

# People's Land Ownership with State Representing Land Owners in Vietnam

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**Abstract:** The view that land is owned by all people and managed by the State on behalf of the people and subject to unified management is essential to maintain the sociopolitical stability of the country and ensure the livelihoods of farmers. Summarising the reality of each historical period, the Land Law in Vietnam is gradually being fine-tuned, geared towards addressing the needs of reality, in line with the socialist-oriented market economy and the industrialisation and modernisation of the country. By synthesising documents and comparing private and the people's ownership of land, the article aims to analyse and present the author's conception about the people's ownership of land, indicating that it is an appropriate choice and best to protect the interests of the people.

**Keywords:** Land ownership, people's ownership of land, Vietnam.

**Subject classification:** Political economics

## 1. Introduction

The issue of land ownership is an important issue that is of special interest to managerial leaders, scientists, and people. Vietnam is developing a socialist-oriented market economy, which requires the correct perception of the view that land is owned by the entire people, represented by the State, and uniformly administered in order to ensure that the right guidelines and policies on land are in place, suitable to the new situation to effectively administer and use land resources, ensuring the stable and sustainable development of the country (Doãn Hồng Nhung, 2018).

V.I. Lenin said, "Land must be subject to the ownership of the entire people, and a national government must regulate it" (V.I. Lenin, 1981, Vol. 32, p.220). However, "Farmers who want to effectively use land owned by the entire people must satisfy certain conditions, such as capital and other means of production, technical expertise, and finally,

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organisation” (V.I. Lenin, 1981, Vol. 31, pp.227-230). Ownership is a historical category; the objective trend of ownership is to move towards socialisation, and ownership is separate from the right to use.

The view of the Communist Party of Vietnam (CPV) is that land is owned by the entire people, assigned to the State as the representative owner, subject to unified management and effective utilisation. The State as a powerful agency, representing the interests of the people, plays the role of the representative of the entire people’s owners (Tôn Gia Huyền & Nguyễn Đình Bồng, 2007). The State has the right and responsibility to organise the land administration and assign land to other entities to use in order to improve the efficiency of use, conservation, and development of resources subject to the ownership of the entire people. Currently, “resources are strictly managed, exploited, and utilised more effectively, especially land and minerals” (Central Executive Committee of the Communist Party of Vietnam, 2020).

Amid economic development, it is necessary to realise that land belongs to the entire people and is subject to unified administration by the State on behalf of the entire people’s owners. “During the *Đổi mới* (i.e. renovation) period, all the resolutions of the CPV recognised the views, guidelines, and policies on land and land management. These are important orientations for the State to develop mechanisms, policies, and laws on land to meet the requirements of national construction and development in each period, especially in the current context of modern and full market economic development with international integration” (Nguyễn Đình Bồng, 2021). Such an affirmation is consistent with the nature of land as territory, an extremely valuable resource and common property of the nation, created by the efforts and blood of the entire nation over many generations.

## **2. Land administration and utilisation in Vietnam**

In order to ensure that the land owner is the entire people, important issues, such as the allocation of land use with a large impact, land leases to foreign countries for large-scale investments, and enactments of major land policies, must be subject to a referendum. In fact, in recent years, land acquisition encountered many difficulties and complications, leading to many lawsuits related to land acquisition, compensation, site clearance, and resettlement (Doãn Hồng Nhung, 2021). The current land use and management are still stifled with limitations and many pressing problems, giving rise to the question of how to manage land and other national resources more closely, and utilise them in accordance with the right planning, in a thrifty and efficient manner, towards sociopolitical stability, promoting the country’s rapid and sustainable development. “The Constitution and versions of the Land Law consistently assert that the land belongs to the entire people and is uniformly managed by the State. However, in practice, the people’s ownership of land is still limited and lacks specific content. It is not clear how the State performs the unified management of land, either as the land owner or the representative of the entire people’s

owners, while the rights of the land users seem to be the rights of the land owners. It stipulates that land users have many rights, including decisive rights such as the right to transfer, lease, inherit, and mortgage; while the entire people's owner is not subject to such clearly defined rights" (Nguyễn Quốc Sửu, 2021). Some of the main causes of current limitations in land use and management include:

- The land policy changed over time; land management changed from a centralised and subsidised form to a market mechanism, making land a resource, thereby giving rise to many new problems. But the knowledge needed to apply to new circumstances together with treatment experience is still lacking.

- There is no reasonable and clear definition of the ownership rights of the entire people, the right to state management, and the right to use the land by organisations and individuals; the rights and obligations, interests, and responsibilities among owners, managers, and users have not been clearly defined. Since then, to a certain extent, the entire people's ownership of land has become nominal ownership, the State's right to represent the land owner has become a formality, and land ownership has become substantive ownership of a number of individuals who directly hold the right to manage and determine concerning land use and land ownership. These individuals take advantage of loopholes to collude with investors for illicit profits, perform negative activities, commit corruption, cause discontent among the people, and lead to protracted litigation.

