

Contending views and conflicts over land In Vietnam's Red River Delta

Nguyen Van Suu

This study offers an approach about the nature of peasants and the reasons for their political actions. It examines the views of different parties towards the question on how land should be owned, managed, used, by whom, for whose benefits, and uncovers as well as explains the resulting conflicts over land rights in the Red River Delta since decollectivisation. It postulates that the contending views among parties over decision-making, distribution, and holding of land rights, create dynamics for conflicts, which take place under the form of public resistance, in a number of communities.

In the late fifties, the family-household-based agricultural production in North Vietnam was gradually transformed into collective production. From the early sixties, collectivisation continued to increase in scale and intensity. However, since the early eighties, a process of decollectivising the agricultural system started and proceeded till the early nineties. This process accompanied the development of a new land tenure system that distinguished three types of rights to land: *quyền sở hữu* (ownership rights), *quyền quản lý* (controlling rights),¹ *quyền sử dụng* (use rights). The process also occurred during the time when the state has been implementing essential programmes of industrialisation in rural areas. In some areas, the effects of urbanisation and globalisation have also been intruding into various aspects of the lives of rural people.

This study offers a different way for analysing and explaining the peasant nature and the various reasons for their political actions. Drawing on various sources of data, the study analyses the views of the Red River Delta villagers in relation to the question as to how land in Vietnam should be owned, managed, used by whom and for whose benefits, and compares these with the views reflected in the state land tenure system. It focuses on three types of rights to agricultural land that have been defined in state land tenure regime since decollectivisation. It also uncovers and explains the resulting conflicts over land rights. The study argues that a number of villagers share some

Dr Nguyen Van Suu is a lecturer at the Department of Anthropology, College of Social Sciences and Humanities, Vietnam National University, Hanoi. Correspondence in connection with this paper should be addressed to nvsuu@yahoo.com. Author's acknowledgements: I would like to express my special thanks to Andrew Walker, Ben Kerkvliet, Bruce Lockhart, David Marr, Nicholas Tapp and two anonymous referees for their useful comments on previous drafts of this study. I would also like to thank the Ford Foundation and the Department of Anthropology, Research School of Pacific and Asian Studies, the Australian National University, for supporting this study financially.

1 Given the Vietnamese context, I use the term 'controlling,' instead of 'management' to indicate what in Vietnamese means '*quản lý*'.

common views that either correspond or conflict with the views of state land tenure policies and their architects / implementors in matters concerning decision-making, distribution, and holding of ownership rights, controlling rights, and use rights to agricultural land. The contending views toward these essential rights to land have led a number of villagers to become involved in conflicts over land rights in a number of communities. Conflicts over land rights as such take place under the form of public resistance. The following sections will first survey the land tenure regimes before the eighties, highlight theoretical approaches to peasant nature and the various reasons for the political actions by peasants, then analyse and discuss the contending views over three kinds of land rights, and identify the key causes as well as explain the nature of conflicts over land rights in the Red River Delta since decollectivisation.

Land tenure before decollectivisation

Vietnam had different regimes of land tenure arrangement throughout its long history. Prior to the colonial rule, land tenure was structured on the principle of two levels of holding: ultimate ownership of the king and the practical holding of *công điền* (communal land) and *trư điền* (private land) of the villages and peasant households at the village level. Communal land had long existed with a large percentage in the centre and north while it only later appeared in smaller portions in the south when people settled to exploit this region. Communal land was divided into numerous portions: communal land to support studies, communal land for mandarin's salaries for example. However, the most important portion was periodically allocated to male adults in the village to use, who in return had to pay head tax to the state.² Historical studies show that the king did not exercise much of his power over the distribution and use of this land and only collected land tax from the village as a whole, not from individual villagers. In contrast to communal land, private land was controlled and used by individual villagers. In a long period of history, this was a pronounced portion of land with large holdings of a few rich peasants and landlords at the expense of many poor peasants especially in the south.³

This meant that for a long period of time, all the land in the country belonged in theory to the king and people paid taxes for the use of land. The king granted certain areas to individuals to be used as private land and granted certain areas to the villages to be used as communal land, and could take back the granted land areas at any time without compensation. However, in practice, the king had often given compensation to recovered land.⁴ In other words, under the ultimate ownership there was another level of land holding of the villages and individual villagers.

2 In some cases, those who were not male adults, such as widows and orphans, also received land shares.

3 Vũ Huy Phúc, *Tìm hiểu chế độ ruộng đất ở Việt Nam nửa đầu thế kỷ XIX* [Investigating land tenure system in Vietnam in the first half of nineteenth century] (Hà Nội: Nhà xuất bản (Nxb). Khoa học Xã hội, 1979); Trương Hữu Quýnh, *Chế độ ruộng đất ở Việt Nam thế kỷ XI-XVIII* [Land tenure regime in Vietnam during eleventh-eighteenth centuries] (Hà Nội: Nxb. Khoa học Xã hội, 1983, 2 vols); *Tình hình ruộng đất và đời sống nông dân dưới triều Nguyễn*, ed. Trương Hữu Quýnh [Situation of land and peasants' life under the Nguyen dynasty] (Huế: Nxb. Thuận Hóa, 1997).

4 Ngô Vinh Long, *Before the revolution: The Vietnamese peasants under the French* (New York: Columbia University Press, 1973), p. 5.

Much of this land tenure regime began to change with colonial rule. The amount of communal land decreased drastically under French rule, because so much of it went for concessions to French and Vietnamese landowners. This had led to bitter conflicts over land which contributed to social unrest and national movements to oust the French.⁵ For example, as Ngo Vinh Long⁶ demonstrated, communal land was one of the key causes for villagers' participation in revolutionary movements due to numerous types of usurpation by the French, Vietnamese local mandarins, and Vietnamese landlords. This became clearest in the case of Soviet Nghệ Tĩnh outburst during 1930–31. In such a situation, therefore, it became so essential to give peasants land to farm.⁷

The Geneva Conference in 1954 resulted in two Vietnams: the Democratic Republic of Vietnam in the north (commonly known as North Vietnam) and the Republic of Vietnam in the south (commonly known as South Vietnam). In the North, from 1953–1956, a radical land reform programme was implemented to redistribute land of the rich peasants and landlords to the poor ones. This involved a reallocation of 810,000 ha of agricultural land to more than two million peasants.⁸ However, clashes between land reform teams, poor peasants and landlords, rich peasants and the misclassification of landlords as well as wrong charges during these years had caused death for villagers⁹ and produced bitter memories until today.¹⁰ In the meantime, labour-exchange teams were set up among the villagers of the same residential area. In a sense, the land reform and labour-exchange teams established were seen as a means to destroy the material foundation and exclusive symbolism of the former village elites,¹¹ a crucial step in implementing the land-to-the-tiller policy, and as the framework for building collectives.

From 1958, within the context of the broader centrally planned economy development, collectivisation commenced, and accordingly, it gradually gathered most of the private agricultural land and other means of production of small peasant households into cooperatives for collective production. Since the early sixties, the low-scale cooperatives had been advanced to high-scale ones. By the late seventies, most of the peasant households in the Red River Delta joined cooperatives and became 'wage workers' for cooperatives.¹²

5 Ben Kerkvliet, 'Agricultural land in Vietnam: Markets tempered by family, community, and socialist practices', *Journal of Agrarian Change*, 6, 3 (2006): 1.

6 Ngo Vinh Long, *Before the revolution*.

7 Truong Chinh and Vo Nguyen Giap, *The peasant question (1937–1938)*. Translated and introduced by Christine Pelzer White, Data paper No. 94 (Ithaca: Cornell University, 1959).

8 *Cách mạng ruộng đất ở Việt Nam* [Land reform in Vietnam], ed. Trần Phương (Hà Nội: Nxb. Khoa học Xã hội, 1968); Edwin Moise, Land reform in China and North Vietnam: Consolidating the revolution at the village level (*Chapel Hill: University of North Carolina Press, 1976*; Lâm Quang Huyền, *Vấn đề ruộng đất ở Việt Nam* [The land question in Vietnam] (Hà Nội: Nxb. Khoa học Xã hội, 2002).

