appointed investor, but only in the mass media.

Importantly, there are no standard guidelines on how to conduct the introduction to investment location for businesses. In practice, the Provincial People’s Committees appoint an agency to take this responsibility, typically the DPI.

The 2010 DEPOCEN study on compliance with transparency regulations found that the accessibility to investment site maps is very much limited. The researchers of the study could only access the investment site maps in 2 of the 12 visited provinces.

In the five provinces of the case-studies, businesspeople in search of an investment site confirmed that procedures to visit sites for investment projects are complex and unclear, while the setting up of meetings is associated with “diplomatic” costs. In some localities, businesses must use informal brokers to arrange visits to sites suitable for investment projects. From a practical perspective, investors mainly highlighted difficulties in the process of finding land, whereas few companies referred explicitly to bribery.

Interviews in the case studies in the five provinces suggested one form of corruption associated to the introduction to the investment location, namely the payment of “diplomatic expenses” or the use of informal brokers to identify and pre-arrange attractive sites for investment projects. Corrupt behaviour is driven by an implicit economic rent. Namely, the time and cost saved by the investor in identifying an attractive site for its own investment project.

*Investor-induced projects accepted without any or limited basis in land use/urban plans.* Based on the Land Law, only projects complying with prior land-use/urban construction planning can be

accepted<sup>1</sup>. However, in reality, local leaders often accept projects based on investors' suggestions that are inconsistent with prior planning, as that offers the opportunity to collect bribes.

During the field survey in Binh Dinh, the province's leaders indicated that incentives were widely provided to spur development with a general disposition to facilitate the implementation of any investment proposal. In H City, leaders asserted that their city is rich in "golden land areas", which many investors want to use for their projects, and the provincial officials explained that local level investment projects are often approved based on the suggestions of investors rather than land-use plans. There is also anecdotal evidence on the occurrence of this same type of problem in Hanoi (Box 5).

**Box 5: "The Hotel in the Park"**

In 2008, the "Hotel in the Park", a hotel investment projects in the TN park of H City, triggered a fierce debate. The urban plan, according to some critics, had no objective of converting a part of the park into a hotel. Finally, the legal documents related to this project showed that the project "Hotel in the Park" was approved contrary to planning. The People's Committee has now decided to move the project to another location. Nevertheless, the project "Hotel in the Park" was initially approved solely based on the investor's suggestion.

Source: Vietnam Net.

Interviews undertaken for the provincial case studies suggested one form of corruption related to the lax acceptance of investment projects. Namely, government officials induce investors to offer bribes in exchange for the acceptance of investment projects that override land-use/urban planning. The underlying economic rent driving this corrupt behaviour are the gains that the investor can obtain from implementing its own project, which would have not been possible if government officials strictly complied with the Land Law. Returning to the "corruption equation", discretion on the part of officials who essentially hold monopoly power over investment location introduction opens the door for corrupt practices.

Singapore offers a good example of a *de facto* strong alignment of land development projects to the approved land-use plans. At the same time, the country has managed to ensure a certain degree of flexibility and business-responsiveness in the decisions on land development. Importantly, land development in Singapore is subject to limited discretion and strong upward and downward accountability, which make corruption less likely (Box 6).

1. Article 21 of Land Law (2003) regulates that the elaboration of land use planning and plans must be based on the principle of compatibility with "the strategies, overall planning, plans on socio-economic development, defense and security". Article 31 of the Land Law regulates that decisions on land allocation/lease or change of land use purposes must be made based on land use planning/urban construction planning/rural population quarter construction plans, which have already been considered and approved by competent State agencies.

### Box 6: Plan-Led Land Development in Singapore

In recent years Singapore has gained increasing international recognition as a model of good practice for public land management. Singapore presents a prototype of urban governance in which land use planning is taken seriously and plans are implemented with relatively high compliance with development control and planning regulations. At the same time, the country has issued policies and guidelines to ensure flexibility and business-responsiveness in land development. As a whole, the system has embodied processes enabling the implementation of planning policy objectives and plans in a changing environment.

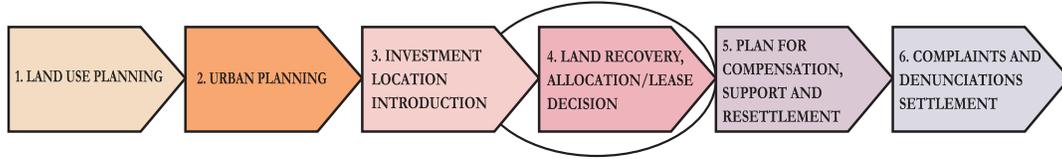
The decision on land development in Singapore is largely plan led. The competent authority must act in conformity with the provisions of the Land-Use Master Plan and any Certified Interpretation Plan in so far as is relevant. There are nevertheless circumstances offering some room for decisional maneuver to accommodate the dynamic nature of development in Singapore and ensure that land is put to optimum use. However, the Planning Act is very clear on the limits of that discretion: the competent authority is to act under the watchful eye of the minister for national development and the minister in turn is answerable to parliament for the activities of the ministry. Accountability in the system is also ensured through the right to appeal to the minister a land development decision, and through strong disincentives for corruption under the country's strict anticorruption policy, which has severe penalties for both the giver and the receiver of a bribe.

Although land planning and development control in Singapore is centralized in a single agency i.e. the Urban Redevelopment Authority (URA), the control activities are inclusive and participatory. Interagency committees are formed and entrusted with specific roles in coordinating different land requirements (such as for meeting housing, industry, commerce, transportation, environmental, and recreation needs), resolving land use conflicts or maintaining design excellence. In recent years the URA has set up advisory design panels made up of both public and private sector representatives to evaluate and formulate urban design guidelines in specific areas. The URA has also actively engaged businesses and the community in reviewing and reducing rules. In 2003 the URA launched an e-consultation portal to engage the population in discussions of draft guidelines and policies before they are finalized. Through the Public Officers Working to Eliminate Red Tape (POWER) scheme, the URA holds regular dialogues with industry players with a view to identifying business-responsive changes in its land development control guidelines.

Engaging people in land-use planning and in certain land development projects is another key thrust. Several of the new local land-use plans, the Development Guide Plans, were framed out to private sector professionals and developers to prepare as part of the move toward encouraging greater participation by the private sector and the general public. In proclaiming that development plans are "your plans", the URA has moved to more actively engage the community in the plan-making process. Unlike in the British system, the public is not consulted on land development applications. However, in recent years the public has been invited to comment on several major development projects such as the integrated resorts (a mixed-used development with a casino).

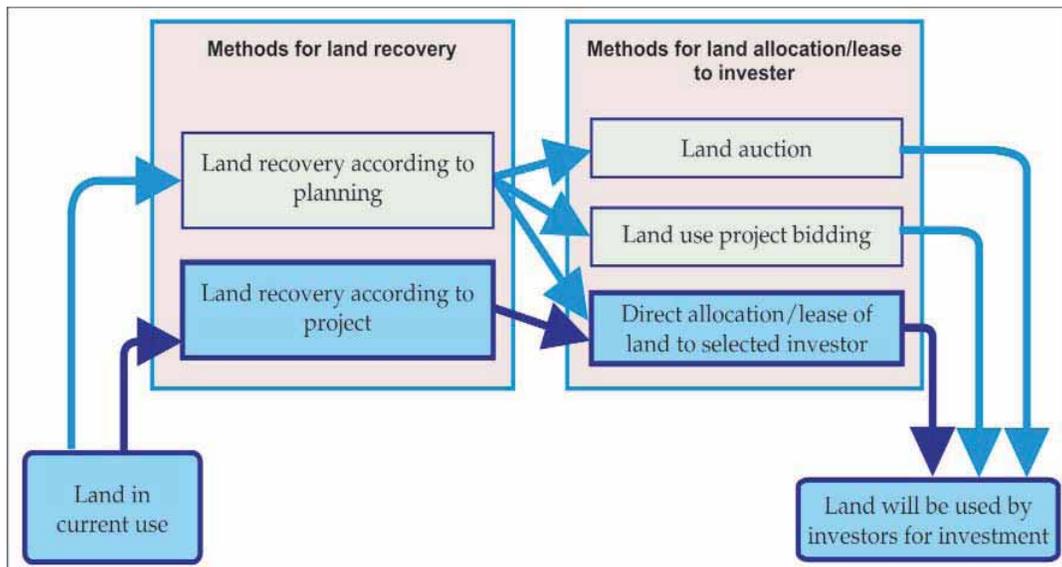
*Source:* World Bank, 2009: "Urban Land Markets: Improving Land Management for Successful Urbanization", Chapter 14 "Guiding Spatial Changes: Singapore Urban Planning".

4.2.3. Land recovery and allocation/lease decision



Use of compulsory land acquisition method with direct appointment for land allocation. Most investment projects today receive land through the so-called compulsory land acquisition method. Under this method almost all land allocation/lease is now implemented under the mechanisms of “land recovery according to project” and “direct allocation/lease of recovered land to selected investor” (Figure 11). As explained below, these ingredients mix together to make a corruption-prone “cocktail”.

Figure 11: Typical land recovery and allocation methods under compulsory land acquisition



Note: Dark color indicates the methods that are almost always used. Light color indicates all the other existing methods under the compulsory land acquisition.

Source: Own elaboration, based on findings from provincial case-studies and legal framework.

In all the provincial case studies, businessmen mentioned that most investment projects today receive land that has been recovered (expropriated) by the state through the compulsory land

acquisition method<sup>1</sup>. Businessmen tend to prefer the compulsory method mainly because of financial reasons. Under the compulsory method, the gains that investors can make thanks to obtaining a low land price outweighs the total cost of the land acquisition through the compulsory method, i.e., bribes, land user/rental fees, and expenditures during the negotiations with government. In addition, for big pieces of land involving many initial land-users, the compulsory method is generally quicker for the investor<sup>2</sup>.

The current legal framework is ambiguous and conflicting with respect to the land allocation method. The Land Law and its implementing legislation<sup>3</sup> recognize three different land allocation methods: (1) land auction<sup>4</sup>; (2) land-use project bidding<sup>5</sup>; and (3) direct allocation/lease of land to selected investor<sup>6</sup>. However, the land legislation is ambiguous in relation to the method that applies for each specific case, thereby allowing for the interpretation that “direct appointment” can be always applied. The Bidding Law allows the appointment of contractors only for contracts of low value or for some exceptional circumstances<sup>7</sup>, and it applies to state-funded development investment projects. This seemingly contradicts the provisions of the Land Law.

In practice, direct allocation/lease is the most widely used method, which stems from the insufficiency of available land owned by local governments, the lack of the necessary initial public financial resources to recover land for allocation through the other methods, and the belief of provincial leaders that the other methods are ill-suited to attract investments. The method of

---

1. In Vietnam, there are two types of land conversion methods: (1) the compulsory land acquisition method, which is based on administrative decisions of the state to recover (expropriate) land from current land-users and to allocate or lease this land to investors, is applied to projects of national and public benefit, including defence and security, and to investment projects for commercial purposes, such as those of common infrastructure building, as well as those that are highly capital-demanding or exclusively foreign-funded (ODA or FDI); and (2) the voluntary land conversion method, which is based on agreements between investors and current land users, is applied when investment projects differ from the categories pertaining to the compulsory land acquisition method or when investors prefer a voluntary approach.

2. Policy Note “Improving Land Acquisition and Voluntary Land Conversion in Vietnam”. World Bank, June 2009.

3. Decree 84 (2007), Decree 69 (2009).

4. The PPC authorizes an agency to auction the recovered land in line with the land-use purpose defined in the land-use/urban planning. The land will be allocated/leased to the auction winner by the PPC.

5. Bidders submit an investment project to the PPC with an offer for the land. The winner is the enterprise with the highest score awarded to its investment project and the largest amount offered for the land.

6. The authorized state agencies assess the project proposal submitted by the investor. In case the state agency accepts the project proposal, the PPC will allocate/lease already-recovered land to the selected investor or decide to recover new land to allocate/lease to the selected investor.

7. “Force majeure”, national secret, urgent national interests, etc.

project bidding for land-use projects has never been applied anywhere in the country. The method of public land auction has failed to catch on beyond exceptional cases. It has mainly been used to allocate small plots of land to households, individuals or businesses building residential areas in big cities such as Hanoi, Da Nang, Ho Chi Minh City<sup>1</sup>.

The land auction method and the land-use project bidding method legally require a publicized and transparent assessment process, which tend to entail low risk of corruption. In contrast, the allocation of land through direct appointment creates considerable potential for corruption, as it enables selection of investors on the basis of personal contacts and bribes instead of quality and affordability. Based on the information learned in the provincial case-studies, personal contacts between investors and state officials are usually an important factor in the process. Active investors who know how to work with state officials, who have good personal relationships, who incur “diplomatic expenses” or who use “informal brokers” have advantages in the administrative decision-making process regarding land allocation/lease.

The rents that drive corrupt behaviour in the allocation of land through direct appointment are the economic gains that the investor obtains from the use of the piece of land acquired from government, which would have not been possible under a more competitive land allocation/lease process.