- State management of land is still faced with many shortcomings; land use plans and the implementation of these plans are not good enough; many industrial parks, investment projects, and land of agencies and enterprises are only slowly put into operation and cause huge waste.

- Compliance with the land law is not strict, especially in the implementation of land use planning, conversion of land use purposes, and transfer of land use rights.

- There is still a delay in theoretical research and practical review to clarify many theoretical issues about land management in the socialist-oriented market economy and to remove obstacles in the formulation and implementation of policy and law on land. Land is owned by the entire people and is managed uniformly by the State as the representative of the land owner. Therefore, it is important to raise the sense of responsibility of all organisations and individuals; to stipulate strict regulations governing the management, protection, and use of land; to rationally and effectively exploit land resources, and well meet the requirements of promoting industrialisation, modernisation, urbanisation, rapid, and sustainable development of the country. "State agencies exercise the powers and responsibilities to represent the entire people's ownership of land and perform the task of unified state management of land" (Government, 2014). Therefore, it is necessary to focus on dealing with the following issues:

*Firstly*, it is obligatory to have in place a practical perspective in understanding and solving the issue of ownership. This requires that the research on land ownership-related problems must be derived from the concrete historical realities of the country and of each

industry; and whose socio-economic efficiency must be taken as a criterion for consideration and solution so as to serve the requirements of reality.

*Secondly*, it is important to understand the importance of land resources. It is necessary to realise clearly that land is a scarce and extremely valuable national resource, a great source of the country's internal resources, and a special means of production. Viewpoints, guidelines, policies, and laws on land must aim at strict management and economical exploitation and use of land, achieving optimal efficiency. That requires having the right views and policies, and paying full attention to the economic, political, social, defence, and security aspects. It is compulsory to develop appropriate and scientific land use master plans, and properly manage and implement these. It is necessary for land to be properly distributed to meet the increasing requirements of land accumulation and concentration. It is important to ensure harmonisation of the interests of the State, investors, and users, in which special attention must be paid to the interests of society and effective users. The codification of land issues in a scientific and rational manner can help strengthen the rule of law and reduce land-related disputes as actually emerged in the past.

*Third*, it is necessary to clarify the content of the State's right to represent the owner of land, as well as the State's responsibilities in the management and use of public land, land allocated to the community, and state-owned enterprises. Land belongs to the entire people; hence, it is necessary to have a mechanism to manage and delineate rights to avoid abuse and to ensure the harmony of interests of the country and users. It is mandatory to specifically define which state agency (-ies) is/are representing the entire people's ownership; overcoming the nominal nature of the entire people's ownership, the formality of state management, and the substantive ownership of some individuals who abuse power and speculate for profits. It is necessary to specifically define the state agency (-ies) as the representative of the land owner, with the right to use, determine, and benefit from the land, and the State as the public power to perform the unified state management of land. Accordingly, the representative of land owners must be the National Assembly. The National Assembly promulgates the land law, and decides on the national master plans on land use, land allocation, lease, recovery, change of use purposes, as well as land price brackets and the use of financial resources obtained from the land. The National Assembly also has an obligation to ensure investment in improving the quality, value, and effective use of the national land. Therefore, it is necessary to define the role of the entire people's land ownership and the powers of the people, the National Assembly, and the Government.

*Fourthly*, it is necessary to change the mechanism of land allocation and land lease to narrow the allocation subjects and expand the range of tenants. Regarding the regulation of land allocation without land use levy for enterprises, the State mainly operates under the ask-give mechanism. In fact, the economic factors of land have been neglected, and land is not seen as a special commodity in the market mechanism. Hence, the allocation of land without the collection of land use fees also creates conditions for corruption and bribery to exacerbate while the State fails to collect taxes for the budget. It is also important to reasonably define the rights and obligations of land users. It is advisable to conduct

auctions of land use rights when rearranging state-owned offices and working facilities to convert to economic development purposes.

Land users are entitled to comment on the land use planning and publicise the master plan on land use approved by the competent authority. These are assigned land use rights for a long term and a limited time, with unlimited use but subject to land use tax for those areas that exceed the current regulations. Further, these are entitled to inheritance; have the right to protect legitimate land-related interests, to ensure that the benefits obtained must be greater and that the dwelling place must be at least equal to or better compared with the one before being confiscated.