9 Edwin Moise, 'Land reform and land reform errors in North Vietnam', *Pacific Affairs*, 49, 1 (1976): 70–92; Luong Van Hy, *Revolution in the village* (Honolulu: University of Hawaii Press, 1992), 189–192.

10 John Kleinen, *Facing the future, reviving the past: A study of social change in a northern Vietnamese village* (Singapore: Institute of Southeast Asian Studies, 1999), p. 103.

11 S. K. Malarney, 'Ritual and revolution in Vietnam', (PhD. diss., The University of Michigan, 1993), p. 30.

12 *Hợp tác hóa nông nghiệp Việt Nam: Lịch sử - vấn đề - triển vọng*, ed. Chử Văn Lâm [Agricultural collectivisation in Vietnam: History - problems - prospects] (Hà Nội: Nxb. Sự Thật, 1992).

In contrast to the North, land reform programmes were carried out in the South by the Republic of Vietnam (the fifties to the seventies) in order to favour the rich peasants during the Ngô Đình Diệm administration and middle peasants under the Nguyễn Văn Thiệu regime. Piecemeal redistribution of land was also done by the National Liberation Front (NLF) in its occupied areas and this favoured the poor peasant supporters of the NLF.¹³

Following the 1975 national unification, agricultural collectivisation was intensified in the north and was introduced into the south from 1976–1980 despite its various differences in socio-economic and political conditions. Collectivisation was carried out in stages slightly similar to what had been done in the North before 1975.¹⁴ As a result, by mid 1980, more than one-third of peasant households in southern Vietnam had joined cooperatives and production teams.¹⁵

Creating agricultural cooperatives means a shift from the family-based cultivation to the cooperative farming. It also expanded the cooperative's holding of agricultural land and diminished the villagers' previous holding of private land throughout the country except the five percent plots¹⁶ and the land of a number of *hộ cá thể* (private households). However, collectivisation failed to increase productivity and achieve a large surplus. By the end of the seventies, agricultural production had stagnated,¹⁷ and this contributed to the country's economic crisis. Forced transformation of agricultural production as such had also resulted in non-violent resistance from the part of peasants which have finally transformed the national policy of agricultural collectivisation.¹⁸ As a result, the state had to amend its agricultural policy since the early eighties which led to the process of agricultural decollectivisation nationwide. Decollectivisation in agriculture is, indeed, a return from the collective production that was based on cooperative models to a private production that relies on private family households. One of the most essential tasks in this transformation was therefore to distribute agricultural land use rights to villagers, mostly peasants, to use on their own for a

13 Lâm Quang Huyền, *Cách mạng ruộng đất ở miền Nam Việt Nam* [Land reform in South Vietnam] (Hà Nội: Nxb. Khoa học Xã hội, 1985); Trần Hữu Đĩnh, *Quá trình biến đổi về chế độ sở hữu và cơ cấu giai cấp ở nông thôn đồng bằng sông Cửu Long (1969–1975)* [Changes in ownership and class structure in rural Mekong delta] (Hà Nội: Nxb. Khoa học Xã hội, 1994).

14 David W. Elliot, 'Vietnam: Institutional development in a time of crisis', *Southeast Asian Affairs* 1979 (Singapore: Institute of Southeast Asian Studies, 1979): 348–363.

15 Ben Kerkvliet, *The power of everyday politics: How Vietnamese peasants transformed national policy* (Ithaca: Cornell University Press, 2005), p. 146.

16 Like in China and other socialist countries, agricultural cooperatives did not put all agricultural land of its members into the hands of the cooperative for control and use, but left a small portion for members to farm on their own. In Vietnam, from 1961–1988, agricultural land for family use theoretically amounted to five per cent of the total agricultural area in the village. Many villagers either called these plots 'land for vegetable farming' or 'the five per cent land'. In one sense, therefore, the cooperative members still maintained their family economy while engaging in the economy of the cooperative. The five per cent plot and other non-collective economic activities formed the villagers' family economy which was significantly complementary to their collective economy. The 1988 Law authorised the doubling of this area, from five to ten per cent, and named it '[agricultural] land for family economy'.

17 Tran Thi Que, 'Economic reforms and their impacts on agricultural development in Vietnam', *ASEAN Economic Bulletin*, 15, 1 (1998): 33.

18 Ben Kerkvliet, *The power of everyday politics*.

certain period of time. Although this process started in the early eighties, agricultural land use rights were only distributed to villagers in practice in 1988 in accordance with the Resolution 10 of the Central Committee Secretariat, 1988 Land Law¹⁹ and redistributed again around 1993 when further innovations were introduced in agriculture, especially because of the launch of the amended version of the Land Law in 1993. In other words, decollectivisation resulted in remarkable changes in land tenure arrangement in Vietnam. In the context of further renovation that placed enormous emphasis on industrialisation, modernisation and urbanisation, pressures from the peasants continued to push the state to revise its 1988 Land Law, including revisions in 1993, 1998, 2001 and 2003. How the land tenure since the eighties has been structured, restructured, why and in what ways have contending views and conflicts over land rights been formed are questions to be discussed later with a focus on the Red River Delta.

Theoretical approaches to peasant nature and the reasons for their political actions

Studies on peasant nature and their various reasons for political actions in Vietnam and Southeast Asia have so far brought to light at least three main approaches: The moral economy by James Scott,²⁰ rational peasants by Samuel Popkin²¹ and everyday politics of Ben Kerkvliet.²² This section sheds light on these three and justifies the fourth approach.

In his controversial study, James Scott argues that a primary concern of most peasants is avoiding the risk of going hungry. Under a principle of 'safety first', they will prefer a situation offering a low but adequate and secure income as compared to one offering the probability of higher income but with a risk of falling below subsistence levels. The peasants Scott emphasises, however, are those living in closed corporate communities, with clear boundaries between the village and the outside world. Restrictions on land ownership and such a village structure provided the poor, weak, and marginalised peasants moderate subsistence through reciprocity with others in the village who were usually better off. These peasants survived on low incomes and lived near the line of subsistence; so a small drop in income would threaten their lives. They therefore tried to avoid risk; they preferred community property to private; they resisted market economies, cash crops, innovation, and investment; and hated selling and buying, even though these would often bring them more benefit, due to the very potential risk of falling below the 'danger line'.²³ To James Scott, only the better off

19 The 1988 Land Law was passed as a direct result of agricultural decollectivisation. In one sense, this brief and uncomplicated Law broadly answered the question of how and in what way the land in Vietnam should be owned, managed and used, by whom and for whose benefit, from the state's point of view.

20 James C. Scott, *The moral economy of the peasant: Rebellion and subsistence in Southeast Asia* (New Haven: Yale University Press, 1976).

21 Samuel L. Popkin, *The rational peasant: The political economy of rural society in Vietnam* (Berkeley: University of California Press, 1979).

22 Ben Kerkvliet, *Everyday politics in the Philippines: Class and status relations in a Central Luzon village* (Berkeley: University of California Press, 1990); 'Village-state relations in Vietnam: The effects of everyday politics on decollectivization', *Journal of Asian Studies*, 54 (1995): 396–418; *The power of everyday politics*.

23 James C. Scott, *The moral economy*, pp. 13–55.

peasants would commit to the market since they could afford a loss if the subsistence economy experienced a downturn and could no longer support them sufficiently. However, what colonialism and commercialisation had undermined was not the subsistence need but the ‘moral economy’ institutions that helped villagers on the margins of subsistence to get by. Peasants then lost the wage employment and land access opportunities that were available to them in the old days. The landlord, who often gave them land and credit, established relationships with a new class of villagers in the community. Therefore, the peasants’ traditional patron-client relations were destroyed. These reasons help to explain the peasants’ everyday forms of resistance that I will discuss shortly.