The scope for corruption in land allocation decisions widens even further in light of the lack of official criteria for the selection of investors. A 2006 IFC survey<sup>2</sup> found that one of the main difficulties reported by officials in the land allocation process was to appraise investments and land requests in the absence of clear standards and with unreliable documentation produced by investors. Other problems reported were insufficient or untrained staff at local government levels, including CPCs and DPCs, and the difficulty of verifying the financial capacity of investors. The findings of the IFC survey are in line with information provided by enterprises in the HCMC case study, complaining that current land allocation methods fail to give preference to the best investors, because the criteria for the selection of investors are not based on quantitative information about the investor.

Not surprisingly, the survey undertaken during the provincial case-studies found that the vast majority of respondents with opinion think that the legal regulation of direct allocation of land to the appointed investors is “unreasonable” (51% of the respondents with opinion) or just “partly reasonable” (26%). Only 23% of the respondents think that it is “reasonable”.

Encouragingly, the example of Peru shows that the wide application of less corruption-prone land allocation methods is possible in practice. Part of the explanation for the feasibility is that land buyers are required to make the total payment in advance (Box 7).

---

1. Based on the 2008 and 2009 annual reports of DONREs on land management and the findings of the five provincial case-studies.

2. “Vietnam: Better Land Administration for Private Sector Development. Summary and Analysis of Survey Research”, IFC, March 2007. This is the latest available information source on the topic of interest.

**Box 7: Use of Auctions in Peru to allocate Public Land**

In recent years, Peru experienced rapid and relatively robust economic growth (9.8% in 2008) which some observers attribute to strong private investment following two decades of policies in pursuit of macro-economic stability and extension of legal property rights to more Peruvians. As a result of such policies, most of Peru's land legislation seems adequate or progressive, holding lessons in areas such as expropriation transfer of state land to private investors, group right recognition, and systematic first time rights registration.

Public land (including expropriated land) is divested to private investors at market prices in a transparent process that is independent of the investor's status or nationality. Transfers of land from the state's private domain require a public auction where the starting price for bidding is based on an assessment of the property's commercial value. Buyers have to pay in advance to ensure that the total payment from auctioned properties is collected. The State may also award concessions for development of renewable natural resources and non-renewable resources on public land. Key information on land concessions is recorded and publicly available.

If a government agency (ministry, regional or local government) has identified the desirability of carrying out a given project, it will request Peru's national investment promotion agency (PROINVERSION) to start promoting the project. PROINVERSION will initiate a process of regularization of any land rights to determine the nature of pre-existing claims that may need to be respected or cleared, and the type of land rights that can be granted to the private investor. If illegitimate claims existed, they are cleared. If legitimate pre existing claims existed they are treated following the rules for expropriation and compensation. The intention of divesting the land is then published in the official gazette, local and international newspapers and a government website. The terms of bidding (i.e., minimum investment required and minimum bid price for the land) are published for a minimum of 90 days (longer if the project is more complex). Before accepting any bids, bidders must prequalify by proving liquid assets to cover at least 60% of the minimum bid price and intended amount of investment on the land. For prequalified bidders, bids are assessed and ranked by offered price and the amount of projected investment. Monetary offers are then presented and a winner is declared. Before the signature of the contract, the land has to be paid and a letter of credit covering the amount of the proposed investment is deposited with the Government.

If projects involving the divestiture of public land are at the initiative of private investors, a similar process is followed. In this case, the potential investor has to present a detailed business plan that details the amount of proposed investment and price for the land before a board composed of public and private sector specialists, including the responsible line ministries. If the proposed project is considered viable and not in conflict with existing regulations, the proposal is published for a minimum of 90 days to allow other potential investors to offer to carry out the project. If any investor comes forward, a public bidding process as described above will be initiated. If, during the 90-day publication period nobody has shown interest in the project, the investor is allowed to proceed as originally proposed.

*Source:* World Bank, 2010: "Assessing and Monitoring Governance in the Land Sector: the Land Governance Assessment Framework".

A lack of integrity might affect the land recovery decision as well because of the common application of the method “land recovery according to project”. One possible form of corruption in this context is the use of “political & bureaucratic connections” to gain protection from land expropriation. A recent study based on data from the 2006 and 2008 Viet Nam Access to Resources Household Surveys (VARHSs)<sup>1</sup> shows that households who lose land to the state are significantly less likely to be households that are connected to a public official.

All the above-mentioned problems reflect an excess of discretion of the provincial authorities in the land recovery and allocation decision. Importantly, the fact that the compulsory method is widely used for acquiring land for investment projects indicates that the government has a significant monopoly power over the use of land. In the framework of the “corruption equation” introduced in section 2, this system increases the risk of corruption.

In this context, it is also necessary to distinguish between land for public and private use, respectively. The monopoly only seems warranted when the government expropriates for the establishment of public goods (e.g., road construction)<sup>2</sup>. In Peru, which also holds good lessons in the area of land expropriation, the Constitution stipulates that expropriations can only be carried out for reasons of national security or “public need” (e.g. to build a road or bridge with no clear beneficiary), and the expropriations law of Peru clearly mentions that expropriations are void unless the State is the direct beneficiary. In Vietnam, corruption could be substantially reduced if the government would refrain from compulsory conversions and acquisition for projects that are essentially private in nature (e.g., land for a private company or golf course).

To be able to apply successfully the voluntary method, the existing bottlenecks with this method need to be fixed. There are not yet any legal provisions to solve the case in which a minority of land users disagree with the price and block the land acquisition<sup>3</sup>. Arguably, this is their right. And if the investor is unwilling to pay the existing land-users’ price, perhaps the land should stay with existing land users. At present, however, an intermediate solution may be needed.

Mixed methods are a promising alternative, and provinces like Binh Dinh and Ho Chi Minh City are experimenting with them. Under the mixed method, the investor must deal with current land users to negotiate the land price, and when the consensus is reached with about 80% of total land users then the provincial/city leaders can issue the decision to recover the land area. The provincial/city leaders can also intervene to facilitate the discussions between the investor(s) and the land-user(s).

*Non-independent determination of the price of land allocation/lease.* The provincial officials who decide on the allocation of land are also the ones who control the land valuation, and there are no

---

1. “Access to Land: Market and non - Market Land Transactions in Rural Viet Nam”, November 2009. Luu Duc Khai (Central Institute for Economic Management), Thomas Markussen (Department of Economics, University of Copenhagen), Finn Tarp (Department of Economics, University of Copenhagen), Nguyen Le Hoa (Centre for Agricultural Policy, Institute for Policy and Strategy for Agricultural and Rural Development).

2. This point is also made in *Vietnam Development Report 2010-Modern Institutions*.

3. Policy Note: “Improving Land Acquisition and Voluntary Land Conversion in Vietnam”. World Bank, June 2009.

external checks on the land valuation process. As a whole, the valuation system suffers from a lack of independence, which increases the risk for corruption.

Almost all provinces still apply general land price tables defined by the Provincial People's Committees (PPCs) on the first day of the year to determine what investors should be charged for specific land allocation/lease. The provincial departments of finance (DOFs) are the bodies in charge of valuing the land to be allocated to investors. The prices proposed by the DOFs are examined by a government reviewing committee chaired by the provincial government, which is the same authority that decides on the allocation/lease of land. In addition, the People's Councils or other organizations outside the government are not involved in the reviewing process.

In HCMC, the lack of independence is partially mitigated by valuation of the land being subcontracted to land valuation agencies. However, the DOF in HCMC is still in charge of the appraisal of the land valuation. Moreover, participants in the case study in HCMC suggested that land valuation agencies often fail to work effectively, partly because they are subject to several types of influence from various sides. Nevertheless, the efforts to reduce the monopoly of the People's Committee in setting the prices are a step in the right direction.

For the rest of the country, under the current valuation system it is easy for investors to obtain a low land price. An "informal agreement" between the investor and related state agencies will suffice to set land prices below market value. Once the land price has been agreed, enterprises will encounter no further difficulties in the process of gaining access to land. To obtain the land at a low price, an unscrupulous investor would have incentive to offer various kinds of bribes to state officials involved in the determination of the land allocation/lease price. Once such rent is created, there are lots of ways it might be divided. The provincial case-studies suggested several possible avenues: (1) Investors pay bribes in exchange for approval of low land allocation/lease price by the state officials, either before or well after the approval; (2) Investors promise that, after completion of the project, they will sell land, housing or office space at below-market price to the state officials.

The mechanism known as "land in exchange for infrastructure"<sup>1</sup> has been particularly prone to produce corruption due to land valuation problems. It was applied from 1993 to 2003, and many corruption cases were discovered associated with undervaluation of the land and overvaluation of the infrastructure investment.<sup>2</sup> Despite "land in exchange for infrastructure" being abolished in 2003, in recent years, a similar corruption risk has emerged in land allocation for "Build-Operate-

---

1. This measure consists of a contract between the provincial PC and an investor, in which the investor finances the construction of an infrastructure work required by the state, such as a road, bridge, electric power line, public irrigation, etc. After completion of the infrastructure, the state grants the investor a land area for commercial purposes whose value is supposed to be equivalent to that of the infrastructure.

2. For example, in 2002 Hai Duong PPC have decided to approve the project Western urban area development in the mode of "land exchange for infrastructure". The Sai Gon Liberation newspaper has reported that the land use fee paid by investor to Hai Duong PPC with land price of VND 40,000 per 1m<sup>2</sup> only but people have to pay to investor for land buying with land prices from VND 2.8 to 8.9 million, about VND 9,000 billion have been lost from government budget revenue (For more information, please see: Sai Gon Liberation 31 Aug, 2006, "Policy on land exchange for infrastructure - lesson learnt from Hai Duong").

Transfer” (BOT) projects<sup>1</sup>, as there is no corruption-proof process for setting the value of the land and the invested infrastructure<sup>2</sup>.

In this case, corruption is driven by the economic rent that investors can generate from the difference between the market price and the price approved by provincial officials for the land allocated to investors. In a great number of current projects, the land price determined by the PPC is lower than the market price. In fact, the prices defined by PPCs are as low as 40-70% of the market price<sup>3</sup>. The case studies also show that land prices determined for land allocation/lease purposes are always below market price, including in HCMC, though the difference is smaller there<sup>4</sup>.

The 2009 PCI included for the first time an indicator on the alignment of government land prices with market land prices i.e. “percentage of firms agreeing that changes in government land prices reflect changes in market prices”. In Vietnam as a whole, 30% of firms<sup>5</sup> do not agree that government prices reflect well market prices. This indicates that a significant share of enterprises perceive a gap between the two prices. There are noticeable differences within Vietnam. In the best performing province the percentage of “disagreeing” firms is 19%, whereas in the worst performing province the percentage of “disagreeing” firms is 47%.

Unchecked discretion and the monopoly in setting the land prices make corruption more likely. This could be improved by developing legal regulations for the outsourcing of land valuation services to independent organizations in a competitive market, and by assigning to an independent committee the power to review and approve the land allocation price. These would be promising steps to reduce the big economic rents that motivate corrupt behavior. Creating and publicizing a central-level database with reference prices for the different types of land slots could serve as a tool for the land-valuation services, and could contribute to hold local governments accountable in land price determination.

*Limited information on the process and results of land allocation & lease decisions.* The land valuation methods and the selection of investors for land allocation are not the only factors increasing the risk of corruption. A general lack of transparency also makes it easier for dishonest practices to take place.

1. In these types of projects, the investor is given land (without paying for it) in order to build infrastructure for an urban development area. Afterwards, the investor builds housing to sell and recovers the investment made.

2. In mid 2010, several newspapers pointed out the disadvantages of “land exchange for infrastructure” in the form of BT/BOT projects. The Transport newspaper gave an example in which an investor had to construct 66.4 ha of road face in city and instead receives 300 ha of residential land of this city. At the end, journalists wanted to send a message mentioning that the measure of “land exchange for infrastructure” will lead to disappearance of the land (For more information, please see Transport Newspaper 01 Jul., 2010, “Land exchange for infrastructure - It is benefit but land is no longer”).

3. “Measures of land price determination for compensation and resettlement in Vietnam”. World Bank, 2010 (forthcoming).

4. See Section 3.3 for information from the 2009 PCI on differences between the two prices as perceived by enterprises.

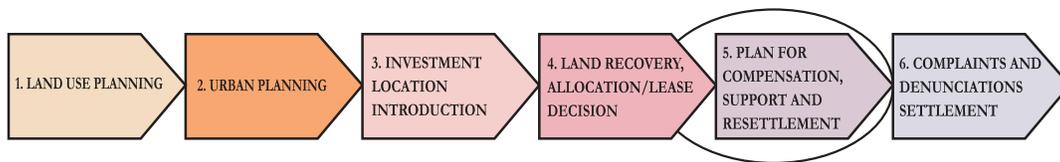
5. This is the value for the median province.

The existing legal framework does not require publicity of the process and results of land allocation decisions. Key pieces of information include the criteria for the appraisal and selection of land requests, the shortlisted investors, the type and location of the selected investment project, the profile of the selected investor, the land price proposed by DOF, and the final land allocation price paid out. At present, this information tends to be kept among the selected investors and a few state officials involved.