Allotted land shall only be recovered according to administrative decisions for public purposes or for projects of great significance to the country's national livelihood, as decided by the Provincial People's Council, but must be satisfactorily compensated with adequate support to ensure a life equal to or better than that of the old place of residence. In general, the land recovery should be fair and efficient and must compensate for an amount equal to the current market value, plus other losses caused by the land recovery, such as loss of employment, accommodation, community relations, and so forth, plus a percentage of added value from the change of land use purpose and new investments. At the same time, it is necessary to complete the incentive mechanism to support the accumulation and concentration of land for the development of large-scale, high-tech commodity agriculture, associated with ensuring jobs and sustainable incomes for farmers, maintaining political and social stability in rural areas. It is important to harmonise the interests of the State, land users, and investors in land acquisition, compensation, support, and resettlement; to perform basic calculations so as to settle the roots of the issue with full payment of income ensuring the social security of the people whose land is recovered as well as a settlement mechanism to end the situation of land-related protracted litigation; and to more clearly institutionalise the supervisory role of the people and the Vietnam Fatherland Front.

The 13<sup>th</sup> Congress of the Communist Party of Vietnam asserted, "We will focus on building strategies, perfecting the institutional system for management and efficient use of resources, focusing on land; completing the legal system and policies on land, improving the quality of the formulation of master plans and plans on land use, modernising the cadastral field and provision of public services on land; ensuring consistent, synchronous, sustainable, efficient, and economical manners in land use; developing a healthy market for land use rights with a focus on the market for agricultural land use rights, and overcoming land speculation; continuing to renovate mechanisms and policies to promote accumulation and concentration of agricultural land, overcoming fragmentation, creating favourable conditions for investment attraction and applying mechanisation and high technology to agricultural production. Efforts will be made to improve the efficiency of land use, to prevent fallow land, and wasteful use of land, to strengthen management, and overcome land degradation; to strictly manage and effectively use public land, land of agricultural and forestry origin; to strengthen inspection and examination of the management and use

of land, to promptly detect and to resolutely handle violations, disputes and encroachment on land; to resolutely prevent and strictly handle acts of corruption, profiteering, and loss of state budget revenues related to land; to complete basic investigation, assessment, and database development on land, water, forest, marine, mineral, and biodiversity resources” (Communist Party of Vietnam, 2021, Vol. 1, pp.152-153). These orientations span many fields related to land, which shows that the land issue has received special attention from the Party and State. The ten sentences in the above paragraph are also the ten key issues that in the coming period Vietnam must focus on. Managing, building, completing, and improving are the keywords related to land and resources associated with land. One of the key tasks in the coming time is to develop a land law to meet the changes in the new situation of the country.

### **3. Suitability of land ownership by people in current political, socio-economic situation of Vietnam**

#### *3.1. Private ownership of land can bring about many social consequences for Vietnam*

At present, there are different opinions on the right of the entire people’s ownership of land. Both supporters and opponents maintain that their opinions are appropriate. One of the ideas proposing a new perception of land ownership by the entire people is from scholar Trần Quốc Toàn, who states, “The people’s ownership of land with the State as the only level of ownership, management, and is inconsistent with the complex nature of land relations. Land must have a specific entity as user-manager” (Trần Quốc Toàn, 2022). However, private ownership of land in current conditions in Vietnam has the potential to lead to some undesirable consequences.

*Firstly*, as Vietnam currently carries out industrialisation, modernisation, and urbanisation, the establishment of a private land ownership regime will be a factor that hinders investment for socio-economic development, because these processes require the conversion of an area of agricultural land into one for non-agricultural purposes. Private ownership of land will require investors to negotiate with too many people; and only one person who disagrees with the general plan can make such an investment plan difficult to implement. Furthermore, it is also difficult for private owners to negotiate with investors at a price that is favourable for them. As a result, private ownership of land both hinders the socio-economic development of the country and does not have a mechanism to protect the interests of investors and of the people themselves.

*Secondly*, private ownership of land will lead to the undesirable result of the concentration of land in the hands of a few people who have a lot of money, leading to some people owning too much land while others do not have an inch of land. With private ownership of land, the owner of the land would have the right to treat the land as if it were private property whereby they could buy, sell, and transfer such land, leave it unused, as

well as change the land use purpose. No one has the right to recover or use another person's land without the prior permission of the land owner. Because land is private property, people have the right to dispose of it like a commodity in the real estate market. Taking advantage of farmers' difficulties or ignorance, a portion of the population with money could collect land to become landlords. This would be the cause of a portion of farmers being plunged into poverty because they have no land.

*Thirdly*, with private ownership of land, it is true that the State can retain the right to plan the use of each parcel of land and force the landowner to comply with some regulations for the common living environment, but no one has the right to prevent landowners from using the land as they please, because the land is their private property. This reason also makes land tend to be used inefficiently, not for the survival purpose of the majority of the population. Moreover, as Karl Marx pointed out, exclusive private ownership of land is an obstacle to economic and technical progress in agriculture. The fact that the rich-poor divide in the developed capitalist countries of today also proves the correctness of this conclusion. Therefore, those who follow the socialist trend (the essence of which is the wish to build an egalitarian society, in which people are not only free and equal in terms of politics, but also free and equal in terms of economics, and necessarily free and equal socially speaking) will support a mode of common ownership (joint ownership rather than delegating total authority to the State) in terms of the main means of production, including land.

