

Ideological recommendation for improvement of draft Land Law 2013

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Renovation of thinking, understanding and perception of legislators of Land Law is prerequisite for sustainable development of Vietnam. National holistic land zoning and planning MUST be identified as a foundation and lodestar effecting every plans, decisions of other types of planning for the sake of stable socio-political, cultural, economic development of the nation. Transparent, democracy land zoning and planning has special implication while land become a very hot constraint today as well as in the future. Legislators as well as the society need to understand deeply that: 'land zoning and planning' is a decisive premise for strategy of socio-economic, civil political, and secure administration. Every citizen participating in discussion of land zoning and planning would deal with reality, courageously admit failures and errors of the previous land policies, then embark upon stabilize and strengthen faithful, effective state power of the people, from the people, and for the people to deal with domestic and external obstacles in the market economy. A unique opportunity for prevention from and solution for land conflicts between people and companies, community and state enterprises, people and people, and between enterprises becomes reality if the Land Law 2013 is prepared and set up in a transparent, democratic and scientific way and strategy of 'national holistic land zoning and planning and its digital management system'. With detailed apparent chapters, articles and provisions of the Land Law 2013, the optimal utility of digital system and websites would ensure equality and transparency of information access for everyone. That also plays a vital role and serves as necessity for political regime and livelihood security for every Vietnamese citizens.

Part A. Concrete ideas and recommendation for Land Law 2013

- I. List detail chapters, provisions which were not identified and acknowledged by society and particularly legislators of the process of setting up previous land laws (1987 - 1993 – 2003) in actual inter-relation to Constitutional provisions concerning land issues (1946 - 1959 - 1980 - 1992).**
- Quote constitutional provisions relating to land issues (Constitutions 1946 -1959 -1980 -1992) which have not acknowledged and perceived land use planning as a planning of every planning for the sake of national stability and development;

- Quote provisions of land laws of 1954 -1959 -1987 -1993 -2003 which have not acknowledged and perceived land use planning as a planning of every planning for the sake of national sustainable development;
- Quote provisions of Decrees and amendment of land laws 1987-1993-2003 which lack participatory contribution because of opportunistic intention in interest groups (private companies, if any) – with illustrating examples, e.g. Kxija village of elder Amachem, Êđê ethnic group;
- Analyse unavoidable changes of land use by people, ministries, and branches without NATIONAL HOLISTIC UNIQUE LAND USE PLANNING leading to overlapping, discrepancy causing conflicts and corruption via land planning and converting land use purpose (some focusing examples);
- Analyse interrelation between constitutional provisions and land law provisions at different time lines (1987 - 1993 -2003) to clarify shortcomings of setting up land law at various times;
- Analyse in detail discrepancy between constitutional provisions and those of land laws at the mentioned times (examples to illustrate)
- Base on above analysis, find out ideological errors which affect land law setting and the law implementing consequences (focusing exemples to illustrate, e.g. industrialization of Central highland via Bauxite mining);
- List ideological and practical errors of Constitutions and land laws 1987 – 1993, the amendment in 1998 – 2001 and Land Law 2003 relating to land use planning and management of land use planning of different terms;
- Analyse the unpredictable consequences caused by shortage of land use planning leading to political deterioration and economic curruption base on terming power’s unreasonable conversion of land use purpose (examples to illustrate);
- Analyse tragedy due to shortage of respect of democratic and equal participation of various social interest groups in process of drafting and setting up land laws. Lack of land zoning and planning and its managing system causes interest conflicts between different social groups (illustrating examples from provisions of different land laws);

- Analyse impacts of corporations, enterprises in law amendment in 1998, 2001 and 2003 (examples to illustrate);
- Collect some articles of Land Law 2003 to analyse and illustrate those mentioned errors.