The focus group discussions of the five provincial case studies have confirmed that it is difficult to find information about the decision-making process on the allocation/lease of land to investment projects, and that this constitutes an important factor in corruption. The survey data from the case studies has shown that 97% of all respondents with opinion feel that there is a need to make public the information related to land used for investment projects. Returning again to the “corruption equation”, the lack of transparency makes corruption more likely.

Nonetheless, a small number of provinces are disclosing in their websites certain information on the land allocation even though they are not required to do so. The 2010 DEPOCEN study on compliance with transparency regulations found that in 14 out of the 66 visited websites the criteria for land allocation was posted, and that in 7 websites some information on the land allocation decision was also posted. In addition, the study found that many provinces provide information on the land allocation criteria either on display or upon request to the officers in charge<sup>1</sup>.

#### 4.2.4. Plan for compensation and resettlement



*Room for manipulation of “approved” compensation plan and land inventory.* Currently there is room for local government officials to manipulate the inventory of land and attached property, the approved plans on compensation, support and resettlement, and other policy implementation instruments. This creates an important risk for corruption and ultimately compromises the fairness of compensation, support and resettlement arrangements.

The provincial case-studies heard of instances of wrongdoing and corruption by officials during the land compensation and resettlement stage which have led to unfair compensations, benefiting some people/enterprises while damaging the interests of others. The provincial case-studies collected numerous comments from citizens, businesses and mass organisations on cases of incorrect application of land legislation, wrongful inventory of land and attached properties, as well as unreasonable determination of land prices.

- The land and attached properties of some people affected by land recovery have been recorded during the inventory process at a lower value than what the market would

1. Eight of the 12 surveyed provinces provide this information.

have paid. In other cases, the value of land and properties has been estimated above the market price.

- Almost all expropriations without LURHOC or without former land titles are poorly compensated. However, there are notable exceptions in which compensation and support are as substantial as if an LURHOC had been issued.
- The land price is sometimes determined on the basis of the purpose of the investment project in an inconsistent manner. For example, in Lang Son, there was a parcel of land with a part that was recovered to be allocated to a golf course project, while another part was recovered for a housing development project, and different land compensation prices were applied to each part of the land parcel.

Related to the three above-mentioned issues, the quantitative survey of the case studies found that 57% of the respondents with opinion think that it is correct or partly correct to claim that land prices are “unequally” applied to the determination of the compensation value and that bribery or good relations with state officials help obtain a higher value.

Another different form of corruption is illustrated by media reports. In the period 2004-2005, the Labour newspaper and some other media outlets reported on a fraudulent plan for compensation, support, and resettlement in the infrastructure development project of Kim Lien, the O Cho Dua road, which newspapers dubbed “the most expensive road on our planet”. However, the deception did not take place by inflating the compensation value, but by awarding compensation to people who had lost no land. In other words, the approved plan for compensation, support and resettlement was more costly than the amount actually paid to people truly affected by land recovery. The difference between the approved and the actual compensation value went to the Board of Compensation and Site Clearance. This practice has reportedly been used in many projects in different localities.

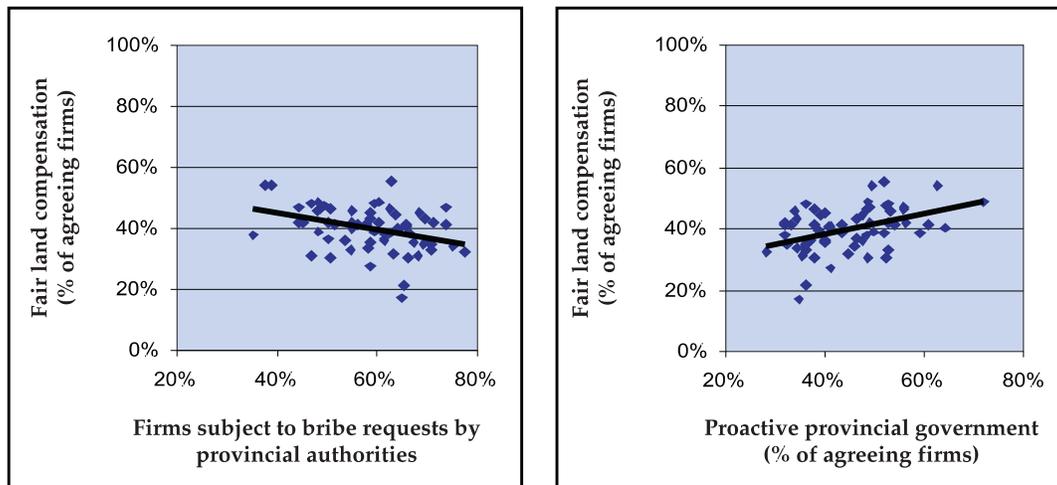
The main economic rents motivating the above-mentioned dishonest practices are basically the difference between the compensation amount given to the beneficiaries and the market value of their land and attached properties, and the difference between the approved plan for compensation, support and resettlement and the actual disbursement to the beneficiaries.

All the problems explained above reflect an excess of discretion of the officials of the Board of Compensation and Site Clearance and the officers that assist them in the inventory of land and attached property, as well as a shortage of accountability to the land users that are treated unfairly. At a more general level, it is also necessary here to distinguish between corruption opportunities in connection with compensation and resettlement. If the government would refrain from compulsory conversions and acquisition for projects that are essentially private in nature (e.g., land for a private company or golf course) then it would eliminate most risks of corruption in compensation and resettlement related to these projects.

Provincial-level data from the 2009 PCI is consistent with the findings from the case studies. The data show a moderate negative correlation between bribe requests from provincial authorities and the fairness of compensation to firms whose land is expropriated. The data also reveal a moderately strong positive correlation between the proactivity of the provincial government towards the private

sector and the fairness of compensation for firms whose land is expropriated (Figure 12). These correlations might suggest that unfair compensations are, at least in part, a result of factors such as a tendency to request bribes and a lack of proactivity among provincial governments.

**Figure 12: Relationship between corruption & proactivity of provincial government, and fairness of land compensation for firms, based on provincial-level data**



*Note:* The dots of the scatter plots represent the various provinces of Vietnam. The line shows the trend and is based on a linear regression analysis. The slope of the trendline is statistically significantly different from zero at the 0.5 percent level for the scatter chart to the left and at the 0.1 percent level for the scatter chart to the right. The correlation between the two variables is -0.36 for the chart on the left and 0.41 for the chart on the right. All the indicators are based on opinions, not actual observations. “Proactive provincial government” is defined as “the attitude of the provincial government towards the private sector is positive or very positive”. “Fair land compensation” applies only to cases in which the firm’s land is expropriated.

*Source:* Own estimates based on the 2009 PCI.

Data prior to the implementation of Decree 69 of 2009 shows weak outcomes at the national level as perceived by households. Based on the 2008 VHLSS, households who are interested in the schemes on compensation and resettlement at commune level generally say they have access to a little information, but fewer than half say that the information meets their needs. Importantly, the vast majority of households with interest did not provide any opinions on the schemes on compensation and resettlement at commune level, and the most often cited reason was that they had not been consulted<sup>1</sup>.

Decree 69 of 2009 contains strong legal provisions for the transparency of the approved and draft plans for compensation, resettlement and support. The draft plans must be publicized during

1. *Vietnam Development Report 2010-Modern Institutions.*

at least 20 days for the collection of opinions from the affected people. The Ordinance on Grassroots Democracy, as well, promotes transparency and public consultation of the plan for compensation, resettlement and support at commune level. (Table 5 in Annex)

Based on recent data, the implementation of these transparency provisions is still far from perfect. The 2010 quantitative survey of the five provincial case-studies found that 57% of the respondents with opinion think that the “draft” plans for compensation, support and resettlement are either not publicized or only partly publicized. Importantly, the survey found that 67% of the respondents with opinion feel that the draft plans for compensation, support and resettlement are not improved after the collection of comments from affected people or that the improvement is just “formalistic”.

The 2010 DEPOCEN study on transparency also found partial implementation. Whereas the approved plan for compensation, support and resettlement was accessible in 24 of the 117 visited communes, the draft plan was only accessible in 5 communes, and the agreed minutes of the consultations in 4 communes. However, it should be noted that the fact that many of the visited communes did not make accessible the approved plan for compensation, support and resettlement should not be interpreted as lack of compliance. It could also be explained by the lack of land recovery in that commune. On the positive side, 30 of the 66 visited websites contained the approved plan on compensation, support and resettlement and 4 websites contained the draft plan, despite the fact that on-line disclosure is not mandatory.

Stepping-up the implementation of the legal provisions on transparency and consultation could help squeeze the room for the manipulations of the plan for compensation, resettlement and support. But other reforms tackling more directly the specific problems that motivate corruption are also necessary. Some promising reform avenues include regular financial inspections of the boards of compensation and site clearance, independent technical audits of the land surveyors, and the systematic review by the People’s Councils of the draft, approved and actual compensation plans.

*Subjective and non-technical determination of land price for compensations for public projects.* The determination of the price for the compensation for land expropriation for public projects remains rather subjective. While a private investor has incentive to keep prices low, those setting prices for expropriations for public projects do not have such an incentive. This situation creates a risk for bribery aiming at obtaining a higher compensation price than the market price.

At present, there are multiple perspectives on the determination of land value in accordance with the market price. Some provincial leaders believe that land prices should be decided by the state, and need not, in fact, adhere to market prices. Most provinces and central cities still use the land price list annually announced by the PPC for calculation of compensation, support and resettlement. This list does not accurately reflect the location factor in land pricing, and it may be easily manipulated to fit the designs of state officials in charge of land price management<sup>1</sup>.

Since approximately two years ago, HCMC has decided to allow the hiring of any sufficiently qualified organization or unit for undertaking land valuations. As of today, many different

---

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

organizations have been hired to provide this kind of service to different projects in the City area. Similarly, Binh Dinh has started to hire external land valuation services for large investment projects. While these are important steps in the right direction, the land valuation processes in HCMC and Binh Dinh are not totally independent, as they could still serve specific aims of the DOF and the PPC, which are involved respectively in the appraisal and approval of the proposed land prices. The other provinces of the case studies i.e. Lang Son, Bac Ninh and Tien Giang still use the list annually approved by the PPC to determine land prices.

The above-mentioned shortcomings in the land valuation system for the compensations create a risk for corruption, as the people affected by land recovery might try to bribe government officials in exchange for setting a generous compensation price. They can also agree to let government officials share in the profits made through the determination of a generous land compensation price. The project to upgrade Ba Bo Canal in H City provides an illustration of the occurrence of this type of corruption (Box 8).

**Box 8: Excessive Compensation Price for a Minority of Land-Users –  
Upgrade of the Ba Bo Canal in H. City**

In the implementation of the compensation arrangements of the Ba Bo Canal upgrade project in H. City, Mr. N.T.N received the compensation value with the extra amount of VND 3.452 billion because of the application of a land price higher than the market price. The TD DPC confirmed that the unit price of land in this case was not appropriate. In addition to Mr. N., there were five other cases which also received a high compensation value, largely because of their rent-seeking activities. All affected land users were surprised to know that higher land prices were applied to six households only.

*Source: Forum of environmental journalists Vietnam (VFEJ) 07 Apr 2010: "Wrong compensation payment of some billions VND in the project of upgrading Ba Bo Canal".*

As with the other risk factors in this stage of the process flow, the difference between the compensation amount given to the beneficiaries and the market value of their land and attached properties is the main economic rent driving corrupt behaviour. In addition, the problems with the valuation system described above provide excessive discretion to the provincial authorities in charge of land valuation, which combined with their monopoly power in the land valuation system, increase the risk of corruption.

Developing legal regulations for independent land valuation services and assigning an independent committee the power to review and approve the land price for compensation could help reduce the economic rents that motivate corrupt behavior.

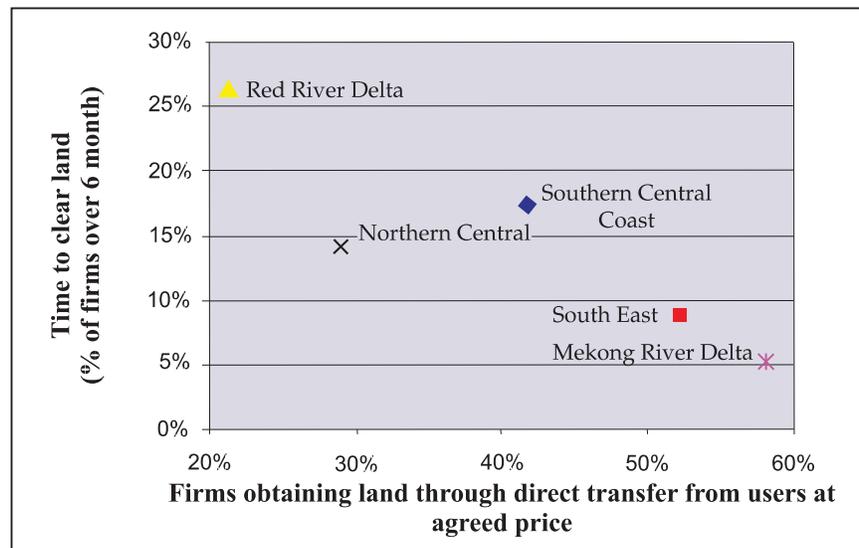
*Slow land clearance.* Based on the information learned in the case-studies, the slowness of the land clearance constitutes a major problem for investors, tempting them to bribe the officials in charge of compensation and site clearance to help them clear the land quicker. In one large city, for example, one form of corruption reported by enterprises is the payment of a "reasonable amount of money" to the district-level officials of the Board of Compensation and Site Clearance for working after hours to speed up the land clearance and meet the legally-established deadlines.