The group of views in favour of multiple land owners seems to be more reasonable when explaining that the form of ownership is suitable for the characteristics of the land plots used for different purposes. They believe that residential and productive land is attached to people for a long time and is their property, so private ownership should be applied to encourage conservation, investment, and effective use according to market principles (that is, land use will be transferred to those areas where land prices are high) and the abuse of state agencies in land acquisition and allocation will be limited. However, they do not consider the gap between the rich and the poor, as residential and productive land occupies most of the country's natural land area and is also the most controversial subject. Moreover, a country, in order to have basic stability, must ensure food security, and must use the total land fund accordingly. At that time, land can only be traded within the scope of the planned land use purpose.

Advocates of multiple land ownerships argue that the areas of the common use of a certain population community, according to local needs and traditions, should be left under community ownership (i.e. collective ownership). It is true that in the past there were communities that protected forests, rivers, and lakes very effectively thanks to voluntarily recognised conventions. But at present, religious creeds and the will of the population are not enough to prevent people from conquering greed, especially with the right to free residence and open international exchanges, and those people who can benefit from using common ownership to appropriate land and transfer it thus making land disputes very complicated. The problem is not that there are no shared parcels of land, but that they think

it is necessary to diversify land ownership. In the framework of the entire people's ownership, we still have shared land plots. The problem is who should be assigned as the legal representative to manage shared land with a specific purpose that is recognised by everyone. Solving this problem in a multi-ownership regime is not easier as within the entire people's ownership of land.

### *3.2. Preeminence of land ownership by entire people in current political and socio-economic development in Vietnam*

Those who support the view of the people's ownership of land take improving the living conditions of workers as their primary goal, as their stance of choosing a solution. "What needs to be done right away is to innovate the growth model based on high-quality human resources associated with modern technology. All resources, including land resources, must be used with high efficiency. To do so, it is necessary to reform the institution of land management and use" (Đặng Hùng Võ, 2022). It is necessary to stick to the position of accepting the entire people's ownership of land or we will get lost in the maze of arguments about market efficiency, the interests of some minority populations standing behind the term business facilitation, and the imaginative narrow possibilities of the socialist state, and so on. Moreover, in the historically specific conditions of Vietnam, land is not just an economic category, but also belongs to the political, social, and defence spheres. Land is a resource for the development of the country.

The view in favour of the entire people's ownership of land is based on objective historical grounds. "Inefficient land governance has a very negative impact on the economy" (Bùi Tiên Đạt & Trần Thị Trinh, 2022), so the correct identification of the problem will help develop the country stably and sustainably.

*Firstly*, from the stance of "all power belongs to the people", the people must be the owners of the nation's means of production, which is land. Land is the result of the long-term cause of national defence and construction of the whole nation, so it is impossible for a lucky few in the market to have exclusive rights to own land. The land of the country and nation must be under the common ownership of the whole people and used for the common purposes of the whole nation and the people. Many areas of land that must be specified in the law are for common use such as roads, parks, shorelines for ships and fishing boats, lakes, river flows, and so on. Law-abiding supervisory agencies must have enough power to not allow anyone to encroach on or use the shared areas arbitrarily. Here, "shared areas" also mean they do not belong to state agencies so these agencies do not have the right to assign or distribute such shared areas to anyone they like. The decision on a part of the shared land area to be converted to private use land must be consulted with the whole people (through a referendum) or the power must be delegated to a state agency (such as the National Assembly) to decide and supervise with strict conditional constraints to avoid arbitrary decisions by state officials. Parts of private land that wish to be

converted into shared land must also be supported by the people and must be agreed upon equally with the current users of such land.

*Secondly*, the entire people's ownership of land creates conditions for working people to access land freely. The working masses must become the masters of society and reorganise themselves in the form of a voluntary, equal, philanthropic, and democratic society. Such socialism is forever the true aspiration of humankind. Socialist orientation is the most correct way to gradually translate that aspiration into reality in life. Although the socialist economic model is still being realised and the level of economic development is still inferior to that of many countries, Vietnam do not choose the capitalist path to sacrifice the interests of the majority of the working people in order for a small percentage of the wealthy in society to accumulate wealth.

Therefore, it is not possible to rely only on the indirect regulatory tools of the State to solve it fairly. A fair mechanism must be created from the very beginning, that is, the working people must have means of production, including land, to work for a living. Private ownership of land will make the poor lose their land, and without means of production, how can the poor escape poverty? The common sense here is to create conditions for the working people to own the means of production so that they can lift themselves out of poverty.