Critical of James Scott’s approach to moral economy was Samuel Popkin who argues that the no-clear-boundary traditional village was in transition to an open one with private property and open land sales, and the peasants were individual rational actors who tried to maximise their own individualistic self-interests. In relation to land ownership for example, Samuel Popkin writes:

[e]ven if they received less desirable plots than did the notables, villagers may have preferred permanent [private] control of mediocre plots to rotating access to good, bad, and average public plots. Such appropriations would reinforce preferences for private instead of public resources and investments.²⁴

Although accepting the peasants were poor, and always ‘pre-occupied with the constant threat of falling below the subsistence level’, Samuel Popkin argues that peasants did sometimes have surpluses and adopted innovative and risky investments. The investment could be for both private short and long-term purposes, such as investment in children and land. The reason why peasants were involved in the markets was not because it was the last solution, but because it was a response to new economic opportunities, since the market and government penetration could, under certain conditions, improve the welfare of lower-class peasants. Therefore, peasants were market oriented and prepared to experiment with cash crops.

Meanwhile, although overlapping James Scott’s moral economy in some ways, Ben Kerkvliet’s approach of everyday politics is not simply a question of either a moral economy or rational economy line of analysis. Peasants can, and often do have, both orientations, depending on what kinds of peasants they are. His ‘everyday politics’²⁵ perfectly illustrates these points. To Ben Kerkvliet, ‘politics consists of the debates, conflicts, decisions, and cooperation among individuals, groups, and organizations regarding the control, allocation, and use of resources and the values and ideas underlying these activities’.²⁶ Although pointing out three broad types of politics: official, advocacy, and everyday, he emphasises politics in everyday life:

Everyday politics, broadly speaking, occurs where people live and work and involves people embracing, adjusting and/or contesting norms and rules regarding authority over, production of, or allocation of resources. It includes quiet, mundane and subtle

24 Samuel L. Popkin, *The rational peasant*, pp. 104–5.

25 Ben Kerkvliet, *Everyday politics in the Philippines*.

26 *Ibid.*, p. 11.

expressions and acts that indirectly and usually privately endorse, modify or resist prevailing procedures, rules, regulations or order. Everyday politics involve little or no organization. It features activities of individuals and small groups as they make a living, raise their families, wrestle with daily problems and deal with others like themselves who are relatively powerless and with superiors and others who are powerful.²⁷

The key feature of everyday politics, he argues, is an existence of both cooperation, like 'patron-client relations and other vertical ties' that gather people together, and conflict among people in different classes and statuses over the use, production, and distribution of resources. Conflict in his everyday politics is informed by contending values and resistance. Advancing the approach that society is a composite of values, Ben Kerkvliet argues that the subordinate people and the superordinate people in his village under study hold contentious norms and ideas over the use, production, and distribution of resources. While the superordinate people argue for their power and right over property ownership and market values, the subordinate people hold the belief that, first, 'the people with more should help others with less' and secondly 'basic needs should be satisfied.' Put another way, the subordinate people often claim basic rights: the right to live at a decent standard of living (economic security) and the right to be treated like a human being (human dignity). Such beliefs are widely held among this group of people in the Philippines. The contending values then lead to the second aspect of conflict in everyday politics: resistance; but resistance against the claims or for their claims often occurs as what is called 'everyday forms of resistance'. Everyday resistance, however, can be 'a source for sustained protest and significant change',²⁸ and land takeovers by villagers during the mid and late eighties in the Philippines are a clear example of this.²⁹ After the collapse of Marcos' rule, the tumultuous political conditions and a process of national political democratisation created political room for everyday resistance to turn into public protest action: tens of thousands of poor landless villagers and workers occupied and intended to use a large area of farmland that they did not legally own – actions that they rarely dared to take previously.

Ben Kerkvliet combines everyday politics and dialogic argument about the state -- society relations in Vietnam to study Red River Delta villagers and their attitudes, as well as behaviours towards the state programmes of collectivisation. In this way, he provided many insights into the nature of villagers in the contemporary Red River Delta. He argues that in the mid and late fifties, many villagers were prepared to give collective farming a try if it could satisfy their needs -- particularly subsistence needs -- and take them to a higher political and economic level than before. In practice, however, collective farming could not fulfill either of these needs, which became more and more apparent to villagers after a few years of the collectivisation effort. Added to that was the cooperative cadres' abuse of their power through corruption and favouritism. Key to his argument is that the ordinary villagers' quiet and unorganised

27 Ben Kerkvliet, 'Agricultural land in Vietnam', p. 291.

28 Ben Kerkvliet, *Everyday politics in the Philippines*, p. 259.

29 Ben Kerkvliet, 'Claiming the land: Take-over by villagers in the Philippines with comparisons to Indonesia, Peru, Portugal, and Russia', *Journal of Peasant Studies*, 20, 3 (1993): 459–93.

reactions have changed the national policy even as they had dismantled agricultural collectivisation in Vietnam.³⁰

My study on the Red River Delta villagers' attitudes, relations and conflicts over land rights, however, attempts to offer a different way of evaluating the peasant nature and the reasons for political actions through an examination of perspectives of the villagers and other parties over the question of ownership, management and use of land rights. In broad terms, although villagers' perspectives on land might differ from one kind of land to another, from one time to the next, from one group of villagers to another, from place to place, and from culture to culture, many villagers share some common perspectives on the question as to how land rights should be distributed, held, by whom and for whose benefit. Their perspectives might also be similar to, or incompatible with, the perspectives of local cadres, higher state officials, and the state's land tenure policies on the whole. Yet villagers' perspectives contain both moral and rational aspects. They are also contextualised by the historical tradition and cultural setting in which the villagers live. Policies compatible with the villagers' perspectives might bring them incentives for better management and use of the land. However, incompatible policies might, in many cases, result in public resistance of the villagers. The ways of displaying their public resistance have ranged from peaceful gossip and discussion to public demonstrations, delay in paying taxes and fees, and even violent protests. Villagers' perspectives and the actions they take to articulate their perspectives, in many cases, have had considerable impacts on the state and state policy making, particularly the local authorities' attitudes and behaviours towards the villagers.

Contending views generate dynamics for conflicts. Prior to discussing how and in what way this has happened, it is necessary to mention here about some well-known forms of resistance. The first, which forms an important part of the moral economy and everyday politics, is the everyday forms of resistance of the poor, weak, and marginalised people against the rich, powerful elites and the state in a specific social context. Everyday forms of resistance, writes James Scott, are:

[T]he prosaic but constant struggle between the peasantry and those who seek to extract labour, food, taxes, rents, and interest from them. Most of the forms this struggle takes stop well short of collective outright defiance. Here I have in mind the *ordinary* weapons of relatively powerless groups: footdragging, dissimulation, false-compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so forth. These Brechtian forms of class struggle have certain features in common. They require little or no co-ordination or planning; they often represent a form of individual self-help; and they typically avoid any direct symbolic confrontation with authority or with elite norms.³¹

Another are the forms of 'popular' and 'rightful resistance' that Kevin J. O'Brien and his colleague have proposed in their agrarian studies in contemporary China. They argue that the state economic reforms in China have been accompanied by the

30 Ben Kerkvliet, 'Village-state relations in Vietnam'; 'An approach for analysing state-society relations in Vietnam', *SOJOURN*, 16, 2 (2001): 238–78; *The power of everyday politics*.

31 James Scott and Ben Kerkvliet, ed. *Everyday forms of peasant resistance in Southeast Asia* (London: Frank Cass, 1986), p. 6.

resistance of a number of villagers to different institutions of the state, such as local cadres and policies in the countryside. Popular resistance, as they write, is conducted by three types of villagers: village complainants, recalcitrants, and most commonly, policy-based resisters³² – or rightful resisters.³³ Rightful resistance is a form of popular contention that first, operates near the boundary of an authorised channel; second, employs the rhetoric and commitments of the powerful to curb political or economic power; and third, hinges on locating and exploiting divisions among the powerful. In particular, rightful resistance entails the innovative use of laws, policies, and other officially promoted values to defy ‘disloyal’ political and economic elites; it is a kind of partially sanctioned resistance that uses influential advocates and recognised principles to apply pressure on those in power who have failed to live up to some professed ideal or who have not implemented some beneficial measure.³⁴

In my study, the conception of conflict is a translation of *mâu thuẫn*³⁵ in the Vietnamese language. Conflict is debate, negotiation, disagreement, tension and violence in different forms and to various extents among the different parties involved in decision-making, distribution, and holding of rights to agricultural land. Conflict in most of the cases in my work are examined and presented as processes, which are applied either to a specific case study or a combination of case studies as a whole. A key feature of conflicts over land rights is the resistance between parties, which may be one group of villagers and another group or, more frequently, between a group of villagers and a certain local cadre, group of local cadres, officials, or programmes of the state in relation to land resources. So what forms might this resistance take? What is the nature of this resistance?