The time saved by investors in getting the land cleared is the economic rent that drives corruption in this case. The opportunity cost of the time spent by investors in clearing the land can potentially be high e.g., missed business opportunities that could have yielded high profits.

In addressing the problem of slow land clearance, a balance should be found between, on the one hand, ensuring that current land users are paid a fair amount for their land and, on the other hand, minimizing the time spent by investors on site clearance. A wider use of the voluntary land conversion method could be a possible avenue for attaining both goals. Regional-level data from the 2005 WB ICS show that the time spent by firms on land clearance is very strongly negatively correlated with the application of voluntary land transfer between land users and firms (Figure 13). Although this survey took place five years ago, the message that voluntary land transfers reduce many problems remains pertinent today<sup>1</sup>.

At a more general level, reducing the monopoly of the state in undertaking land conversions for projects that are essentially private in nature would prevent the problem of corruption in this stage of the process flow in the first place.

**Figure 13: Relationship between the land acquisition method and the time spent by firms on land clearance, based on regional-level data**

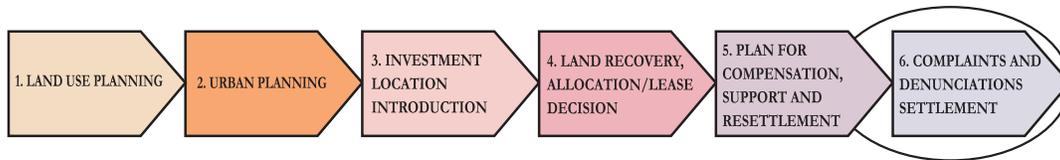


*Note:* All enterprises are given equal weight, and the responses “don’t know” and “refusal” have been excluded. Only firms with the right to sell or mortgage land have been included in the calculation of the percentage of firms in each region obtaining land through the allocation method concerned.

*Source:* Own estimates based on the 2005 WB ICS.

1. The 2005 ICS survey provides the latest data available on the topic of interest. Although the data is from 2005, it helps to understand the relationship between the two variables in Figure 13. Although the initial land-users have probably become more opportunistic in the negotiations with investors, the applicable legislation has not changed since 2005.

#### 4.2.5. Complaints and denunciations settlement



*Complaints settlement system failing to be objective and user-friendly.* Dissatisfaction among current land users with the settlement of their complaints is rather common. The current system to settle complaints has important shortcomings in terms of objectivity and user-friendliness. As a result, corrupt behaviour in the land acquisition and allocation process might end up not being duly sanctioned in a timely manner.

Depending on the source of information, from 70 to 90 percent of complaints involve land<sup>1</sup>. Moreover, the number of formally registered complaints on land disputes has increased significantly over time. An analysis of the causes of land-related complaints conducted by MONRE some years ago shows that the most important reason of the complaints is the low compensation to land users for the land which is recovered<sup>2</sup>.

The current Law on Complaints and Denunciations and the Land Law have some provisions seriously limiting the objectivity of the settlement system. Under the Law on Complaints and Denunciations, complaints are first settled by the chairperson of the local government against which the complaint is lodged. This creates an important conflict of interests, which are common in Vietnam<sup>3</sup>. Furthermore, under the Land Law, the right of complainants to lodge land-related complaints to the courts is restricted, by making second-settlement decisions by chairpersons of PPCs final.

In addition, the current legal framework has gaps in the transparency provisions. The Law on Complaints and Denunciations requires local governments to publicize the citizen reception places for filing complaints and denunciations, with reception timetables and rules. The implementing decrees of the Land Law<sup>4</sup> require the publicity of land-related complaints issued by provincial and district-level chairmen. However, in both cases the specific content of the information to be disclosed and the forms of publication are not specified.

In every locality participating in the case studies, opinions abound as to what are the problems in the process of settling such protests. The main problems identified are: (1) The settlement is often not objective; (2) local state agencies do not have enough powers and responsibilities in the settlement of complaints and denunciations, and often time requirements are not met; (3) there is too little disclosure of information on the settlement process and on the outcomes of people's petitions.

1, 3. *Vietnam Development Report 2010 – Modern Institutions.*

2. World Bank, June 2009: *“Improving Land Acquisition and Voluntary Land Conversion in Vietnam”.*

4. Decree 181 (2004), Decree 84 (2007).

The quantitative survey conducted during the five case-studies shows that nearly half of the respondents with opinion think that the settlement of complaints on land allocation, land recovery, compensation and resettlement is only partially transparent, and nearly one in five of the respondents with opinion think that the settlement is not transparent. The same survey shows that 57% of the respondents with opinion believe that the settling time is longer than the legally regulated time.

This finding is also supported by the larger-sample 2008 VHLSS which shows that one in three respondents who dealt with administrative complaints found it very difficult or difficult to find the necessary information on the procedures, and nearly half encountered difficulties. Time was the main difficulty encountered, but citizens also had problems related to not knowing regulations or finding the regulations unclear, and to a lesser extent due to the serving attitude of officials<sup>1</sup>.

The problems described above can exacerbate corruption in land management, as they reduce the chances that corrupt officials are duly and quickly sanctioned.

---

1. Vietnam Development Report 2010 – Modern Institutions.

## 5. CROSS CUTTING RISK FACTORS FOR CORRUPTION RELATED TO LAND

The two previous sections have analysed each specific step in the process flows for LURHOC and land acquisition/land allocation. Beyond these specific steps, there are certain functions with a bearing on integrity in society that cut across the two services in land management. These include the role of oversight organisations and media, the human resource systems, the land market and land tenure. In the framework of Klitgaard's simple equation, these cross-cutting factors influence the level of accountability for all sectors.

### 5.1. Oversight organizations

*Ineffective monitoring by People's Councils and Mass Organisations.* According to many interviewees, neither the People's Councils nor the mass organisations have the capacity, information or incentives to effectively oversee corruption and anti-corruption in land management.

The quantitative survey of the provincial case-studies shows that two out of three of the respondents with opinion think that the monitoring activities in land recovery, compensation and resettlement are only formalistic. Forty-five percent of the respondents with opinion think that they are formalistic because of lack of legislation and 55% think that they are formalistic because of lack of capacity.

The formal oversight role of the People's Councils has indeed been strengthened, e.g., through the amendment of the Budget Law in 2002, which conferred upon the People's Councils the authority to approve budgets and supervise budget execution. In formal terms, this mandate also covers supervision of land management, including land-use planning & urban planning, as well as revenue collection from land allocation. However, in practice, the field studies had difficulties in verifying that the People's Councils exert effective checks-and-balances vis-à-vis the considerable authority vested at the executive level of local government, in particular the provincial level, in land management. Specifically, the People's Councils do not participate in negotiations with land users and do not always receive the detailed draft plan for compensation and resettlement. While the People's Councils have the right to discuss citizens' petitions with the Provincial People's Committees and to revoke erroneous decisions taken by Provincial People's Committees, in practice, the deputies rarely perform this function.

Mass organisations also face major challenges in ensuring integrity in land management. Some of the reasons quoted in the five provincial case studies include the formalistic role of these

organizations and the fact that their running costs locally, e.g., at provincial levels, are partly funded by the People's Committee. Mass organizations often have no access to information about negotiations between investors, government and individuals, and have little knowledge of the complex legal framework for land management.

At the district level, mass organizations are caught in a situation in which they must, on the one hand, protect the interests of people to be resettled and, on the other, try to persuade people to leave recovered land areas by explaining the benefits of investment projects, even of industrial zones and other undertakings with commercial goals.

*Land inspection system not sufficiently proactive and independent.* As in the case of the People's Councils and mass organisations, inspection agencies tasked with detecting corruption in land management have not been effective. One major reason is that they are not sufficiently proactive and they lack independence from the authorities in the executive branch.

The quantitative survey of the case-studies found that poor inspection work by higher administrative agencies is largely believed to be a risk factor for corruption in the land recovery and allocation process<sup>1</sup>. At the same time, the survey found that the vast majority of the respondents think that the inspection work of state bodies is not very effective. Among the respondents with opinion, 83% agree with the statement that "almost all cases of corruption have not been detected by inspection or monitoring activities by state bodies, but by individual whistleblowers and the media". These opinions are in line with the 2006 report of the Government Inspectorate on the implementation of the Anti-Corruption Law, which states that there are 22 ministries and 40 provinces that have not detected any cases of corruption in their respective domains or localities.

The provincial case studies and interviews with central-level agencies indicate that a core problem of the land inspection system is that its activities fail to be carried out proactively and comprehensively. The main agency in charge of inspections in the land sector is the inspectorate of the General Department of Land Administration (GDLA). This inspectorate normally only initiates an inspection if an evidence-supported complaint or denunciation is submitted. As the GDLA inspectorate receives very few complaints related to the allocation of land, there is hardly any investigation into corruption in this critical stage of the process flow.

In the current institutional set-up of inspection in Vietnam the inspection authorities are not independent of the executive-administrative system<sup>2</sup>. In the field of land management, this can be a particularly difficult problem at the provincial level, where provincial inspectors are supposed to be investigating the corrupt behaviour of high level officials in their provinces. The fear of retaliation might stop them from initiating any investigation.

---

1. The quantitative survey included the question: "What are factors that can lead to higher corruption in land allocation decision and land recovery?" with seven possible given answers. Some respondents gave only one answer and others more than one answer. The total number of respondents was 400 peoples and those who answered "Poor inspection works made by higher administrative bodies" were 136.

2. See *Vietnam Development Report 2010-Modern Institutions* for more details.

An additional reason why the corruption investigation work at the provincial level can be difficult in the field of land management is because the head of the provincial steering committee for anti-corruption is the same person as the chairman of the PPC. As explained earlier, the chairmen of the PPC have the power to decide on the land recovery and allocation decision and approve the land valuation. If the chairmen of the PPCs are engaged in any dishonest practice related to these activities, the provincial inspection agencies would find it difficult to obtain the green light and support from the provincial steering committee for anti-corruption to investigate the case.

## 5.2. Role of the media

*Risk of sanctions against journalists.* While the current laws and regulations provide opportunities for the media to report on corruption, they also have some shortcomings that discourage reporting on corruption, namely in terms of the risk of sanctions against journalists.

The current legal framework provides opportunities for the media to report on corruption. The implementing legislation of the Law on Anti-Corruption and Law on the Press<sup>1</sup> mandate to make available to the media information and documents on cases showing signs of corruption and stipulate mechanisms for information supply to the media

At the same time, the Law on the Press and other legislation<sup>2</sup> provide constraints to reporting on corruption. A lot of emphasis is put on not reporting certain information<sup>3</sup> and on reporting information accurately<sup>4</sup> in a context of many “grey areas” in the legal provisions on violations and sanctions. More specifically, there are legal “grey areas” in (a) the types of information that cannot be reported by the media, (b) what constitutes a violation, (c) applicable sanction to a given violation, (d) cases in which criminal sanctions apply. In addition, the legal framework is complex and fragmented into many different legal documents, making it difficult for journalists to know well their rights and obligations.

Over the past 5-10 years, the media have been encouraged by government to write more proactively about corruption and to publicize cases as reported by the police, the Supreme People’s

---

1. Decree 47 (2007), detailing and guiding the implementation of a number of articles of the Law on Anti-Corruption, regarding the role and responsibility of society in corruption prevention and fighting; Prime Minister Decision 77 (2007), on making statements and supply of information to the press.

2. Decree 51(2002), detailing the implementation of the Press Law; MIC Minister Decision 3 (2007), promulgating the regulations on corrections in the press; Decree 56 (2006) on sanctioning administrative violations in cultural and information activities.