*Thirdly*, the entire people's ownership of land provides a mechanism for the working people to have the right to benefit from land in a more beneficial, fairer, and more equal way. This is explained by the fact that the ownership of the entire people is the common ownership of the Vietnamese people, in the sense that Vietnamese people are citizens of the Socialist Republic of Vietnam. It is the common ownership that land should be used and managed according to a specific mechanism to achieve two purposes at the same time, which is efficiency and fairness for the working people (we emphasise "the working people" because the principle of socialism is that people can only enjoy the fruits of their own labour, not based on the exploitation of other people's labour). We must not lose sight of the goal of equity, because if we are to achieve efficiency by sacrificing the interests of the majority of the working people so that more wealth is produced but goes into the pockets of the rich, then it is not the kind of efficiency we desire.

*Fourthly*, in essence, the entire people's ownership of land is not the source of today's complex reality about land. The reality of land use and management is giving rise to many problems, originating not from the inherent nature of the people's ownership of land, but stemming from the long-term weakness in the non-realisation of related institutions and the consequences of poor land management at both the macro and micro levels.

The way the State exercises the right to represent the owner and manage land has many unreasonable points that need to be overcome. The most pressing issue in Vietnam today is that the quality and attitude of implementing the Land Law 2013 of state agencies and civil servants is not good enough. There are too many cases of abuse of public power to serve individuals, families, and interest groups' own goals as well as the unfair distribution of

benefits from land among different interest groups, between land users and the State. The extraordinary wealth of the real estate giants in Vietnam, the huge difference between the urban land price in projects to convert agricultural land into urban land and the compensations for farmers, among others, are obvious evidence that the distribution of benefits from land does not benefit the people who have the right to use the land when such land is acquired. The fact that the master planning is adjusted arbitrarily or suspended, that recovered land is abandoned, and that people who have lost their land are plunged into unemployment and difficulties, shows that the State's management is not commensurate with the necessary requirements concerning the regime of entire people's ownership of land. These problems cannot be avoided by transferring all of that management to the private sector through privatisation or diversification of land ownership. On the contrary, these problems can only be well solved by accelerating reforms in state agencies, making transparent and publicising the mechanism of land management and use; tightening the discipline and accountability of civil servants and transferring to the people those rights that are exercised by land users more favourably than by state agencies. Some of the things that need to be done are to limit the right to arbitrarily acquire land of state agencies for the purposes of "so-called" socio-economic development projects serving certain interest groups, and at the same time while doing so, impoverishing many people when they no longer have productive land. The land price for land acquisition must take into account the land rent differentials between the society (which is represented by the State), the person whose land is recovered, and the person who receives the land to use for new purposes. The State must also improve the capacity to use land use planning and plans as a management tool for the national interest.

*Fifthly*, the entire people's ownership of land is not the state's ownership of land. It cannot be denied the fact that in the real social structure, groups of people working in the state apparatus (as managers) have separate interests from the working people (as the ones subject to the management of the State). Those who exercise state power are not the entire people, but state officials authorised by the entire people to manage society. The State is just an institution elected by the people and given the power to supervise specific individuals and organisations on their behalf, forcing everyone to abide by the agreed rules. However, when in power, state officials have the right to force people to obey the law. In many cases, the law is also drafted and approved by the state agency. It is clear that the benefits of the people as the largest community in society are separate from the interests of the group of people enforcing state power. However, in that separate relationship, citizens still hold the right to decide. When the institution of the State and individuals operating that institution do not comply with what the people delegate and authorise, the people retain the right to remove them from office or change the institution. In addition, important laws like pillars of the nation must also consult people. In this sense, the entire people's ownership of land is not state ownership (and so is the people's ownership of other assets). The people, i.e. all the citizens of a country (excluding foreigners) and the institution that collectively represents them, the State, share the rights

of land owners according to the Constitution and laws they have accepted. Therefore, if we agree that the land is owned by the State, it means that the citizens no longer have any rights to the land, while the State has full rights to use the land. According to such an understanding, the state ownership of the land is a “dangerous” recommendation, which can pull us back to the feudal regime under which the land was considered to belong to the king and it was up to the king to give land to anyone or to get it back.

The entire people’s ownership of land is the common ownership of the entire people, but there is a division in the ownership practice between land users and the State. That is the mechanism we want to support. The essence of that mechanism is to reasonably divide the rights of land owners between the people and the State, as well as between state agencies at all levels. The 2013 Land Law and related legal documents have given people a lot of rights. Basically, people have almost all the rights of the owner allowing them to invest and use land effectively according to their capacity. Some limitations of ownership rights that land users are not entitled to include: changing the land use purpose at will, limiting the land allocation area and period, and re-allocating land to the State to be used for national defence, security, and public purposes. Corresponding to the extension of rights for land users, the rights of state agencies as representatives of the entire people to perform unified management of land throughout the country are prescribed on the following aspects: stipulating the purpose of use for each land parcel (through master plans and land-use plans); recovering land for security, defence, and public purposes, and collecting some land-based taxes.