The resistance takes the form of public resistance. Public resistance is unlike the everyday forms of resistance, which often consist of small, hidden reactions that do not challenge local elites and the state, and are limited to peaceful actions. Public resistance ranges from peaceful reactions like gossip, debate and questioning to blunt and confrontational reactions. It occurs publicly both within and outside official and legal channels, and within and outside local communities where the protesting villagers reside. Generally speaking, public resistance first occurs at the local level in the forms of gossip, debate, questioning, and negotiation through official channels in order to achieve demands and wants. When these are not met or not treated in a way which satisfies the protesting villagers, they then proceed towards higher levels of the state to seek resolution, investigation, and explanation. In this arena, if problems or queries are again not met or satisfied, the protesting villagers in some cases will then return to their village communities and continue to resist in blunt and confrontational ways and, of course, do not limit their resistance to official and legal channels. Blunt and confrontational reactions might also occur during the period in which the protesting

32 Liangjian Li and Kevin J. O'Brien, ‘Villagers and popular resistance in contemporary China’, *Modern China* 22, 1 (1996): 28–61.

33 Kevin J. O'Brien, ‘Rightful resistance’, *World Politics*, 41, 1 (1996): 31–55.

34 *Ibid.*, p. 33.

35 The term *mâu thuẫn* means ‘contradiction’; Vietnamese Marxist terminology has adopted the Maoist use of the word to refer to a ‘conflict’, e.g. between classes.

villagers are seeking a settlement from the higher state echelons, depending on the specific resolution of the issues.

In many cases, public resistance occurs in a collective form. It therefore can be organised and planned in terms of leadership and tactics of resistance such as who, what, how, where and when to resist. Like rightful resistance, state laws and policies, alongside traditional values, are also cited to endorse and strengthen public resistance. The key cause of public resistance is crucial differences of views among the different parties involved. The public resistance of a number of villagers, as visible in conflicts over land resources, is not aimed at fighting the state and state policies. It is not like the revolutionary resistance against the colonial state to regain the country's independence, or the struggle against the army of the Republic of Vietnam and American troops to unify the nation. Instead, public resistance is initiated because of the contending views of some villagers towards the conduct and/or behaviour of a particular local cadre, group of local cadres, or some aspects in the implementation of certain programmes and policies of the state in communities. Therefore, as disagreement over the issues is resolved, resistance disappears. This explains why the consecutive conflicts over land resources in the area under study over the past years have finally resulted in no great harm to the state. Even in cases in which resistance occurred to a serious extent and on a large scale, like the social unrest in Thái Bình province (1997), the Central Highlands (2001, 2004) for example, the public resistance of some villagers was resolved when higher state officials tackled the problems appropriately.

Like everyday, popular, and rightful forms of resistance, public resistance in the end creates dynamics for change. In regards to the state, public resistance can affect the behaviour and conduct of state policy and policy making at different levels, such as leading to a better regime of land management and use, a more rational policy for land use rights compensation at national level, and eliminating bad local cadres and reducing their corruption or misbehaviour towards villagers in local communities. Similar to what Ben Kerkvliet demonstrated when discussing the huge impact of everyday political behaviour of ordinary people on the state's agricultural collectivisation in Vietnam,³⁶ my study, as was mentioned earlier, has also proved that under the pressures from villagers the state has continuously revised the Land Law during the past ten years and more. However, this does not mean to romanticise the power and effects of public resistance in every single and specific event in all issues. In a number of circumstances, local cadres and the state on the whole use authorised power and the state legislation to protect their views and position. This means that local cadres and the state at large do not, and will not always, cope with public resistance by meeting the demands and wants of protesting villagers. In some cases, the state even punishes a small number of public resisters so as to resolve or relieve conflicts. The rationale for the latter originates from the fact that some public resisters work outside official and legal channels to conduct blunt and confrontational actions. These acts are, in the view of the state legislation, a violation of state laws, therefore must be punished accordingly. But for the long-term period, the number of different acts of public

36 Ben Kerkvliet, 'Village-state relations in Vietnam'; *The power of everyday politics*.

resistance in a number of communities has to various extents created the dynamics forcing the state to change.

Contending views over land rights

This research illuminates both agreements and contradictions between the perspectives of a number of villagers and the land tenure system together with other state institutions which make and implement land tenure policies. The main agreement concerns the state-formulated ownership rights of 'the entire people.' The inhabitants in the villages under study do not challenge or question the Land Law, which reserves ownership rights for the entire people. In regard to controlling rights and use rights, however, there have been both agreed and contending views. By agreed, I mean the new land tenure system has given villagers what they have desired: use rights to land. On the other hand, the contradictory views between the two over the question as to how land controlling rights, especially land use rights, should be distributed, held, taken, transacted and compensated, have resulted in various conflicts. Such contending views do not produce conflict among villagers in many circumstances because they do not have any practical impact on villagers' perspectives and relations with their land use rights. This is because villagers continue to be the subjects who control, benefit from land use rights and enjoy the produce from the land they till. They are also able to dispose of the land use rights they hold. Yet on some occasions, especially in situations such as land use rights acquisition, private encroachment on land use rights and corruption involving land, the different views have important practical implications and these have resulted in conflict.

The contending views between a number of villagers and certain institutions of the state over use rights (controlling rights in relation to communal land) in these cases have occurred at two levels. The first is the villagers' disagreement with different points of the state land tenure policy at large, and the second is the competing views between a number of villagers and some local cadres who implement state land tenure policies at the local level specifically. At both levels, conflict has arisen because while the villagers accept that the entire people is the ultimate possessor of ownership rights, and that this gives the state some overall controlling rights, they argue that their use rights mean that they are entitled to have a say in how land use rights should be distributed, held, used, by whom and for whose benefit, and what values these land use rights have at disposal.

Land rights and land rights possessors as viewed in state legislation

Since decollectivisation, a new land tenure regime formulates three types of key rights to land: ownership rights, controlling rights, and use rights to be held by various possessors. The formulation of such a land tenure regime first started in 1988, and was amended four times in the following years. During this period of development, besides debates, negotiations, and tensions among different possessors of rights to land as I later examine, there have also been debates among state policy makers and advisers about how and in what ways the land tenure should be structured. Among the contending views, the most authoritative one, as expressed in the national Land Law, is that agricultural land must be owned by the state under the title of the entire people. If the state owns the land, it then has decisive power and essential rights over the vital

question of how land is to be managed, used, by whom, and for whose benefit. According to this view, the state allocates people use rights to agricultural land, and allows land use rights possessors to dispose of these land use rights, like exchange, transfer and inheritance. In so doing, the state can consolidate its position and rights over ownership rights and controlling rights of the land while giving the users, including individuals, family households, institutions and organisations, the rights to use it. Accordingly, this policy ensures that the state holds a decisive role in decision-making, distribution, and possession of key rights to land.³⁷

Other views, however, are expressed among policy makers and advisers. One argues that if land is not only the means of production but also a special form of property, then it can be owned by the state, collective, or individuals. Accordingly, three systems of land ownership should be applied, including state ownership, communal ownership, and private ownership, depending on the kind of land. The key point in this view is to ensure the people have real ownership of the land, and in that way, it also hints at a division of land rights that limits the power and right of the state while giving the people more control over decision-making on vital land issues.³⁸ Still, another view argues that three patterns of land ownership should be employed: private ownership, state ownership, and mixed ownership. Applying this to agricultural land specifically, mixed ownership means the state owns the land, and allocates its use rights to possessors. Agricultural land should therefore be owned, managed and used in line with the current state land tenure system regulations. As in the former view, however, private ownership should be recognised with other types of land.³⁹

As the state perspectives were developed by researchers who completed studies to support the development of a new land tenure policy, their views have affected the state policy on land. For example, in the 1993 Land Law, while ownership rights of the land of the entire people remained unchanged, a system of communal agricultural land was officially recognised, marking the official rebirth of communal land. Nevertheless, a lack of detailed and systematic research, covering aspects such as the values and meanings of land to villagers, communities, organisations, and the state at large in the dynamic context of Vietnamese society since decollectivisation, meant the new Land Law needed to be amended several times in a short while. In 1998, when the state was about to again amend the Land Law, the debates on land ownership continued. A new argument advocates two levels of land ownership, as previously noted, legal ownership

37 Long Giang, 'Quan hệ ruộng đất trong bước chuyển sang cơ chế thị trường' [Land relations in the transformation to market mechanism], in *Một số vấn đề về đổi mới quan hệ sở hữu đất đai* [Some issues on land ownership reform], ed. Trần Quốc Toàn (Hà Nội: Tạp chí Thông tin Lý luận, 1993), pp. 21–37.