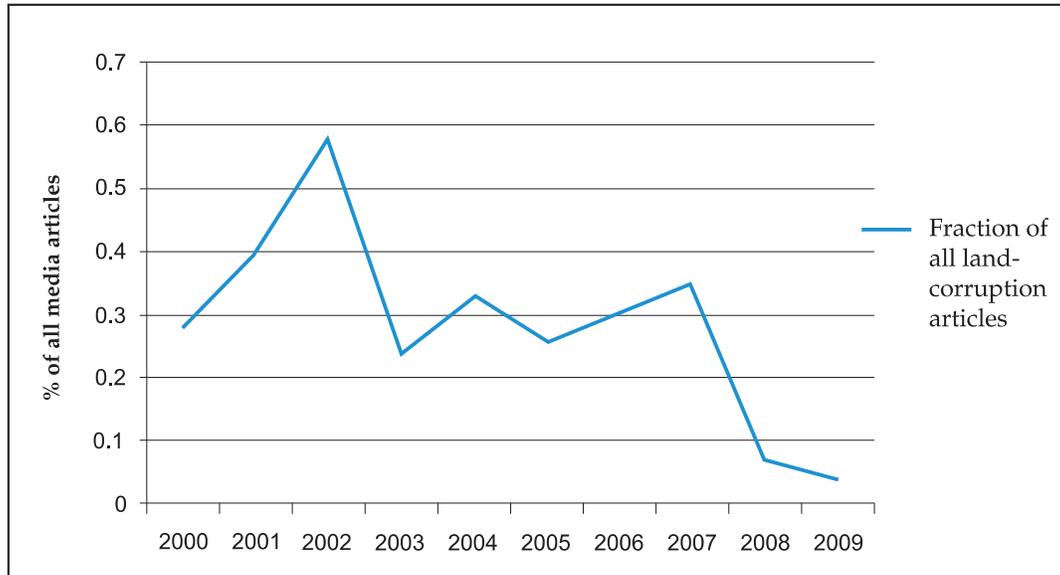
3. Article 10 of the Press Law in 1999 and Article. 5 of Decree 51 (2002) stipulate several “no-go areas” for the media, such as state secrets, propaganda against state of Vietnam and the national unity, propaganda on reactionary ideologies, etc.

4. Article 10 of the Press Law in 1999 prohibits mis-notifying news, distorting Vietnamese history, offending national heroes and hurting the prestige or dignity of agencies, organizations and individuals; Article 4 of Decree 51 (2002) requires the press to publicize the corrections of information provided which is false or harmful to organizations or citizens; Prime Minister Decision 77 (2007) states that Press agencies and journalists are responsible for truthfully publicizing/reporting statements made or information supplied to the press.

Procuracy (public prosecutor) and other government agencies. In this process, the media has increasingly assumed a watchdog role vis-à-vis the executive body of government. Journalists have also been encouraged to detect cases of sleaze on their own, and they have done so in a number of highly conspicuous instances. Quantitative hit counts of media coverage of corruption in land management show that the media are active. McKinley (2009) finds that stories about land-related corruption far outstrip coverage of dishonesty in a total of 26 other sectors, when looking at data from 2006 and 2007. The most vocal newspapers in this respect are Lao Dong with 25.1% and Tuoi Tre with 21.7% of all land-related Anti-corruption stories<sup>1</sup>.

Despite this, challenges remain. A quantitative analysis of stories about land-related corruption over a longer period of time indicates that media coverage is subject to wide fluctuations (Figure 14). The analysis relies on a word search in a database consisting of more than one hundred newspapers and magazines. An article is counted as being about land-related corruption if it includes the term “land” and one of the terms “corruption”, “fraud”, “bribe” or “embezzlement” and as being about construction-related corruption if it includes the term construction and one of the terms “corruption”, “fraud”, “bribe” or “embezzlement”. The wide fluctuations in media coverage might imply that the scrutiny of suspicious land transactions is piecemeal and sporadic rather than systematic and ongoing.

**Figure 14: Reporting on corruption and land**



Source: Based on Media News Clip from Toan Viet media database.

1. “Media & Corruption”, Catherine Mc Kinley & UNDP Vietnam, January 2009, p. 20.

### 5.3. Human resources

*Poor performance incentives and weak accountability of lower-level officials dealing with LURHOCs.* The officials dealing with the issuance of LURHOCs are generally subject to poor incentives for performance and a weak accountability system, which make bribe requests tempting.

The existing legislation contains some good provisions on accountability at the grassroots level. Under the Ordinance on Grassroots Democracy, commune officials are subject to the supervision by the People's Inspection Boards and the commune chairman is subject to votes of confidence every two years. Under the documents implementing guidelines of the Law on Anti-Corruption<sup>1</sup>, officials working on the issuance of LURHOC are required to declare their income and assets and to rotate periodically.

In practice, however, poor incentives for performance and weak accountability are apparent among grassroots land officials. Several opinions from the provincial case studies coincided in blaming the unhelpful attitude and dubious ethics observed among lower-level officials dealing with LURHOCs on their salary being too low to motivate them to do a good job. A study of salaries in Vietnam Development Report 2010 found that, as a whole, salaries in the public sector do not seem to be out of line with the private sector. The same study, however, remarked that this may not be true for certain professions and in certain areas. Indeed, the high earning potential in the field of real estate in the private sector may be one such exception. A provincial-level land official noted that some of his colleagues had worked for nearly 20 years, yet were still earning much less than a land broker.

Another widely reported problem affecting performance is the shortage of land officers at local levels. In H. City, a local mass organization reported that not only are there few land officers at the commune level in absolute terms, but also a mismatch between the number of land officers and population sizes of each commune.

Accountability systems were also reported to be weak. Although the civil service legislation of Vietnam stipulates dismissal and other disciplinary actions for public officials in cases of violation of the law<sup>2</sup>, in practice, based on the explanations of the consulted district level officials in the case-studies, usually no disciplinary action is applied to permanent staff engaged in dishonest practices. Only subcontracted staff are dismissed.

In part as a result of the weak accountability and incentives system, commune land officers and leaders are said to be collecting bribes, diplomatic expenses or other types of illegal transfers. The provincial case studies affirmed that land officials working on LURHOC often have low credibility. In Binh Dinh, one stake-holder mentioned: "In polls on the credibility of public servants, land officials often get few votes, usually below 50%." In Bac Ninh, an elderly woman said: "Everybody can guess why the land administrative officers are so rich." Such perceptions may be correct or incorrect, but the lack of transparency leads to such a perception and affects credibility of public servants in charge of LURHOC issuance.

---

1. Decree 37 (2007), Prime Minister Decision 85 (2008) and Decree 158 (2007).

2. Article 78 of the Law on Cadres and Civil Servants.

In the focus group discussions of the provincial case-studies many opinions coincided that land officials have on average a higher income than officials working in other fields, which seems to spring from corruption or participation in real estate business. Based on the quantitative survey, only one in five respondents with opinion think that the actual expenses of land officials (e.g., house, car, daily expenses) are well suited to their official income. The remaining four out of five think that the expenses are partially suited to their official income or even higher.

*Concentration of power in provincial-level leaders in the context of weak accountability.* A misalignment between the high devolution of power to the provincial level in land management issues and the accountability system is apparent, opening the door wide for corruption.

The current Land Law confers strong decision-making powers on provincial-level leaders in land recovery, conversion, allocation and lease. They can exercise this mandate for all categories of land to be assigned to all types of organizations<sup>1</sup>, except land for national security and defence, as well as for raising capital for infrastructure. In addition, the Land Law empowers provincial-level leaders to determine the land value framework for compensations.

Accountability systems are not aligned to these enormous powers. The previous sub-sections have highlighted many deficiencies in the accountability systems which affect the provincial level: ineffective monitoring by People's Councils and mass organisations, land inspection system being insufficiently proactive and independent, non-transparent land allocation process and results, non-independent land valuation system, etc.

The quantitative survey found that about one quarter of the respondents believe that the high power of the People's Committees in land allocation combined with poor transparency, publicity and lack of monitoring activities is a factor leading to corruption in the land allocation decision<sup>2</sup>. Returning again to the "corruption equation", this combination of monopoly power and unchecked discretion cutting across all the stages of the process flow of land acquisition and allocation process opens the door wide for corruption.

Like for grassroots land officials, publicizing the income and asset declarations of the provincial level officials involved in land management and conducting random verifications of their declarations could be helpful in reducing corruption.

#### **5.4. Land market**

*Land supply problems and land access barriers.* Land in Vietnam is scarce and difficult to access for businesses. Competition for land in the context of supply-side monopoly generates incentives

---

1. Organizations include: businesses, religious establishments, foreign organizations, other organizations. District-level governments have the same powers but only for land to be allocated to family households, individuals and communities of citizens.

2. The quantitative survey included the question: "What are factors that can lead to higher corruption in land allocation decision and land recovery?" with seven possible given answers. Some respondents gave one answer and others more than one answer. The total number of respondents was 400 and those who answered "High power of People's Committee on land allocation but very poor transparency, publicity and lack of monitoring activities" were 105.

for corruption. Businesses may be tempted to remove the multiple existing land access barriers through so-called “grease money”.

The 2009 SME Survey by ILLSA and the University of Copenhagen shows that land access constitutes one of the biggest obstacles for SMEs. Out of a list of 10 problems, the difficulty in finding suitable premises and land was considered to be the third biggest problem for SMEs in starting up new projects. Similarly, among firms in the 2009 World Bank Enterprise Survey, access to land was the fourth or fifth biggest problem out of a list of 15<sup>1</sup>. The focus group discussions in H. City with provincial government officials confirmed that land supply problems motivate corrupt behaviour among enterprises and officials. The provincial case-studies also revealed that the so-called “grease money” can be used to remove land access barriers.

Interviews with central-level agencies confirmed that the prolonged process for investors to obtain land, as well as the large number of departments that they have to visit, generates opportunities for corruption. This is in line with the previously mentioned IFC study, which found that many SMEs experience difficulties in obtaining land due to the large number of agencies involved in receiving and assessing applications, as well as the lack of coordination among these agencies.

The above-mentioned findings are supported by the data from the 2009 PCI, which shows a strong positive correlation between, on the one hand, problems for enterprises related to land supply and land access and, on the other, the percentage of enterprises reporting that bribes are requested by provincial authorities (Figure 15).

*Rising market prices of land.* For various reasons, market prices for urban and industrial land have sky-rocketed from the beginning Doi Moi up to now, especially in 1993, 2003 and 2008. Because of the big economic rents that can be generated through the sale of the land in the future, less scrupulous investors could bow to incentives to offer large bribes in the land acquisitions from government or to “cheat” on the purpose of the land.

From 1992 until today land prices in Vietnam have increased by more than 100 times<sup>2</sup>. The first massive price hike, with prices increasing by around 10 times, took place before the promulgation of the 1993 Land Law. The second massive increase, again by around 10 times,

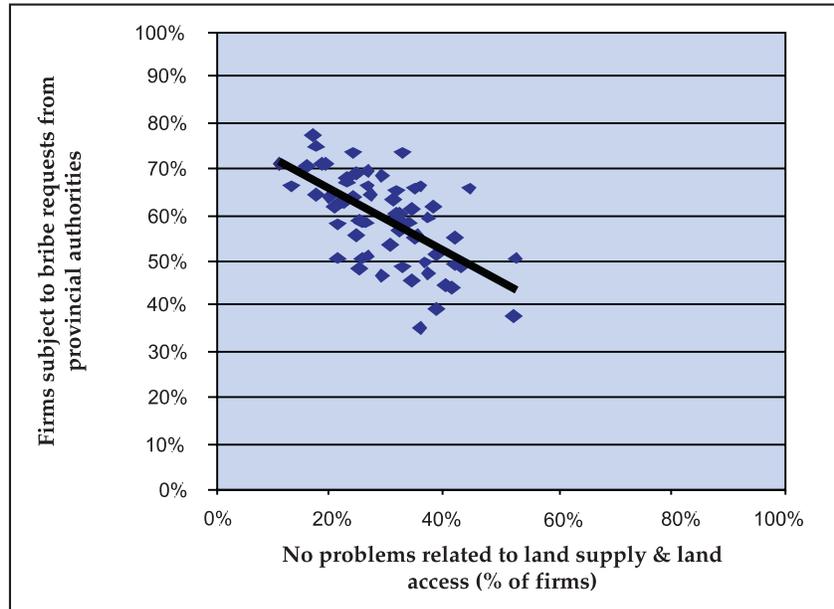
---

1. The data is based on a sample of 1,053 enterprises in 14 provinces. Based on simple unweighted averages, access to land was the largest problem for 10% of firms. Only access to finance, competition from the informal sector, and inadequately educated workforce were cited by more firms as the largest obstacle. After weighting to more accurately capture the population of enterprises, access to land was chosen as the largest problem by 7% of firms, fifth highest among the 15 options provided.

2. It should be noted that part of the reason for this increase in land prices is the change in the policies on the land price established by the State. In 1993 for the first time land started to be priced, but at much lower price than the market price. In 1999, the land price established by the State was adjusted upwards. Only in 2004 was the price established by the State required to be compatible with (but not equal to) the land price in the market. Please see Table 1 in Section 1 for more detailed information.

occurred before the 2003 Land Law. In 2008 land prices increased by 1.3 times but then decreased slightly due to the economic recession<sup>1</sup>.

**Figure 15: Relationship between corruption and land supply & access problems, based on provincial-level data**



*Note:* The dots of the scatterplots represent the various provinces of Vietnam. The line shows the trend and is based on a linear regression analysis. The slope of the trendline is statistically significantly different from zero at the 0.01 percent level. The correlation between the two variables is -0.61. Land problems include: (a) lack of clean land reserve, (b) high prices of land, (c) slow land clearance, (d) complicated land acquisition procedures, (e) unreasonable land-use planning.