*Sixthly*, the people’s ownership of land brings about many benefits in accordance with the historical and concrete conditions of Vietnam. Not only does it not hinder the effective land use process at the micro level of land users as well as in terms of transferring land use rights in the real estate market, and the entire people’s ownership of land regime but it also brings about many benefits suitable to the characteristics of our country, such as:

- The entire people’s ownership of land regime emphasises the people’s right to jointly resolve disagreements over the use and distribution of benefits from the land. Under the socialist rule of law, the people have the right to jointly build a Constitution that stipulates the way of living together and the powers of the State in society. By stipulating the entire people’s ownership of land in the Constitution, when the majority of citizens are disadvantaged in the distribution of benefits from the land, they can request the State to amend the Land Law to serve the common purposes of citizens, to correct inequities in the distribution of benefits from land brought about by the market mechanism. On the contrary, if the Constitution provides for private ownership of land, in the name of owner’s rights, a minority of the population that owns a lot of land will not allow the change of status and redistribution of land, harm to their own interests; at the same time, the State will not be able to protect the interests of the population groups that do not privately own land because the State does not have the power to enforce that.

- The entire people’s ownership of land prevents Vietnam’s society from falling into disarray as some may demand a review of historic land decisions if private ownership of

land is maintained. With the stipulation that the land is under the common ownership of all Vietnamese citizens, which is implemented under the mechanism of the State authorised by the entire people for the allocation of land to households and organisations to use and the State authorised by the entire people to perform land management, ensuring that in the course of land use process, the interests of land users are consistent with the common interests of the country. Then there will be no disputes among individuals. The allocation of land or reform of the State's management in the direction of further expanding the rights of land users is beneficial for the working people, especially for farmers, who directly use land as means of production. Such an approach and concept easily leads to the necessary consensus of the whole nation in the context of current multiple difficulties in Vietnam. In fact, maintaining ownership of the entire people in the current conditions is the best way to stabilise the economy, politics, and society. If private ownership of land is recognised, there will be struggles to regain ownership of houses and land in the past such as land recovery and distribution of abandoned houses to public officials and people in the years after the war. In other words, today's land ownership system consists of a combination of legal rights and associated economic interests. The land relationship must be gradually completed according to the historical process, in which the rights of the working people to access land must be prioritised for protection. The Constitution and the Land Law can be amended, but the destiny of the nation towards a prosperous and just society for the working people cannot be changed.

*Seventhly*, land is the common property of the nation, so the central government or local authorities are not allowed to transfer land to foreigners as freely as is the case for Vietnamese citizens. If Vietnam do not stipulate strict conditions on ownership of land, especially productive land of foreigners, if Vietnam recognise private ownership of land and allow foreigners to negotiate land purchase and sale with private individuals, then the risk of losing the sovereignty as a result of the consequences of the market economy will become a reality and the results of Vietnam's resilient struggle for independence will be in danger of being annihilated by monetary forces.

It is necessary to divide the rights that land ownership has, on the basis of the entire people's ownership of land, in a reasonable way between the people and state agencies:

- As for the shared land, no one or any organisation is allowed to use it exclusively for their own benefits. The State, authorised by the society, must ensure compliance. This means that state agencies are also not allowed to use or assign it to someone to use in contravention of the provisions of the Land Law on shared land.

- Local authorities are in charge of managing areas of land commonly used by a local community (such as green parks and internal roads) for the common use of such a local community only. Local authorities are not allowed to allocate that shared land area to any organisation or individual to use for their own purposes.

- Public office land is allocated to party agencies, state agencies, and mass organisations, and is only used for the purpose of providing public services. If these agencies have no need to use such public land, they must return it for use according to the

provisions in accordance with the will of the people as stated in the Land Law. State agencies do not have the right to sell public land at market prices, except in the case of transferring it to the population and recovering money to the state budget.

- Most of the productive land and residential land is retained by the people (not allotted to the people by the State as currently understood) for themselves together with most of the rights of the owner such as occupying, using, and trading on the land market, mortgage, and inheritance. This is a legitimate right in the concept of the people's ownership of land because the people are the main subjects, not the State. The people retain the majority of their rights and only hand over a limited number of rights to the State. These include (i) the right to develop and monitor compliance with master planning and master plans on land use so that the land use activities of individuals and organisations do not reduce the efficiency of national land use, (ii) the right to protect the land and the environment to prevent self-seeking acts that harm the common good, (iii) the right to protect the people's legitimate rights to land that has been provided for by law, and (iv) the right to preserve the national territory against foreign encroachments. Of course, the people have to provide funding through taxes to the State for it to maintain its activities.