38 Đỗ Bá, 'Vấn đề sở hữu ruộng đất ở nước ta hiện nay' [The question of land ownership in contemporary Vietnam], in *Một số vấn đề về đổi mới quan hệ sở hữu đất đai* [Some issues on land ownership reform], ed. Trần Quốc Toàn (Hà Nội: Tạp chí Thông tin Lý luận, 1993): 37–44; Nguyễn Sinh Cúc, 'Quan hệ ruộng đất ở nông thôn sau Nghị quyết 10: Những mâu thuẫn và các giải pháp' [Land relations in the countryside after Resolution 10: Conflicts and solutions], in *Một số vấn đề về đổi mới quan hệ sở hữu đất đai* [Some issues on land ownership reform], pp. 44–50.

39 Thanh Sơn, 'Vài kiến nghị về đổi mới chính sách ruộng đất' [Some suggestions for land policy reform], in *Một số vấn đề về đổi mới quan hệ sở hữu đất đai* [Some issues on land ownership reform], ed. Trần Quốc Toàn (Hà Nội: Tạp chí Thông tin Lý luận, 1993), pp. 61–70.

and practical ownership.⁴⁰ According to this view, the division of rights to land between the state and people should be made in a way in which the state totally possesses legal ownership while leaving the society to exercise practical ownership. In order to do this, three rights to land need to be clarified: right to owning, right to occupying, and right to using. Among these, ownership right totally belongs to the state, while occupying and use rights can be held by both the state and the people. The state thus still maintains its supreme power and right to land, while the people possess the rights to occupy and use it. In addition, the land market needs to be recognised, because, in the market economy of multi-sectors under a socialist orientation, the right to occupy and right to use certain plots of land are also a form of property that can be sold and bought as a standard commodity item. Despite many debates, no change has yet been made to the way in which the state formulates the three types of rights to land: ownership rights, controlling rights, and use rights. So now we can consider how these three types of essential rights to land have been defined, and who can possess them.

According to the state Land Law, ownership rights entail the rights to legally own the land and broadly decide key issues over how the land should be managed, used by whom and for whose benefit throughout the country. In the 1993 Land Law, however, ownership rights were simply defined as land which belongs to the entire people, managed by the state, and that the state allocates or rents land use rights to users.⁴¹ In 2003, the latest amended version of Land Law clearly defines that 'land belongs to the entire people, the state represents the owner (i.e. the entire people) of the land.' As the representative of ownership rights, the state has power and rights to key issues over land.⁴² Controlling rights to land relates to the administration of the land, and use rights to land are the rights to directly control, use the land, and enjoy the product of land use as well to dispose of the land use rights.

The state legislation also clearly defines how the above three types of land rights are to be distributed among different holders. Accordingly, the entire people possess ownership rights to land. This means that all the land in Vietnam belongs to the entire people that are represented by the Socialist State. The state holds all controlling rights to land. Use rights are to be diversely held by different possessors, either for long-term use or for a certain period of time depending on the kind of land. In this sense, the state is not only the manager but also the owner of the land. Land users thus possess land use rights only. Meanwhile, possessors of land use rights, according to the 1993 Land Law, were simply classified into three types, including organisations, family households, and individuals. The 2003 amended version of Land Law has grouped possessors of land

40 *Vấn đề sở hữu ruộng đất trong nền kinh tế hàng hóa nhiều thành phần ở Việt Nam*, ed. Hoàng Việt [The question of land ownership in a multisectoral commodity economy in Vietnam] (Hà Nội: Nxb. Chính trị Quốc gia, 1999).

41 Quốc hội nước Cộng hòa Xã hội Chủ nghĩa Việt Nam, *Luật Đất đai* [The 1993 Land Law] (Hà Nội: Nxb. Chính trị Quốc gia, 1995), p. 6.

42 Including: (1) deciding the purposes of land use; (2) regulating the area limit and time span of land use rights; and (3) deciding prices of land use rights. The state allocates people land use rights, recognises such use rights as well as the rights and duties of use rights possessors. The state also has power to adjust resources from land through its financial policies, for example, collecting land-use or rent fees, land-use taxes, land-income taxes, and land-transfer taxes.

use rights in Vietnam into seven types. The possessors of land use rights have different subtypes of right to exercise and dispose of their rights, meaning that the possessors have various rights to land use. Land use rights therefore include numerous rights, and these rights have evolved through time. According to the 1988 Land Law, no subrights to land use rights were recognised. But the 1993 Land Law offered five subrights to possessors of land use rights, including rights to transfer, exchange, rent, inherit, and mortgage. Ten years later, the 2003 amended Land Law added five more subrights to the possessors of land use rights: sub-lease land use rights, grant land use rights, use land use rights as collateral, use land use rights as a kind of capital, and to be compensated if land use rights are seized by the state. The holdings of land use rights are legally recognised through state certificates. However, such holdings are constrained in different ways.⁴³ Possessors of use rights are diverse, but the key ones include individual villagers or households, communities, organisations, institutions of the state, and the state as a whole.

A key question posed is what rights among this bundle of land rights have been important to the state as a whole, and why? To the state, ownership and controlling rights are of great importance, as they ensure that the state has the capability to decide, at macro-level, how the land in Vietnam should be managed and used, by whom and for whose benefit. Thus the formulation of the three types of rights to land follows the rationale of the state, and has become a thread running through the development of a new land tenure regime in contemporary Vietnam. During the past ten years and more, amendments have been made to land use rights through which the state has given more subrights and power to use rights possessors. However, no similar changes have been made regarding ownership and controlling rights. Instead, according to law and policy, these rights have been consolidated in the state.

Land rights and land rights possessors as viewed by villagers

To many villagers in the Red River Delta, this study suggests that use rights of agricultural land are the most important; controlling rights held by the state is the second most important; and ownership rights that many villagers regard as ultimate ownership of the entire people is the least concern. More specifically, in regards to ownership rights of agricultural land, in the broadest terms, many villagers that I interviewed have shown no contradictory views in comparison to what the state land tenure regime has regulated. They seem to be neither concerned about nor desire to possess ownership rights to the land after decollectivisation nor regard themselves as the ultimate owner of agricultural land. Many villagers often talk about the ownership

43 Firstly, in contrast to residential land, the holdings of agricultural land use rights are limited to a fixed time. Under the 1988 Land Law, the duration of use rights holdings ranged from five to 15 years. The 1993 Land Law extended it to 20 years for agricultural land for annual crops and 50 years for perennial crops. Accordingly, when the holdings of land use rights expire, a redistribution must be made to balance the holdings of villagers in the rural areas. Secondly, the area of land use rights that one possessor can hold is limited, and depends on the types of land use rights possessor and the kind of land. In regards to agricultural land for annual crops, the dominant types of land in the Red River Delta, the 1993 Land Law regulated that one individual or households could hold a maximum of two ha of land. In 2003, the amended version of Land Law increased the maximum area of one possessor to three ha (see Table 1). Finally, besides rights, possessors of land use rights have responsibilities to the state too.