II. Concepts need to be clarified in discussion on focusing issues of Land Law 2013

- Concept of Ground Rent of Marx?. How was Ground Rent understood and applied in drafting and setting up land laws in Vietnam (in socio-economic, cultural, political context of land laws 1987 – 1993 – 2003, and especially in amended laws in 1998 and 2001) (examples to illustrate);
- Concept of Absolute Ground Rent of Marx? How was Absolute Ground Rent in ‘the entire people’s ownership of land’, “the state uniquely manage all land according to law and land zoning and planning” (Article 20 of Constitution 1980 and Article 18 of Constitution 1992) understood and applied in drafting and setting up land laws 1987 – 1993 -2003 (examples to analyse);
- How were concepts of values of First Ground Rent and Second Ground Rent) of Marx applied, managed and adjusted via land laws 1987 – 1993 -2003?
- Concept of nationalization of land: “land belongs to the entire people’s ownership, whoever is using land shall continuously do” in Vietnam (introduced by Truong Chinh), is that different from Lenin’s idea? Lenin: confiscate all land to redistribute to the poors. Why does this difference happen? How does it differ in socio-economic, civil, political context of Vietnam?;
- Production relation between land owners and agricultural capitalists in Marx time, how was managing mechanism and absolute ground rate arranged? Analyse the application of production relation between land owners and agricultural capitalists in current context of Vietnam via relation between community and non-state enterprises (e.g. economic zone in suburban of big cities – reflection in relation between capitalists and land under communal, district, provincial levels – use of ground rent – e.g. Ciputra Thang Long in Hanoi?);
- How is concept of land ownership understood and applied in land laws 1987 – 1993 -2003? Examples to illustrate?

- How is concept of regime of land ownership understood and applied in process of legislation of land laws 1987 – 1993 - 2003? Examples to illustrate?
- How is management mechanism of land ownership operated in land laws 1987 -1993 -2993? Example to illustrate?
- How is mechanism of management and adjustment of ground rent values in land laws 1987 – 1993 -2003? Example to illustrate?
- How is concept of land economy, land finance understood and applied during process of legislation of land laws 1987 – 1993 – 2003? Examples to illustrate?
- On what foundation is land tax provided in Vietnam and why?
- Are tax of land ownership and tax of land use the same or different? How are they the same or different? Examples to illustrate?
- How is state ownership, the entire people’s ownership, community ownership of land understood in Vietnam?

III. Analyse ideological values in land use planning policy and management of China (case study directed by Mr. Tôn Gia Huyên, with study tour, workshop, reference and introduction of document)?

IV. Analyse practical values of land, field, farming, village planning of Taiwan (case study directed by Mr. Tôn Gia Huyên, with study tour, workshop, reference and introduction of document)?

V. Analyse transparency of strategy of creating network of digital land management system in Malaysia, possibility to apply into Vietnam’s land use planning system? (case study directed by Mr. Tôn Gia Huyên, with study tour, workshop, reference and introduction of document)?

- Transparency of strategy of creating network of digital land management system for for prevention and restriction of corruption on land?
- Does transparency of strategy of creating network of digital land management system become fundamental foundation of social democracy via application of high technology in national governance?

VI. Land economy, land finance and types of land tax

- How is mechanism of management and use of uneven values of ground rent operated in Vietnam? (converting land to urban zoning, from urban zoning to economic zones, converting from province/ rural zoning to capital/ urban zoning, etc. Examples to illustrate?!);
- Transparency in system of adjustment and use of ground rent values? (examples to illustrate);
- What kind of criteria is land price based on? How is process of decision of land price and ground rent uneven values operated? (examples to illustrate).

VII. Design planning of land price setting system base on uneven values of ground rent with high technology (setting up network, mapping on websites, illustrate with Malaysia examples - directed by Mr. Tôn Gia Huyền with study tour, workshop and document?);

VIII. Foundation for setting up Land Law 2013 is transition from administrative management to management of land market (special real estate market)

IX. Foundation for setting up Land Law 2013 is transition of habits from natural resource management to management of land assets (with price, as a special goods determining nature of Vietnamese socio-political, cultural and economic characteristics.

X. Foundation for setting up Land Law 2013 is interrelated to law on Real estate business, law on Environmental protection and Resolution of the Polibureau on National development orientation 2010- 2050 based on transparent management system on digital website network (environmental tax against investors on land, regenerated resources and unregenerated underground resources).

XI. Foundation for setting up Land Law derives from trust, reputation and relation between people and state power relating to public assets, ensuring social equality and civilization.

XII. Foundation for setting up Land Law is admitting shortcomings in perception and attitudinal errors, then creating active motivation for improvement and self-change of self-respectful nation of Vietnam.

XIII. Foundation for setting up Land Law is a unique solution for jurisdiction respect for restriction of land and ethnic conflicts.