*Source:* Own estimates based on the 2009 PCI.

Land prices for urban and industrial sites, in particular, have sky-rocketed since Doi Moi was launched. This was caused by several factors. *First*, the amount of unused land has been declining as a result of the industrialization and urbanization process. *Second*, there is a poor system of land finance management reflected in the huge price difference between land price set by the state and land prices defined by the market. *Third*, land speculation-in a context where other investment opportunities are in short supply-has been strong.

1. See "Ha nhiet bang cong cu thue?", Nha bao va Cong Luan date 28-10-2007, "Thuc trang nam 2008 va du bao ve nam 2009".

In acquisitions of land from government, investors might have an incentive to offer large bribes to secure the land because of the economic rents they can extract in the future from selling the land. But to be able to sell the land in the future, they might also need to cheat on the purpose of the land. In several provinces, so-called “ghost projects” have occurred where investment objectives are falsely formulated into the projects to acquire land only. After the land has been allocated to the investor it is resold. According to MONRE statistics, by end of 2006 there were 1,206 projects country-wide with 132,463 ha allocated of land where no investment had been made since the projects were allotted with land parcels<sup>1</sup>.

---

1. This included 668 projects with 48,204 ha for production investment, 226 projects with 13,951 ha for infrastructure investment, and 183 projects with 3,883 ha for residential area development. Report of MONRE dated 20 Feb, 2007 on implementation of land management.

## 6. THE WAY FORWARD

This report began by noting the importance of land issues for Vietnam's economy. Property rights are being created where there were few before. Unused land is being allocated for productive purposes, and land already being used for one purpose—generally farming—is being reallocated for projects both public and private. In the rapid process of such reallocations and uncertainty over property rights, opportunities for corruption abound. At the same time, for such reallocations to truly direct resources to the best use, and to be perceived by participants as fair, corruption must be kept in check. Addressing corruption in land is important for a number of reasons. First, corruption in land management is often *regressive* hurting the weaker segments in society. Second, a substantial *welfare loss* is associated with the current practices and the government is losing valuable revenue that could be used for healthcare, education, and poverty reduction. Third, as is well documented, corruption related to land is a *source of social instability*. Finally, the best evidence is that corruption in land is *widespread*. This report has sought to illuminate why there is corruption and of what form, and what can be done about it. The good news is that the *challenges can be addressed* through a set of short and medium term reforms.

Several concepts have been used to help shed light on vulnerabilities to corruption related to land. First, *economic rents* were examined. Rents arise from uncontested opportunities to make large profits (or avoid large losses) based on transactions. Where rents are large, firms, officials and citizens may go to unusual lengths to capture them, including through corruption.

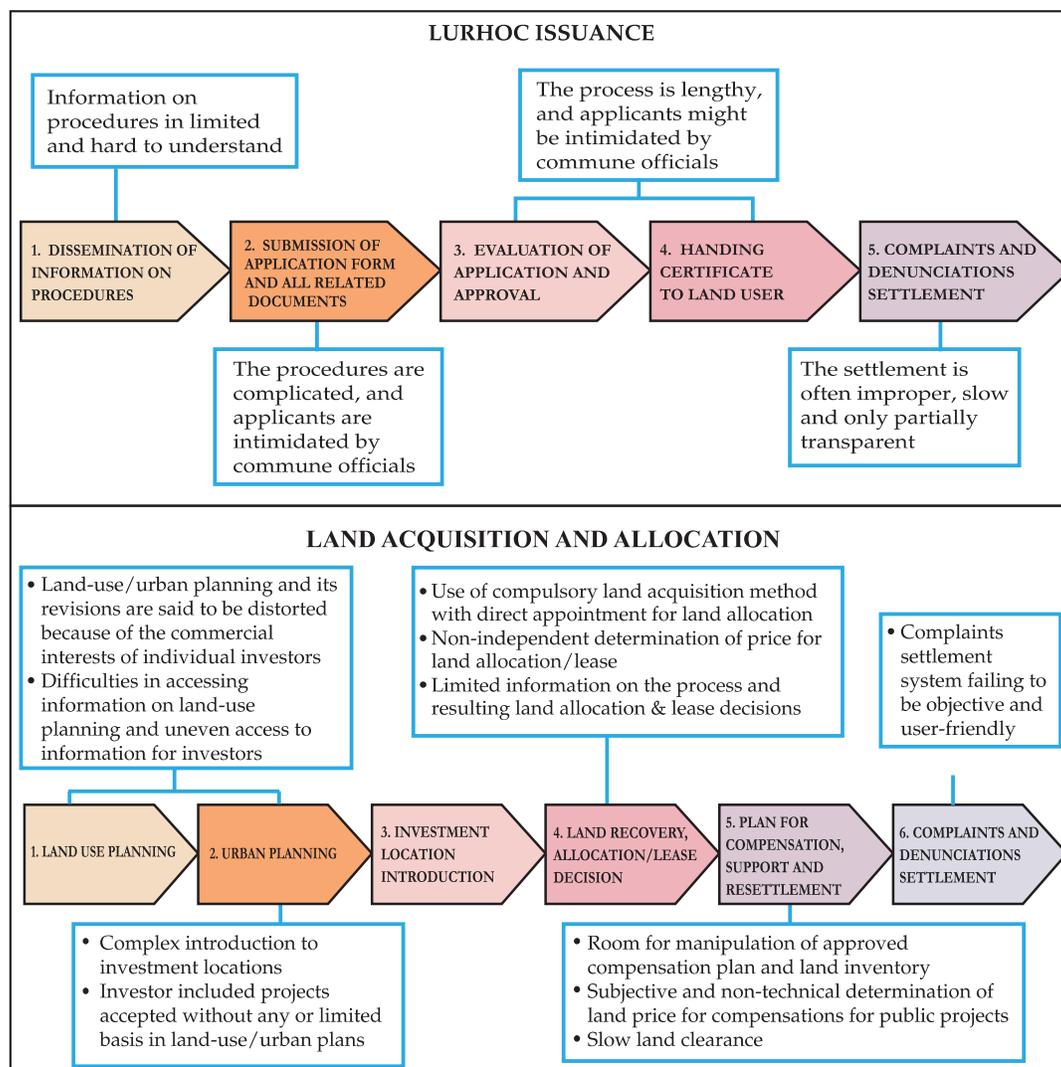
The second conceptual device used for understanding corruption in land is the convenient (and memorable) “corruption equation”: corruption is most likely to occur when an official or office has a *monopoly*, when the official or office has a great deal of *discretion* over how the decision is taken, and when there is little *accountability* for that decision or *transparency*, which might make it harder for the corruption to proceed unabated.

Finally, this report applied these concepts to each stage of the *process flow* involved in obtaining an LURHOC, and in the process of land allocation and land acquisition. By systematically examining how rents are created at each stage of the process flow, and why the institutional arrangements are failing to prevent corruption, this approach helps identify a set of priority reforms for reducing corruption related to land.

Taken together, these conceptual devices present a powerful explanation for corruption in land in Vietnam. A number of risk factors give rise to the rents that drive corruption, and weaken the institutional framework for preventing corruption. Figures 16-18 provide some examples of risks, rents, and forms of corruption for both sets of processes examined in this study.

Most of the rents involving LURHOC originate from the time and difficulty saved by households and enterprises in going through the procedures. While the type of corruption generated by this form of rent is typically in the form of “speed money”, the payments are not necessarily small, especially if the supporting documentation is not water-tight. In a rapidly growing economy where the cost of financing can be large, speeding up processes can make a significant difference for the profitability of a project. Moreover, as Vietnam develops further, the opportunity cost of time and the value of property will also increase-as will the value of time saved through speed money. Left unchecked, the incentives for corruption will only grow larger.

**Figure 16. Risks in LURHOC Issuance and Land Acquisition & Allocation**



In the land acquisition and allocation process, economic rents originate from many sources. The value of a specific piece of land can be increased significantly in the process of changing the purpose of the land. The price approved by provincial officials for land allocated to investors may be very different from the true value of the land to the investor, creating an economic rent, ripe for the taking. There could be a difference between the approved plan for compensation, support and resettlement and the actual disbursement to the beneficiaries. While the process of LURHOC issuance is probably more subject to “petty” corruption, the land acquisition and land allocation process is more vulnerable to grand corruption.

The simple corruption equation helps identify systemic challenges in the fight against corruption in land management. Some guiding principles can be found in this equation. Although monopoly may be unavoidable since competition in granting property rights would be counterproductive, strengthening checks and balances can help to minimize the impact of that monopoly in creating opportunities for corruption. And in some cases, the monopoly could be reduced directly, by outsourcing certain tasks in a competitive market as is being done with land valuation in HCMC and Binh Dinh. Constraining discretion to the extent possible, through clear standards of decision making, would further limit opportunities for corruption. Finally, increasing accountability for performance and transparency at critical points along the process flow would help to keep corruption in check. Where discretion is unavoidable, an even greater premium should be placed on transparency and accountability.

This report is replete with examples of weaknesses in the system. Rather than attempting to list all reforms that could be envisioned for every stage of the process flow, however, a more selective approach is needed. Some priority reforms are outlined below.

### **Low Hanging Fruit**

The first set of reforms are those that are relatively easy to enact. The most obvious step here is to thoroughly enforce the transparency provisions already in Vietnamese law. Access to information on key documents such as land-use plans, maps and urban plans is not easy. The DEPOCEN study illustrates clearly that legal provisions guaranteeing transparency of these documents are not thoroughly implemented. Poor records management and organizational culture contribute to this incomplete implementation, but they also found that many officials were not even aware of their legal obligations to provide the information. Importantly, the same study shows that transparency was fairly good in some places. Although strengthening capacity is no simple task, and monitoring would need to be strengthened, there are enough examples of successful transparency to show that it can be done.