With the above understanding, the entire people's land ownership is not a theoretical term, pure abstraction without no practical value, and much less a dogma. The entire people's ownership of land is a fundamental condition for Vietnamese working people to have a legal basis to protect their interests. Our mistakes, when delegating too much power to the state apparatus, especially to local authorities, have led to the abuse of this right for personal gains, for the benefit of groups in the name of local interests or national interests, infringing upon citizens' rights.

#### **4. Conclusion**

The entire people's ownership of land creates conditions for the socialist State to best protect the interests of the working people. The mistakes and shortcomings of state agencies over the past time are not the nature of the socialist state and can be corrected. The solution is a controlling institution, whereby our State, a socialist State, can act properly. There are two institutions that undertake this task: the CPV and the people's sociopolitical organisations. The CPV assumes the responsibility of the vanguard of the working people to act as an effective state supervision organisation in order to protect the legitimate rights and interests of the vast majority of the working people. "In today's globalised world, the development of each nation-state cannot be isolated, standing outside the influences of the world and the times, the present situation and its state of affairs" (Nguyễn Phú Trọng, 2022).

The Constitution and laws must stipulate the people's right to access information about land and state management activities on land so that the people can exercise their supervision rights. It should not be understood here that the State gives information to the

people. As a public servant of the people, the State has the obligation and responsibility to provide information to report to the people (through the mass media and the National Assembly) so that the people have a current basis to monitor the activities of the State.

In summary, it is necessary to come up with a unified view that under the entire people's ownership of land, the State performs unified management of land, but it is necessary to approach it realistically according to the rights that land ownership has (it should also be emphasised that these rights are not rigidly fixed but can change over time as well as the features of the land owners) and divide those rights in a reasonable way between the people and state agencies to ensure that the land is effectively used to serve the cause of national construction and defence; and to harmonise interests between land owners and land users.

**Note:** Translator: Lương Quang Luyện. Language editor: Etienne Mahler.

## References

1. Ban Chấp hành Trung ương Đảng Cộng sản Việt Nam (2020), *Báo cáo tổng kết nhiệm vụ thực hiện chiến lược phát triển kinh tế - xã hội 10 năm 2011-2020, xây dựng chiến lược phát triển kinh tế - xã hội 10 năm 2021-2030*, Hà Nội. [Central Executive Committee of the Communist Party of Vietnam (2020), *Report Summarising Tasks of Implementing 10-year Socio-economic Development Strategy 2011-2020, Formulating 10-year Socio-economic Development Strategy 2021-2030*, Hanoi].
2. Chính phủ (2014), *Nghị định số 43/2014/NĐ-CP ngày 15 tháng 5 năm 2014 Quy định chi tiết thi hành một số điều của Luật Đất đai*, Hà Nội. [Government (2014), *Decree No.43/2014/ND-CP dated 15 May 2014 Detailed Regulations on Implementation of a Number of Articles of the Land Law*, Hanoi].
3. Đảng Cộng sản Việt Nam (2021), *Văn kiện Đại hội đại biểu toàn quốc lần thứ XIII*, Nxb Chính trị quốc gia - Sự thật, t.1&2. [Communist Party of Vietnam (2021), *Document of 13<sup>th</sup> National Party Congress*, National Political Publishing House, Vol. 1&2].
4. Bùi Tiến Đạt & Trần Thị Trinh (2022), “Quản trị đất đai ở một số nước và giá trị tham khảo cho Việt Nam”, Tạp chí *Nghiên cứu Lập pháp*, số 2+3 (450+451). [Bùi Tiến Đạt & Trần Thị Trinh (2022), “Land Governance in Some Countries and Reference Values for Vietnam”, *Journal of Legislative Studies*, No. 2+3 (450+451)].
5. Tôn Gia Huyền & Nguyễn Đình Bồng (2007), *Quản lý đất đai và thị trường bất động sản*, Nxb Bản đồ. [Tôn Gia Huyền & Nguyễn Đình Bồng (2007), *Management of Land and Real Estate Market*, Map Publishing House].
6. Doãn Hồng Nhung (2018), *Giáo trình Luật Đất đai*, Nxb Đại học Quốc gia Hà Nội. [Doãn Hồng Nhung (2018), *Textbook of Land Law*, Vietnam National University Press, Hanoi].
7. Doãn Hồng Nhung (2021), *Pháp luật về đất nghĩa trang, nghĩa địa và thực tiễn thi hành*, Nxb Xây dựng. [Doãn Hồng Nhung (2021), *Law on Cemetery Land, Cemeteries and Practice*, Construction Publishing House].