TABLE 1
Some major changes regarding agricultural land use rights in Land Laws

Agricultural Land Use Rights				
Land Law	Possessors	Tenure	Maximum holdings allowed	Subrights
1988	Generally, provision was made for the state to allocate land for use by state farms, cooperatives, production groups, state enterprises, army units, state institutions, social organisations, and individuals	This Law did not regulate, but the practice was 5–15 years	No specific regulation but Law gave authorities the right to decide depending on the local situation of land areas and peasant numbers	None; this Law even forbade the purchase, sale or lease of land use rights for money under any circumstances
1993	3 groups: (1) state agencies (2) households and (3) individuals	20 years for land cultivated with annual crops and 50 years for land cultivated with perennial crops	3 ha, but sub-provisions placed a limit of 2 ha / possessor in the north and 3 ha / possessor in the south	5 subrights, viz. the right to transfer, exchange, lease, inherit and mortgage land use rights
1998	No major changes compared to former version of Land Law			
2001	No major changes compared to former version of Land Law			
2003	7 groups: (1) domestic organisations (2) domestic family households and individuals (3) residential communities [domestic] (4) [domestic] religious institutions (5) foreign organisations with diplomatic functions (6) overseas Vietnamese (7) foreign organisations and individuals with investments in Vietnam		3 ha / possessor for land cultivated with annual crops; 10 ha / possessor for land cultivated with perennial crops	10 sub-rights: the right to (1) sub-lease land use (2) grant land use rights (3) secure land use rights as a collateral (4) employ land use rights as a form of capital (5) claim for compensation if land use rights are seized by the state (6–10) the 5 sub-rights stated in 1993 Land Law

Source: Author's synthesis from the 1988 Land Law and amended versions of Land Law passed in 1993, 1998, 2001, and 2003.

of agricultural land as ‘*đất của nhà nước*’ [land of the state], ‘*đất của hợp tác xã*’ [agricultural land of the cooperative], and ‘*đất của toàn dân*’ [land of the entire people], to indicate that they are not the possessors of ownership rights to agricultural land. To many villagers, ownership rights of the entire people today are similar to the ultimate ownership of the king in the past.⁴⁴

In China, researchers have noted similar perceptions of land ownership. Among Chinese peasants, who have undergone very similar processes of land reform, collectivisation and decollectivisation in agriculture during the past decades:

[O]nly a minority of the respondents, 2.5 per cent, think of themselves as the land owner; the majority, 94.8 per cent, regard themselves as merely having use rights that have been contracted to them. As we can see, the proportion of farmers who believe the village collectives or, alternatively, the state is the ultimate owner amount to roughly the same – 46.5 per cent versus 48.3 per cent.⁴⁵

As I understand, similar to the Vietnamese case, land use rights in contemporary China are identical to a practical level of land ownership, which contrasts with the ultimate ownership of the state, collectives or villages. Therefore, like the Vietnamese villagers, many Chinese counterparts desire to possess land use rights rather than ownership rights.

Concerning controlling rights of agricultural land over the past years, villagers in a number of Vietnamese communities have articulated views both supporting and opposing the views of state policy and of local cadres in relation to how agricultural land rights have been and should be distributed, possessed, used and by whom and for whose benefit. As with the state Land Law, a number of villagers regard controlling rights to mean the state’s administration of the land. In other words, many villagers see local authorities, district, province or central agencies as the state, which holds the controlling rights of the land that individuals and households farm. However, at different times and in different places, the management of land has involved lots of abuses and corruption, and these have produced many debates and tensions in a number of communities.

The most contentious issue is land use rights. Many villagers perceive land use rights as the rights to directly control and use the land, enjoy the product of land use, and dispose of use rights. These are use rights that the villagers possess for their allotted time. In that sense, land use rights are very important, even more important than the ultimate ownership rights. Thus in their own terms, many villagers have struggled for land use rights. By possessing land use rights, they have rights to not only farm and enjoy the product of the land use, but also to decide what value land use rights might have at disposal. This means that possessing agricultural land use rights which have been regulated by state legislation is in some ways equivalent, at a practical level, to the

44 However, William Bredo has argued that because of a long tradition of tenancy and landlessness, many southern Vietnamese peasants under the Republic of Vietnam had a strong desire to own the land they farm. This desire varied hardly at all with peasant status. See *Land reform in Vietnam*, Working paper, Volume VI, Part 1 of 2 (California: Stanford Research Institute, 1968), pp. 83–89.

45 James Kei-Ing Kung and Shouying Liu, ‘Farmer’s preferences regarding ownership and land tenure in post-Mao China: Unexpected evidence from eight counties’, *The China Quarterly*, 38 (1997), p. 38.

private agricultural land holding of villagers in Vietnam prior to decollectivisation, because land use rights possessors in contemporary Vietnam can directly control and use the land, enjoy the product of land use, and dispose of the land. But what they possess is in various aspects strictly constrained by the state land tenure policy. For example, agricultural land use rights can only be disposed in five ways according to the 1993 Land Law, and ten ways according to the latest amended version of the 2003 Land Law. In addition, in many cases of the land use rights villagers possess, the state can seize the land when needed for non-agricultural purposes, and in such circumstances the villagers have very few rights to decide on the compensation price for the land use rights they have lost or other economic rights embedded in the compensation for land use rights and site clearance.

To many villagers, land use rights have a number of different meanings and values, including being a means of production and related source of subsistence, and a valuable form of property. For many villagers, especially those who farm the land, agricultural land has traditionally been seen and is still considered as a vital source of subsistence, as some researchers have argued.⁴⁶ Another key value of agricultural land use rights is that they are regarded as a form of property, the value of which is expressed in a Vietnamese saying: 'a piece of land a piece of gold'; or as argued by C A Gregory, it is 'the supreme good in the views of peasants'.⁴⁷ In Vietnam since decollectivisation, the country has moved from a centrally planned economy to an economy that contains multi-sectors under the orientation of socialism. In such an economy, capitalist forms of the market have become popular in Vietnamese society, and have intruded into people's lives in various ways. In the Red River Delta, the effects of industrialisation, urbanisation and globalisation have also strongly affected the lives of local people during the past ten years or more. For example, in taking a large area of agricultural land from villagers to build industrial zones for joint-ventures, foreign and domestic companies have taken away the land use rights of one group of villagers or reduced the per capita land of another.

Another contentious point is who or which institution should possess use rights over some specific pieces of land at the local level. The views of the state land tenure system and those of local cadres specifically conflict with those of villagers in various cases. This study shows that these contending views have led to lots of debates, negotiations and tensions in different forms within villages, between villages, and between villagers and the state. The major disagreements revolve around the question of how use rights of communal land should be distributed or redistributed, who should possess use rights to communal land or a piece of land designated for worship purposes, the value of land use rights, and what subrights the possessors have in regard

46 Pierre Gourou, *The peasants of the Tonkin delta: A study of human geography* (New Haven: Human Relations Area Files, 1955, 2 vols); James C. Scott, *The moral economy*; and *Xây dựng cơ sở hạ tầng nông thôn trong quá trình công nghiệp hóa, hiện đại hóa ở Việt Nam*, ed. Đỗ Hoàng Nam and Lê Cao Đàm [Rural infrastructure construction in industrialisation and modernisation period in Vietnam] (Hà Nội: Nxb. Khoa học Xã hội, 2001).

47 C.A. Gregory, *Savage money: The anthropology and politics of commodity exchange* (Amsterdam: Harwood Academic Publishers, 1997), p. 74.

to usage and disposal of their land use rights. Land use rights, alongside controlling rights, have therefore become the *de facto* subject of conflicts.

These perspectives of villagers with regard to land are not totally new, but are partly rooted in history and have evolved through time. In the Vietnamese dynasties, kings often claimed that land as well as other natural resources belonged to them. But in the villages, communal land and private land were often controlled and used by individuals and the village institutions as a whole. In that sense, the villagers' possession of private land and communal land was subject to the ultimate ownership of the king.