Figure 17. Rents in LURHOC Issuance and Land Acquisition & Allocation

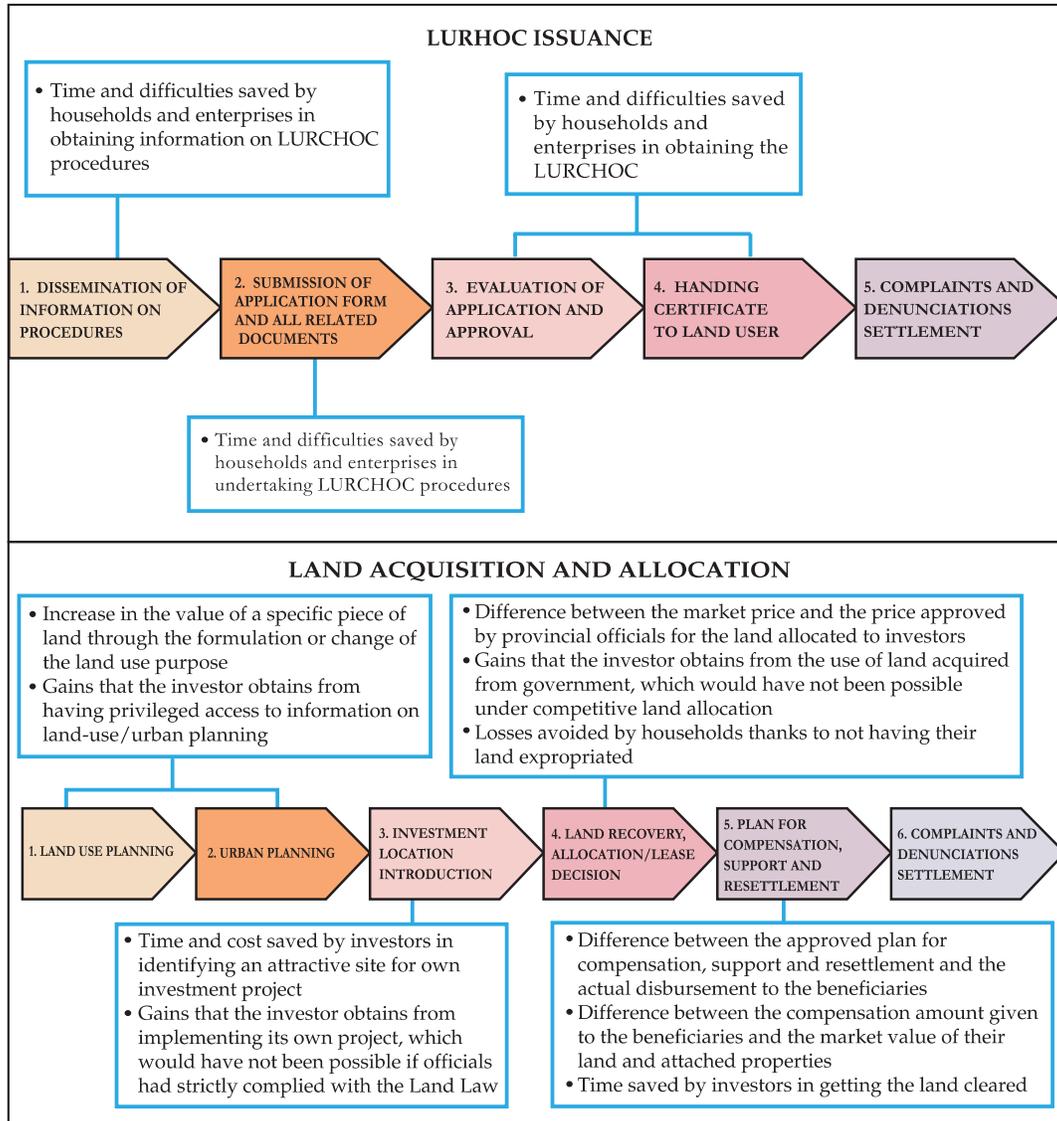
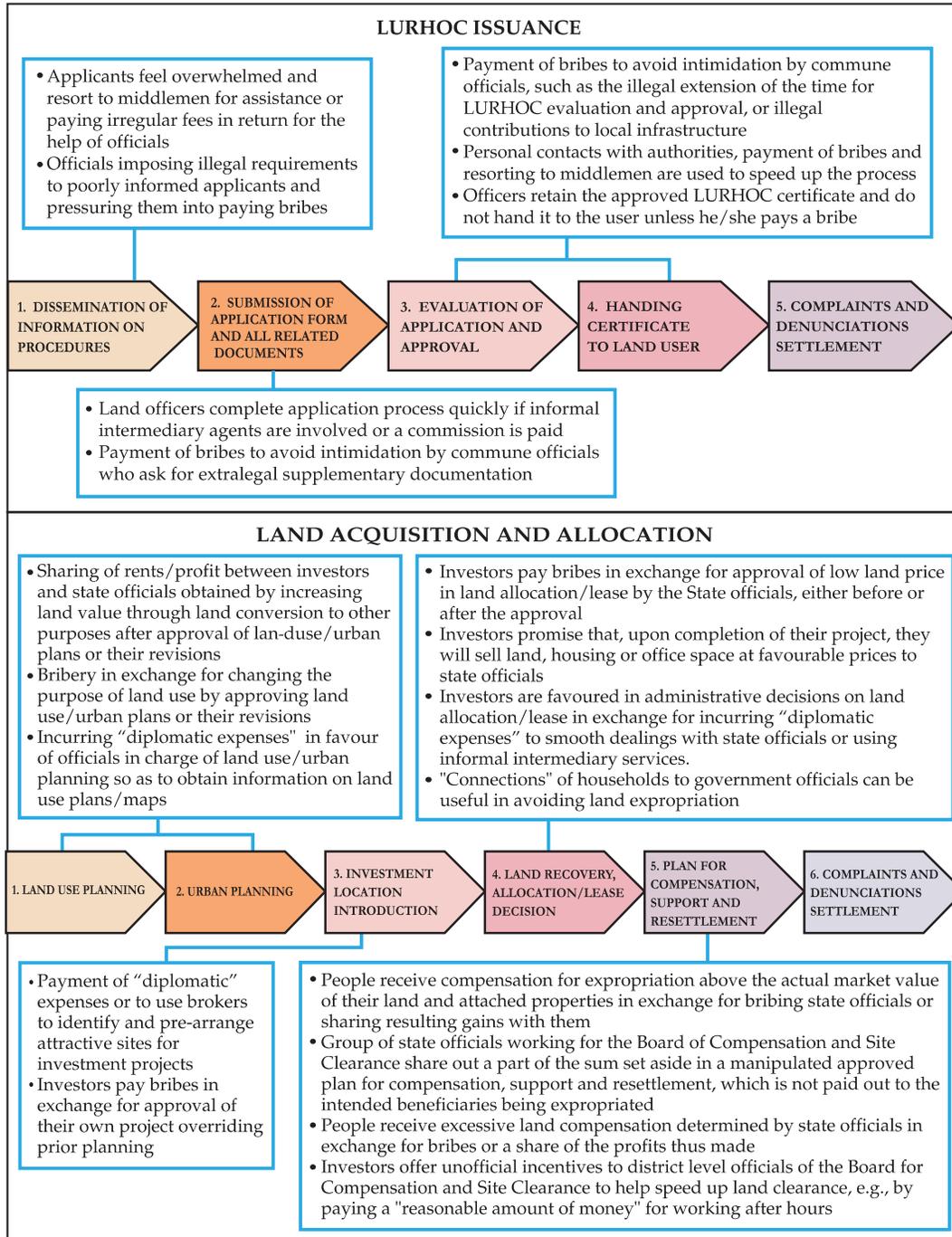


Figure 18. Forms of Corruption in LURHOC Issuance and Land Acquisition &amp; Allocation



A similar set of reforms that could be undertaken fairly quickly involves enhancing the transparency of the process and results of land allocation decisions, including land allocation prices. Many other key documents and pieces of information related to the land acquisition and allocation process are not currently required to be public information, including the agreed minutes of consultations on draft compensation, support and resettlement plans, and the minutes of the consultations of draft land-use plans and urban plans. Making such documents mandatory public information would greatly reduce the chances of hiding corruption. This critical reform requires a legal change, and auditing would be required to ensure compliance. Again, the DEPOCEN study shows that while such non-mandatory information is rarely made public, at least some communes do make public the minutes of draft compensation, support and resettlement plans, proving that such transparency is, indeed, immediately possible.

In LURHOC issuance, access to information could be easily enhanced by the adoption of a standard template for all communes and districts with the specific information on LURC procedures to be publicized, ensuring maximum clarity and understandability. It is also important to continue simplifying procedures and removing the complexity that breed corruption. The simplification process is underway and there are in place mechanisms for collecting public feedback. In addition, the incentives to pay speed money might be reduced by implementing some innovative approaches such as the introduction of official fast-track procedures for those willing to pay more for faster service. The mainstreaming of procedures in the regulatory framework and the piloting of the fast-track service can be done relatively quickly.

For land acquisition and land allocation, greater public oversight including community participation would reduce the chances for corruption. Strengthening the legal provisions and implementation of ex-ante public consultations of land-use/urban plans, investment projects, and their revisions would help. The culture of public consultations is in many ways strong in Vietnam and although consultations are sometimes pro forma, the opportunity to be heard should always be made.

### **Reforms requiring significant institutional strengthening**

The implementation of the legal provisions on disclosure and consultation would be further enhanced if a central-level department was assigned the responsibility of systematically monitoring and evaluating compliance at local levels, if individual responsibilities were clearly assigned at all levels for the implementation of the disclosure and consultation tasks, and if legal provisions were added on the handling of organizations and individuals who violate the provisions on transparency. The spot and website checks undertaken by DEPOCEN could be easily replicated, either by a governmental or nongovernmental body on a regular basis.

Developing regulations for the outsourcing of the land valuation services to independent organizations and for the creation of independent committees to review compensation and allocation prices, backed by a transparent national database with reference land prices, would help reduce rents and make corruption easier to uncover. Although such a reform would be difficult to implement on a national scale, the fact that some provinces are already doing it shows that it is feasible.

In LURC issuance, two reforms could bring large integrity gains, namely the implementation in all communes of the “mass land registration, cadastral survey and mapping” and the strengthening of the role of Land Registration Offices in information dissemination. These two reforms are already piloted in nine provinces under the Land Administration Project and are contributing to simplify LURHOC issuance procedures, enhance access to information, and reduce opportunities for corruption. Scaling-up these reforms will be costly as it will require the provision of adequate financial resources for all communes and districts.

#### **Cross-cutting accountability shifts**

Several important risk factors could be countered by enhancing the accountability of land officers individually. Ensuring that the personnel system is meritocratic, that poor performers are punished and those who provide fair and fast services are rewarded, is a key reform. While this is true for civil servants in general, it is even more important for positions of public trust and with considerable discretion over decisions that involve large sums of money. Indeed, the importance of such positions makes them good candidates for piloting stronger approaches to verification of income and assets declarations. One such approach would include true physical inspection of the declaration on a random basis—at present the processes for initiating verifications are cumbersome and difficult. A second approach, one that is being increasingly adopted in other countries, is to recognize that the general public is a strong ally in uncovering illicit enrichment, and to publicize the income and assets declarations for high level officials and for those in sensitive positions, such as land officers.

Recognizing that there is a great deal of discretion in the hands of the officials of the boards of compensation and site clearance as well as their land surveyors, a key challenge is to enhance accountability of these officials. A range of tools could be used: financial inspections of the boards, independent technical audits of land surveyors, and reviews by People’s Councils of the draft, approved and actual compensation plans would provide greater accountability.

Building downward accountability for performance to the citizenry and to firms removes the space in which corruption operates. In this regard, accountability of land officers involved in LURHOC service delivery could also be enhanced by systematic assessments by the public through customer satisfaction surveys. Again, there is a clear precedent in Vietnam. The HCMC Citizen’s Report Cards show that such an approach is possible and useful.

Accountability across the board could be strengthened by improving the role of the institutions of oversight, more specifically by making the land inspection system more proactive and independent, and separating the Provincial Anti-corruption Steering Committees from the Provincial People’s Committees. Enhancing the objectivity and user-friendliness of the complaints and denunciation system, and stepping-up the engagement of People’s Councils and mass-organizations in monitoring land management would help improve external oversight. Finally, in order to take full advantage of the public as an ally in uncovering corruption, constraints on the media could be eased by reducing the “grey areas” on violations and punishments in the media legislation, and by relying less on criminal law for cases of alleged abuse, making more use, instead, of the civil justice system.

**Shifts in the way land is handled in Vietnam**

The final set of reforms would be the most sweeping, since they would fundamentally change the way land is allocated and acquired in Vietnam. A great many of the largest rents could be dissipated by restricting the application of compulsory land acquisition to cases meeting the “public benefit” criterion, leaving projects that are essentially private in nature to negotiate with current land holders on a voluntary basis. Even if moving fully to voluntary transactions is not possible, an intermediate step would still be an improvement over the status quo. “Mixed methods”, whereby investors must negotiate land prices with current land owners until 80 percent are in agreement, are being experimented with in Binh Dinh and Ho Chi Minh City. Such reforms would no doubt increase transactions costs for some investors. But they would also remove many of the rents that drive corruption, and ease the resentment of those displaced for private projects. Indeed, as the vast majority of complaints related to land concern the amount of compensation, such reforms would also reduce the prospect of social unrest.

Similarly, reducing the use of direct appointment in land allocation, and creating financial mechanisms for the implementation of land auctions and project bidding would make the processes more competitive and allow prices to more accurately reflect market prices. Such an approach would no doubt take time to develop, test and put in practice, but the benefits of removing the rents created by the wedge between prices determined by administered decision and market prices would far outweigh the costs.

## CLOSING THOUGHTS

Although the topic of this report is corruption and the means of controlling corruption, many of the recommendations would achieve other objectives as well. Indeed, although the forthcoming Vietnam Development Report focuses on other social goals—efficiency, equity, and environmental sustainability—many of the recommendations are the same as those for fighting corruption. (Box 9).

Finally, although the risk factors identified in this report are many, there is also ample evidence that they can be addressed. Even the more complex reforms, such as the outsourcing of land valuation services, are already underway in Ho Chi Minh City and Binh Dinh. And although transparency of various land-related documents is generally wanting, some provinces and districts and communes are quite proactive, in some cases making even more information accessible than is required by law. These positive examples show that where the will is strong, reducing risks of corruption, easing administrative burdens, and strengthening property rights are not dreams reserved for richer countries, but realities that could be firmly within Vietnam’s grasp even now.

### **Box 9. Equity, Efficiency, and Environmental Sustainability... and Integrity**

*Vietnam Development Report 2011-Natural Resources Management*, a joint donor report prepared for the Consultative Group Meeting in December 2010, examines land management (and other topics related to natural resources) with an eye on three themes: economic efficiency, environmental sustainability, and social equity. Although not focused on corruption, many of the recommendations for improving efficiency, equity and environmental sustainability are the same as those that would limit corruption. More secure tenure would encourage investment and enhance productivity, and would also reduce the rents associated with involuntary acquisitions. For urban land, enhancing transparency and improving management would reduce the high number of disputes, and would also make corruption less likely. Clarification and refinement of the state’s recovery powers for economic development purposes would provide greater security, while shrinking a key driver of corruption. Land prices based on market signals rather than administrative decisions would guide land allocations towards the highest value use, and deflate the rents that fuel corruption. All these measures can contribute to enhancing the efficient, equitable and environmentally sustainable use of land, and to reducing corruption.

*Source:* Vietnam Development Report 2011-Natural Resources Management.