8. Quốc hội (2013a), *Hiến pháp nước Cộng hòa xã hội chủ nghĩa Việt Nam năm 2013*, Nxb Chính trị quốc gia - Sự thật, Hà Nội. [National Assembly (2013a), *Constitution of Socialist Republic of Vietnam 2013*, National Political Publishing House, Hanoi].
9. Quốc hội (2013b), *Luật Đất đai 2013*, Nxb Chính trị quốc gia - Sự thật, Hà Nội. [National Assembly (2013b), *Land Law 2013*, National Political Publishing House, Hanoi].
10. Quốc hội (2016), *Nghị quyết số 134/2016/QH13 ngày 9 tháng 4 năm 2016 Về điều chỉnh quy hoạch sử dụng đất đến năm 2020 và kế hoạch sử dụng đất kỳ cuối (2016-2020) cấp quốc gia*, Hà Nội. [National Assembly (2016), *Resolution No.134/2016/QH13 dated 9 April 2016 on Adjustment of Land Use Planning up to 2020 and Last Land Use Plan (2016-2020) at National Level*, Hanoi].
11. Nguyễn Quốc Sứ (2021), “Tiếp tục cải cách chế độ sở hữu về đất đai nhằm nâng cao hiệu quả quản lý, sử dụng nguồn lực đất đai”, Tạp chí *Nghiên cứu Lập pháp*, số 17 (441). [Nguyễn Quốc Sứ (2021), “Continuing to Reform Land Ownership Regime in Order to Improve Efficiency of Management and Use of Land Resources”, *Journal of Legislative Studies*, No. 17 (441)].
12. Nguyễn Phú Trọng (2022), *Một số vấn đề lý luận và thực tiễn về chủ nghĩa xã hội và con đường đi lên chủ nghĩa xã hội ở Việt Nam*, Nxb Chính trị quốc gia - Sự thật, Hà Nội. [Nguyễn Phú Trọng (2022), *Some Theoretical and Practical Issues on Socialism and Path to Socialism in Vietnam*, National Political Publishing House, Hanoi].
13. V.I.Lênin (1981), *Toàn tập*, t.31&32, Nxb Tiến bộ, Mátxcova. [V.I. Lenin (1981), *Complete Works*, Vol.31&32, Progress Publishing House, Moscow].
14. Nguyễn Đình Bồng (2021), “Chế độ sở hữu toàn dân về đất đai và quyền đại diện chủ sở hữu nhà nước về đất đai ở Việt Nam”, Tạp chí *Khoa học đất*, <http://tapchikhoahocdat.vn/tin-tuc/che-do-so-huu-toan-dan-ve-dat-dai-va-quyen-dai-dien-chu-so-huu-nha-nuoc-ve-dat-dai-o-viet-nam/>, truy cập ngày 20 tháng 02 năm 2022. [Nguyễn Đình Bồng (2021), “Entire People’s Ownership of Land and Right to Represent State Ownership of Land in Vietnam”, *Journal of Soil Science*, <http://tapchikhoahocdat.vn/tin-tuc/che-do-so-huu-toan-dan-ve-dat-dai-va-quyen-dai-dien-chu-so-huu-nha-nuoc-ve-dat-dai-o-viet-nam/>, retrieved on 20 February 2022].
15. Trần Quốc Toàn (2022), “Hoàn thiện vai trò của Nhà nước trong quan hệ sở hữu đất đai ở nước ta”, *Báo Điện tử Chính phủ*, <https://baochinhphu.vn/hoan-thien-vai-tro-cua-nha-nuoc-trong-quan-he-so-huu-dat-dai-o-nuoc-ta-102220601144112661.htm>, truy cập ngày 20 tháng 02 năm 2022. [Trần Quốc Toàn (2022), “Improving Role of State in Land Ownership Relations in Our Country”, *Government Electronic Newspaper*, <https://baochinhphu.vn/hoan-thien-vai-tro-cua-nha-nuoc-trong-quan-he-so-huu-dat-dai-o-nuoc-ta-102220601144112661.htm>, retrieved on 20 February 2022].
16. Đặng Hùng Võ (2021), “Vận hành chế độ sở hữu toàn dân về đất đai trong cơ chế thị trường”, *Trang Thông tin tổng hợp Ban Kinh tế Trung ương*, <https://kinhtrunguoc.vn/web/guest/nghien-cuu-trao-doi/bai-1-van-hanh-che-do-so-huu-toan-dan-ve-dat-dai-trong-co-ch.html>, truy cập ngày 20 tháng 02 năm 2022. [Đặng Hùng Võ (2021), “Operating Entire People’s Ownership of Land Regime in Market Mechanism”, *General information page of Central Economic Commission*, <https://kinhtrunguoc.vn/web/guest/nghien-cuu-trao-doi/bai-1-van-hanh-che-do-so-huu-toan-dan-ve-dat-dai-trong-co-ch.html>, retrieved on 20 February 2022].