In the colonial period, the state land tenure policies also made no major changes to land tenure systems. At the village level, land tenure regimes remained almost the same as previously, except the French and the rich and powerful Vietnamese appropriated large areas of agricultural land from the poor villagers and the communal land of the village. For a number of poor and weak Vietnamese villagers in such a context, therefore, land aspirations were part of the motivation for their involvement in the wars to oust the French.⁴⁸ These aspirations were satisfied through the radical land reform in the fifties in North Vietnam, which explains Ben Kerkvliet's observation: 'Having finally again obtained fields of their own through [1950s] land reform, most families were reluctant, if not opposed, to surrender them to cooperative managers, which the state's collectivization required'.⁴⁹ Later on, their quiet, unorganised but everyday resistance to collectivisation to some extent indicated their struggle to farm and possess the land on their own.⁵⁰

Decollectivisation revitalised household-based production, and finally met many villagers' long-term aspirations as the new land tenure regime allows them to possess land use rights, which then gives many villagers the power to decide, on their own, how much time, labour, and capital to invest in their agricultural land plots. Also, they can decide for themselves, within the family boundary, who farms the land and who does not, and under what circumstances and under which conditions they want to dispose of their land use rights. In that way, the villagers have closer relations with the land they farm in terms of possessing, controlling, using and decision-making over the land as well as their farming output, which are all related closely to their life in terms of means of production, subsistence, and a valuable form of property. In short, villagers desire to possess land use rights because such use rights are identical to the possession of private land in the past. Villagers recognise the entire Vietnamese people's ownership rights because such a holding is similar to the king's ultimate ownership of the land in history.

If villagers desire to possess land use rights, why do they accept the state's periodical redistribution of the land use rights they possess? And besides the above state-formulated land rights, are there traditional rights embedded in villagers' perspectives and in land conflicts? A number of villagers' acceptance of the periodical redistribution of land use rights might relate to their idea that periodical adjustments

48 Ben Kerkvliet, 'Struggles and land regimes in the Philippines and Vietnam during the twentieth century' (Amsterdam: Centre for Asian Studies, 1997), p. 8.

49 *Ibid.*, p. 16.

50 Ben Kerkvliet, 'Village-state relations in Vietnam', pp. 396–418; 'Struggles and land regimes'.

can maintain villagers' more-or-less equal access to land for farming. In other words, they endorse, or at least do not resist, an equitable allocation among holders of agricultural land use rights. But their expectation of redistribution at the end of their twenty years of land use rights is not that all of their currently used land will be taken away while they are given other land. On the contrary, they expect a redistribution which allocates a bit of their current land use rights to someone else, or a bit of someone else's land use rights being allocated to them, as occurred in many rural communities during the redistribution around 1993 in former Hà Bắc province. In other words, they expect to keep using most of the land for which they presently hold use rights, plus or minus small areas depending on population and other factors. This orientation helps to explain why they invest time, labour, and other resources in developing land to which they have use rights. Based on interviews with villagers in Vĩnh Phúc, Hà Tây, and rural Hà Nội in recent years, Ben Kerkvliet obtained impressions similar to my observations in Bắc Ninh.⁵¹ However, it must be noted that I am not confident whether this village-level perspective documented during my fieldwork in 2002–2003 will remain if the villagers experience further socio-economic changes in the future.

Villagers' perspectives on a periodical redistribution of agricultural land use rights are quite different from their perspectives on residential land use rights. In this case, despite the state declaring that the ownership rights of residential land rests in the hands of the entire people, many villagers rarely expect the state to take steps to adjust the allocations of their residential land for which they possess use rights so that everyone has more or less the same amount of land to use. Actually, in contrast to agricultural land, the state land tenure regime has never put a time limit on residential land use rights.

Regarding other land rights, villagers in some communities claim various rights other than, or in contrast to, what the state has regulated. One of these is the right of the village community over communal land use rights. While the state land tenure system regulates the commune authorities, many villagers think that, based on historical precedent, the village should take possession of communal land use rights. In a number of communities, this has led a number of villagers to contest the village's holding of communal land use rights. Actually, such claims for community rights over land resources are not a particular phenomenon of some Red River Delta villagers but have been common elsewhere as anthropologists have documented. For example, some Vietnamese anthropologists who examined the question of land ownership and land use in the central highlands of Vietnam clearly demonstrate that people there had long traditionally shared a land tenure regime that was governed on the basis of community and customary laws. Such a land tenure regime remained with little change under French domination and the Republic of Vietnam. However, since the post-Vietnam War period, this system has been critically undermined because of three massive programmes: immigration, the establishment of plantations, and the settlement of shifting cultivators. These programmes have resulted in indigenous people specifically, and their communities in general, losing their land and forest to plantations and

51 Personal communication.

new immigrants. Therefore, indigenous people have been transformed from being the masters of the land and forest to tenants of the land use rights on their own land. The 2001 social unrest that involved thousands of highlanders, as Đặng Nghiêm Vạn discusses, was partly a struggle to retrieve their 'local ownership of land and forest'.⁵² Consequently, this resulted in the 2003 revised Land Law's recognition of communities as one of seven groups of land use rights possessors.

In short, this study expostulates that many villagers do not regard themselves as possessors of ownership rights nor do they compete, or have a desire, to possess such rights on land held by the entire people if the contemporary land tenure system in Vietnam is analysed through the framework of rights and their possessors. But they claim the possession of use rights to specific areas or plots of land for themselves, or for the village community to which they belong, and they care about controlling rights, depending on the kind of land. By possessing land use rights, the villagers or the village institutions as a whole are able to directly control, use, enjoy the product of land use and dispose these use rights on their own, and for themselves.

Conflicts over land rights

The analysis and discussion in the previous section show a picture of contending views between different parties and institutions over rights to land since decollectivisation. In this section, I highlight tensions over land rights between different institutions. Decollectivisation, the new land tenure regime and on-going process of industrialisation have created incentives for the villagers in the Red River Delta in agricultural production. The most well-known positive impact is that decollectivisation and the new land tenure regime have given villagers more power and rights to agricultural production, especially land decision-making and possession, which have finally produced a great boom in agricultural output, and partially contributed into moving Vietnam from a food-importing country to one which ranks one of the world's largest rice exporters. On the other hand, like in China, these developments have resulted in contending views which have then produced conflicts. However, the existing literature, either in Vietnamese or English, provides no insight into these problems. The findings of this research ensure that for a period of over last ten years, conflicts over decision-making, distribution and possession of land rights emerged in a number of rural communities.

This study has identified four broad areas in which we see the land-based conflicts after decollectivisation. The first area is villagers' claims to land use rights; the second is associated with various patterns of land law violation; the third relates to land use rights compensation and overlapping the above three is the fourth area, the problem of corruption, which is separated from others for analysis.

Claims to land use rights

Claims to land use rights by villagers clearly shows how and in what way villagers, local cadres, and the state land tenure policy differ over the question of how land use

52 Đặng Nghiêm Vạn, 'Vấn đề đất đai ở Tây Nguyên' [The land question in the Central Highlands], in *Một số vấn đề phát triển kinh tế - xã hội buôn làng Tây Nguyên* [Some issues on the socio-economic development in Central Highland villages], ed. Trung tâm Khoa học Xã hội và Nhân văn Quốc gia (Hà Nội: Nxb. Khoa học Xã hội, 2000).

rights should be distributed, possessed, used by whom and for whose benefit. Villagers' claims to land use rights occurred in various forms during the process of agricultural decollectivisation throughout the country, including the restoration of use rights in former agricultural land and land previously set aside for worship.⁵³ Since the early nineties, under the new revised Land Law, the use rights of communal land have been transferred from the village to management and possession by the commune. Villagers' claims in many cases also relate to the village communal land and its output. In former Hà Bắc province for instance, villagers' claims to land use rights were diverse, and related to different kinds of land, but the most dominant was associated with claims to the use rights on former agricultural land and land formerly slated for worship purposes.

On the national level, villagers' claims to restore land use rights to former agricultural land after decollectivisation occurred both individually and collectively, and varied from region to region. In the southern half of the country, individual villagers frequently demanded the restoration of their former agricultural land use rights that had been taken for other villagers to use from 1975–1980. In contrast, in the northern half, groups of villagers who often belonged to one village collectively asked for the restoration of their former village agricultural land that had been allocated to another group in a large-scale cooperative that belonged to another village. In 1992, the Bureau of Land Management revealed nearly 1,000 cases of this latter pattern of agricultural land use rights claim, which often occurred in a collective, organised, and critical manner with a large number of participants.⁵⁴

Various patterns of land law violation

Violations of the state Land Laws in regard to management and use of agricultural land since decollectivisation have occurred in various forms, including unauthorised allocation, illegal sale, illegal buying, illegal exchange of land use rights, illegal encroachment, and wrong usage. Among these, the most problematic pattern relates to communal land in the form of unauthorised allocation and illegal selling of use rights by the local cadres, and illegal encroachment by various kinds of local people. Such actions have become one of the key dynamics for conflicts over land rights in a number of rural communities.