## REFERENCES

- Campos, Ed et al. 2007. *"The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level"*. World Bank, Washington D C.
- Dang Hung Vo et al. 2010: *"Liêm chính trong quản lý đất đai ở Việt Nam-Báo cáo khảo sát tại tỉnh Bình Định"* (Report on Results from the Field Surveys on Integrity in Land Management in Vietnam – Binh Dinh Province). Study by CECODES. Hanoi, August 2010.
- . 2010: *"Liêm chính trong quản lý đất đai ở Việt Nam-Báo cáo khảo sát tại Thành phố Hồ Chí Minh"* (Report on Results from the Field Surveys on Integrity in Land Management in Vietnam – Ho Chi Minh City). Study by CECODES. Hanoi, June 2010.
- . 2010: *"Liêm chính trong quản lý đất đai ở Việt Nam-Báo cáo khảo sát tại tỉnh Lạng Sơn"* (Report on Results from the Field Surveys on Integrity in Land Management in Vietnam – Lang Son Province). Study by CECODES. Hanoi, July 2010.
- Dang Ngoc Dinh et al. 2010: *"Liêm chính trong quản lý đất đai ở Việt Nam-Báo cáo khảo sát tại tỉnh Bắc Ninh"*: (Report on Results from the Field Surveys on Integrity in Land Management in Vietnam – Bac Ninh Province). Study by CECODES. Hanoi, June 2010.
- . 2010: *"Liêm chính trong quản lý đất đai ở Việt Nam-Báo cáo khảo sát tại tỉnh Tiền Giang"* (Report on Results from the Field Surveys on Integrity in Land Management in Vietnam – Tien Giang Province). Study by CECODES. Hanoi, July 2010.
- International Financial Corporation. 2007: *"Vietnam: Better Land Administration for Private Sector Development. Summary and Analysis of Survey Research"*. Hanoi, Vietnam.
- Klitgaard, Robert E. 1988: *"Controlling Corruption"*. Berkeley: University of California Press.
- Luu Duc Khai, Nguyen Le Hoa, Thomas Markussen and Finn Tarp. 2009: *"Access to Land: Market and non-Market Land Transactions in Rural Viet Nam"*. Joint Study of CIEM (Central Institute for Economic Management of Vietnam), CAP-IPSARD (Centre for Agricultural Policy of the Institute for Policy and Strategy for Agricultural and Rural Development of Vietnam) and the Department of Economics of the University of Copenhagen.
- Malesky, Edmund. 2009: *"The Vietnam Provincial Competitiveness Index: Measuring Economic Governance for Private Sector Development. 2009 Final Report."* Vietnam Competitiveness Initiative Policy Paper #14. Vietnam Chamber of Commerce and Industry (VCCI) and United States Agency for International Development's Vietnam Competitiveness Initiative (VNCI). Ha Noi, Vietnam.
- Mc Kinley, Catherine. 2009: *"Media & Corruption"*. Study commissioned by UNDP Vietnam.

- MONRE (Ministry of Natural Resources and Environment of Vietnam). 2010: *“Report the Department for Land Registration and Statistics to the General Department of Land Administration of MONRE”*. Report No. 206, dated October 14, 2010.
- . 2010: *“Report of the Centre for Inventory and Evaluation of Land Resources of the General Department of Land Administration”*
- Nguyen Ngoc Anh, Nguyen Duc Nhat, Tran Thanh Thuy and Kirby Prickett. 2010: *“Survey Report On Information Disclosure Of Land Management Regulations”*. DEPOCEN for the World Bank in Vietnam.
- Pethe, Abhai. 2010: *“Collusion, Conflict, Informal System & Rent-Seeking: The Great Prototype Indian Story of Urban Land Management in Mumbai”*. Department of Economics, University of Mumbai.
- Ravallion, M., van de Walle D. 2008: *“Land in Transition. Reform and Poverty in Rural Vietnam”*. World Bank, 2008.
- World Bank. 2009: *“Improving Land Acquisition and Voluntary Land Conversion in Vietnam”*. Policy Note. Hanoi, Vietnam.
- . 2009: *“Urban Land Markets: Improving Land Management for Successful Urbanization”*. Washington DC.
- . 2009: *“Vietnam Development Report 2010-Modern Institutions”*. Joint Donor Report to the Vietnam Consultative Group Meeting. Hanoi, December 3-4, 2009. [www.worldbank.org/vietnam/baocaophattrien](http://www.worldbank.org/vietnam/baocaophattrien)
- . 2010: *“Assessing & Monitoring Governance in the Land Sector: The Land Governance Assessment Framework”*. Washington DC.
- . 2010: *“Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits”*. Washington DC.
- . 2010 (forthcoming): *“Improving the measure of complaint settlement relating to compensation, support and resettlement upon land recovery the state in Vietnam”*. Hanoi, Vietnam.
- . 2010 (forthcoming): *“Measures for Land Price Determination for Compensation and Resettlement in Vietnam”*. Hanoi, Vietnam.
- . 2010 (forthcoming): *“Vietnam Development Report 2011-Natural Resources Management”*. Joint Donor Report to the Vietnam Consultative Group Meeting. Hanoi, December, 2010.

## ANNEX. LEGAL PROVISIONS ON TRANSPARENCY

**Table 3: Legal provisions on disclosure of information on administrative procedures applicable to LURHOC issuance**

| Information to be disclosed   | Forms of disclosure   | Legal basis  |
|---|---|--|
| Administrative procedures carried out by dependent units; name of person responsible for each step of the administrative procedures; the time limit for handling the administrative procedure; the official list of e-mail addresses of each dependent unit and of competent cadres and civil servants. | Websites of responsible state agencies  | Art. 28 Law on IT (2006); Art. 20 Decree 64 (2007)                     |
| Database of administrative procedures and forms, for both ministerial and provincial levels   | Website of the Prime Minister Special Task Force for Project 30   | Annex 1 and Attachment to Prime Minister Decision 7 (2008)             |
| The competence, order and procedures to grant LURCs   | Announcement at meetings of agencies, organizations, units; posting up at working offices of agencies, organizations, units; written notification to concerned agencies, organizations or individuals; distribution of publications; notification to the mass media; upload in websites; upon request | Art. 21 Law on Anti-Corruption (2005) amended and supplemented in 2007 |
| The application form and related documents for LURHOC issuance, the order and procedures for the evaluation and approval of LURHOC.   | Posting up at office where application forms are received   | Chapter 3 of Decree 88 (2009)  |
| Legal regulations on administrative procedures implemented by the commune government.   | Offices of Commune People's Committees and People's Councils; notification through village chiefs and population group leaders; broadcasting systems at the commune-level   | Art. 5-6 Ordinance Grassroots Democracy (2007)                         |

| Information to be disclosed  | Forms of disclosure  | Legal basis                                    |
|--|--|--|
| Objects and level of fees and charges collected by the commune government. | Offices of Commune People's Committees and People's Councils; notification through village chiefs and population group leaders; broadcasting systems at the commune-level      | Art. 5-6 Ordinance Grassroots Democracy (2007) |
| Verification results of the LURHOC application                             | Offices of Commune People's Committees   | Art. 14 of Decree 88 (2009)                    |
| On-line services for the granting of LURCs                                 | Portals or websites of Ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees, depending on their "practical situation" | Art.1.B.II Prime Minister Decision 48 (2009)   |

Source: Own elaboration, based on various legal documents from Vietnam.

**Table 4: Legal provisions on disclosure and consultation of land-use/urban plans**

| Information to be disclosed or consulted  | Forms of disclosure or consultation   | Legal basis  |
|---|---|--|
| Approved "national" land-use planning and plans   | Government's information network; Official Gazette; excerpts on a central daily newspaper   | Art. 27 Decree 181 (2004), Art. 21 Law on Anti-Corruption (2005)   |
| Approved "provincial and district-level" land-use planning and plans  | Information networks of provincial governments; offices of provincial and district-level DONREs; local newspapers.  | Art. 27 Decree 181 (2004), Art. 21 Law on Anti-Corruption (2005)   |
| Approved "commune-level" land-use planning and plans  | Offices of Commune People's Committees and People's Councils; notification through village chiefs and population group leaders; broadcasting systems at the commune-level   | Art. 27 Decree 181 (2004), Art. 21 Law on Anti-Corruption (2005), Art. 5-6 Ordinance Grassroots Democracy (2007) |
| Adjustments of land-use planning/plans  | In the process of adjusting land use planning and plans, agencies/organizations must "publicly announce such to people of the localities where the adjustments are made". No details are provided.  | Art. 21 Law on Anti-Corruption (2005)  |
| Draft land-use planning/plans for consultation  | The elaboration of land use planning and plans must "ensure democracy and publicity". No details are provided on how to ensure "democracy".   | Art. 21 Law on Anti-Corruption (2005)  |
| Draft land-use planning/plans "of the commune" for consultation   | Meeting with voters of households representatives; providing feedback cards to voters of household representatives; box for suggestion letters  | Art. 19 & 26 Ordinance on Grassroots Democracy (2007), Art 25 Land Law (2003), Art 18 Decree 181(2004)           |
| Approved urban plans, which must include basic details of the plan and the promulgated regulations on management. | Display of drawings and mock-ups in offices of urban planning related state management agencies of all levels, urban planning exhibition and information centers and planned areas; information on mass media; publications in hard copy. | Art. 53-54 Law on Urban Planning (2009)  |

| Information to be disclosed or consulted                   | Forms of disclosure or consultation  | Legal basis                             |
|--|--|---|
| Full updates on the implementation of approved urban plans | Responsibility of urban planning management agencies. Forms of publicity are not specified.  | Art. 53-54 Law on Urban Planning (2009) |
| Draft urban plans for consultation                         | Sending dossiers and documents or holding conferences/workshops with the concerned agencies, organizations and individuals; distribution of survey card questionnaires to the population community; opinion polls with population community through public display; introduction of planning options on the mass media | Art. 20-21 Law on Urban Planning (2009) |

Source: Own elaboration, based on various legal documents from Vietnam.

**Table 5: Legal provisions on disclosure and consultation of the plan on compensation, resettlement and support**

| Information to be disclosed  | Forms of disclosure or consultation  | Legal basis   |
|--|--|---|
| Decision on the approval of the compensation, support and resettlement plan, which should state: compensation and support amounts/rates, arrangement of house or land for the resettlement (if any), time and place of payment of compensation and support money, and the time of hand-over of the recovered land. | Posting in the office of the commune-level People’s Committee and the place of common activities of the community where the land to be recovered exists; Sending the decision to the person with the land to be recovered.                       | Art. 31 Decree 69 (2009)                              |
| Draft compensation, support and resettlement plan for comments by persons having land recovered and other relevant persons.  | Posting in the office of the commune-level People’s Committee and places of common activities of the community where the land to be recovered exists, for at least 20 days. A summary of the minutes of the collected opinions must be produced. | Art. 30.2 Decree 69 (2009)                            |
| Approved compensation schemes, subsidies for resettlement and reallocation related to project and building areas managed by the commune level.   | Offices of Commune People’s Committees and People’s Councils; notification through village chiefs and population group leaders; broadcasting systems at the commune-level.   | Art. 5-6 Ordinance Grassroots Democracy (2007)        |
| Draft compensation and resettlement schemes in the commune for consultation  | Meeting with voters of households representatives; providing feedback cards to voters of household representatives; box for suggestion letters.  | Art. 19 & 26 Ordinance on Grassroots Democracy (2007) |

*Source:* Own elaboration, based on various legal documents from Vietnam.

In charge of publication

Dr. NGUYEN DUY HUNG

In charge of content

Dr. KHUAT DUY KIM HAI

|                 |  |
|-----------------|--|
| Editors:        | PHAM VIET<br>VAN THANH HUONG<br>TRAN QUOC THANG<br>TA THU THUY |
| Cover design:   | DUONG HONG MAI   |
| Text layout:    | HOANG MINH TAM   |
| Proof-reading:  | VAN THANH HUONG<br>TRAN QUOC THANG                             |
| Sample-reading: | VAN THANH HUONG<br>TRAN QUOC THANG                             |

---

Printing 300 copies, size 19 x 24 cm, at Printing and Cultural Product Single-member  
Limited Liability Company.

Publishing Plan Registration No 59-2011/CXB/35-111/CTQG.

Publishing Decision No 5047-QĐ/NXBCTQG dated 15-01-2011.

Completed and Registered in January 2011.

It is no surprise that many Vietnamese citizens, firms, and officials are concerned about corruption related to land management. Identifying that there is a problem is the easy part - understanding why and identifying solutions are more challenging.

The state plays several roles in land management. State offices at local levels provide certificates of land - use and house ownership rights. State bodies allocate and reallocate land to investment projects, both public and private. And as a regulator, the state determines acceptable uses for land. This study systematically examines the whole *process flow*, from the first dissemination of plans, instructions and other information, through the decision making process, right through the ultimate grievance mechanism. By identifying the policies and practices that create economic rents, the study shows *why corruption is tempting*. And by noting the areas where transparency is weak, where accountability systems are ineffective or missing, and where discretion over key decisions is unchecked, the study shows *why the temptations are hard to resist*.

After identifying the reasons for the problems, the solutions arise naturally. Changing land management policies to remove the underlying economic rents will make corruption less profitable. Improving transparency and accountability and removing unnecessary discretion will make corruption more difficult to hide. There is ample evidence, both inside and outside Vietnam, that these challenges are solvable.

*This study is a collaborative effort of the Embassy of Denmark, the World Bank, and the Embassy of Sweden.*