1. Land zoning and planning should become the first article of the revised constitution and be perceived as ideological foundation and philosophy for development of Vietnam;
2. A law on land zoning and planning based on land classification in Vietnam in interrelationship of Indochina landscape should become strategic leading and basis of other national strategies;
3. Synchronous land zoning and planning system via DIGITAL NEWTORK with annual control, updating and monitoring by an independent professional agency for land zoning and planning management, so as to detect legal violation. That should be considered as systematic solution and strategy towards target of “transparency and grassroots democracy”;
4. Base on land zoning and planning management via digital network and improvement of perception and practical understanding of consequences of land corruption due to shortage of the mentioned foundation of constitution and legislation, which causes landslide and degradation of land natural value and abuse of land.
5. Rearrange system of land classification mapping with provision that “land use value and land value consists of setting price of types of ground rent” and land economic criteria: spirits, human ecology, ecology, politics, culture, socio-economy, national defense and civil security relating to land should become development strategy without terming. That should base on nature and character of each type of land nationwide and in relation with neighbouring countries in Indochina;
6. A professional agency manages land zoning and planning management base on nature and characteristics of Vietnam land according to constitution

and “ZONING AND PLANNING MANAGEMENT OF NATIONWIDE VARIOUS TYPES OF LAND”;

7. All types of cultural, civil, socio-economic, security, national defence development planning and orientation should be supervised under constitution and law on land zoning and planning of Vietnam.

Part B. Objective 2010 - 2012 of ideology, contribution and sharing for setting up Land Law 2013

I. To have the first article of Constitution which provides "NATIONWIDE LAND ZONING AND PLANNING IS PLANNING FOR ANY OTHER PLANNING" and becomes millennium planning for any other planning and alternative decisions on political development trend, economic arrangement and cultural, cultural characteristic of Vietnam; (*study and analyse of Chinese land zoning and planning, Taiwanese rearrangement of field and Malaysia management of land zoning and planning management system via digital network, which is directed by Mr. Tôn Gia Huyên*);

II. To have Land Law 2013 with detail transparent, understandable provisions, chapters, articles, which base on the first Article of Constitution "NATIONWIDE LAND ZONING AND PLANNING IS PLANNING FOR ANY OTHER PLANNING " (Objective 1 for the period 2010 - 2013);

III. To have a managing system of "NATIONWIDE LAND ZONING AND PLANNING IS PLANNING FOR ANY OTHER PLANNING" via digital website network transparently informing to every citizen.

IV. To have a system of mapping of development land planning posting in every villages, communes, towns, cities and covering daily on the media, updating timely as the hottest news.

V. To have clubs, forums discussing land zoning and planning as criteria for grassroots democracy and foundation for maintaining and strengthening state power of the people, from the people and for the people;

Part C : Methodology

I. Access legal documents, constitutions, laws and degrees concerning land issues: responsible by *Phạm Văn Dũng* - *pvdung@speri.org*; *skype: pvdung.speri* and *Trần thị Lành* - *tlanhpaste@gmail.com*; *skype: tlanhsperi*;

II. Access to scientific document relating to constitutions, land laws and implementing solutions of China, Taiwan, Malaysia: directed and supported by Mr. Tôn Gia Huyền; updated and filed ‘Contribution and sharing for building up Land Law 2013’ by Phạm Văn Dũng;

III. Link knowledgeable enthusiastic scientists who are concerning contribution for building up Land Law 2013: Mr. Nguyễn Đình Anh – expert on land finance and tax, setting up land price and making projects of converting land use purpose transparent (with focusing examples to illustrate). Participation: Public asset Bureau, Department of Legality of Ministry of Industry and commerce, Ministry of Agriculture and Rural development, Ministry of Natural Resources and Environment, General Department of Tax, various Institutes of design and planning under different ministries;

IV. Link policy implementing officials from several communities, communes, districts: Mr. Nguyễn Khắc Thứ who coordinates issues on causes, process, consequences of land conflicts between community and companies, companies and people, people and state enterprises. Suggest strategic solutions for conflict and the target of "NATIONWIDE LAND ZONING AND PLANNING IS PLANNING FOR ANY OTHER PLANNING", and providing Articles of Land Law 2013 should be based on practice, focusing examples of some state forestry and agricultural enterprises from three different regions (Northern - Central - Central Highland).

V. Analyse specific cases of converting land use purpose for urbanization and industrialization, which lacks of respect strategic land zoning and planning or without land planning, such as Xiputra, merging Ha Tay province into Hanoi capital, Bauxite mining in Central Highland, etc. to

draw experiences and learning lessons, as well as pragmatic bases for building up provisions of Land Law 2013.