Communal land only reappeared in the villages of the central and northern regions of Vietnam after decollectivisation, but its use rights soon became a key target of various patterns of violation, causing discontent in a number of rural communities. For example, in Thái Bình, researchers have revealed various ways of communal land violations by local cadres, including unauthorised sales of communal land to the people for residential, industrial and commercial purposes. From 1994–1997, authorities in 260 of 280 communes, precincts, and district capital towns in total had illegally sold use rights of 288.2 ha of communal land to 17,650 households to collect 140 billion đồng (VND).⁵⁵ Consequently, villagers denounced and petitioned local cadres because

53 Tổng cục Quản lý Ruộng đất, 'Báo cáo về tranh chấp đất đai' [Report on land disputes], (1992), pp. 2–3 and 13–15; Trần Đức, *Cuộc cách mạng nâu đang tiếp bước* [The brown revolution continues], pp. 7–10; Ben Kerkvliet, 'Rural society and state relation', in Vietnam's rural transformation, ed. Ben Kerkvliet and Doug Porter (Boulder: Westview Press, 1995), pp. 72–80.

54 Tổng cục Quản lý Ruộng đất, 'Báo cáo về tranh chấp đất đai', (1992).

55 Đỗ Hoài Nam, Lê Cao Đàm, ed. *Xây dựng cơ sở hạ tầng*, pp. 149–150.

of their corruption and abuses over communal land alongside others. Petitions of villagers appeared on a large scale, focused on key cadres of the communes. The petitions increased during the nineties and reached a peak in 1997. Besides lodging petitions to the authorities at various levels, villagers gathered in large groups at the headquarters of the communes, districts, province and even in Hanoi to directly query cadres and officials. As a result, these created social unrests.⁵⁶

In Hà Bắc province, during the 1988 distribution of agricultural land use rights, the provincial party committee revealed 10,000 violations, mainly in the form of unauthorised allocation and illegal sale of use rights on the redesignated agricultural land, one of the key sources of communal land after 1993.⁵⁷ In 1989, the Hà Bắc Department of Agriculture investigated a number of communes in two districts and discovered a further 1,174 cases of land law violations, including 848 cases of illegal encroachment, 183 cases of unauthorised allocation of use rights, and 143 cases of illegal sale of use rights.⁵⁸ From 1989 to mid-October 1993, cadastral inspectors continued to discover 4,443 cases of violation of state land laws in an area with 113 ha of land.⁵⁹ In the following years, these patterns of land law violation continued to increase in scale and intensity at the local level. By 1993, Hà Bắc authorities had to set up eleven teams of inter-agency inspectors to examine the management of agricultural land, especially communal agricultural land in the rural communities.⁶⁰ In 1994, the provincial party committee continued to highlight problems with management and use of communal land use rights because of abuses and corruption involving land. The authorities did not publish statistics but they noted that in many localities, local cadres misused communal land by selling, allocating, and auctioning its use rights to the villagers for long-term use in order to attain funding for the construction of local infrastructure.⁶¹ In 1995, investigations conducted in 135 communes⁶² of 10 districts repeatedly highlighted an increasing number of land law violations, with 10,445 cases in an area of 223.3 ha. Among these, unauthorised allocation of use rights accounted for 2,893 cases, involving 141.5 ha; illegal encroachment of use rights mainly for residency amounted to 1,927 cases, involving 64,606 ha; and other breaches like illegal sale and exchange of land use rights comprised the rest. These statistics are in fact far lower than the real figures, and do not mention violations in relation to other types of land on which state companies, army units, and other institutions held the use rights.⁶³

56 *Ibid.*, pp. 278–280.

57 Tỉnh ủy Hà Bắc, ‘Báo cáo sơ kết thực hiện Nghị quyết 10 của Bộ Chính trị về đổi mới quản lý kinh tế nông nghiệp’ [Summary report on implementation of the Politburo’s Resolution 10 on renovation in management of the agricultural economy], 1988, p. 8.

58 Sở Nông nghiệp Hà Bắc, ‘Báo cáo công tác quản lý ruộng đất năm 1988’ [Report on land management in 1988], 1989, p. 5.

59 Sở Địa chính tỉnh Hà Bắc, ‘Báo cáo tình trạng vi phạm Luật Đất đai ở Hà Bắc và kế hoạch kiểm tra xử lý’ [Report on violations of Land Law in Hà Bắc and plan for investigation and resolution], 1995, p. 1.

60 This initiative in Hà Bắc aimed to implement Directive 77 of the Council of Ministers which ordered, in early 1993, the lower state authorities to find urgent solutions to stop the illegal allocation, sale, purchase, and exchange of land use rights.

61 Tỉnh ủy Hà Bắc, ‘Báo cáo đánh giá tình hình sử dụng ruộng đất sau khi giao ruộng lâu dài cho hộ nông dân ở Hà Bắc’ [Assessment of the land use situation after allocation of long-term land use rights to peasant households in Hà Bắc], 1994, p. 7.

62 This worked out to 39 per cent of the total communes in the province at the time.

63 Sở Địa chính tỉnh Hà Bắc, ‘Báo cáo tình trạng vi phạm Luật Đất đai ở Hà Bắc’, p. 2.

In short, land law violations by individual villagers and especially the local cadres have occurred in different forms in a number of communities since decollectivisation. These violations occurred mostly in relation to communal land, because other subtypes of agricultural land had already distributed use rights to individual villagers. Most common violations involved the transformation of a large area of communal land into residential land for private use. The use rights of communal land have also become the target of illegal encroachment. Thus, alongside the taking of agricultural land use rights for industry, land law violations have led to a big decrease in agricultural land area. In Hà Bắc for example, during only two years of 1989 and 1990, the collection of agricultural land taxes showed a decline of 4,220 ha of agricultural land, while the provincial people's committee, which has the authority to allocate and transform land use rights, allowed a transformation of only 112.87 ha of agricultural land to other kinds of land. The district and commune authorities then failed to explain why and how the rest had disappeared. Thus, they have caused public resistance, particularly in cases when the violations reached a high level and occurred alongside other problems.

Land use rights compensation

One aspect of the on-going processes of industrialisation, modernisation and urbanisation in Vietnam's rural and urban areas is the development of industrial zones and other programmes, such as the construction of new roads, residential buildings, offices and others. Land use rights appropriation for this process since the early nineties has occurred in numerous ways, depending on the kind of land and the purposes for which it is required. Among them, however, programmes of compensation for agricultural land use rights appropriated for industrial zone building is the most massive, and have had both positive and negative impacts on the life of those villagers in rural communities whose agricultural land use rights have been acquired. Like in China,⁶⁴ one negative aspect of the impact is that the appropriation of agricultural land use rights in Vietnam has become a source of conflicts, mainly because of the discordant views over the process of compensation and site clearance held by the villagers who have land use rights and the state which holds the land ownership rights and controlling rights.

The process of agricultural land use rights compensation and site clearing for the building of industrial zones has in many cases created conflicts between the villagers and the state for various reasons including the questions as to how and in what way should the land use rights compensation be carried out. Who has the power to decide the land use rights values? Who should participate in the decision-making? Conflicts over such issues are deeply rooted in the different views of the state land tenure regime and villagers in relation to decision-making, distribution and possession of ownership rights, controlling rights, and use rights.

64 In China, Xiaolin Guo's research shows that land use rights appropriation has also been one of the main causes for rural conflicts in the past decades. See 'Land expropriation and rural conflicts in China', *The China Quarterly*, 166 (2001): 422–439.

Corruption

In Vietnam, corruption is a problem that can be recognised even during the period before 1954. Under the Socialist State, corruption continues to be found at high level, in various forms, and involves different types of people in the state and society. Corruption varied among levels of authority, areas and sectors of the state and society. However, in the rural areas it occurred to an alarming level in three major fields: the management and use of land, construction of infrastructure, and the management of finance-budget. As I understand it, corruption committed by the local cadres contributed the most to producing local conflicts. Various sources of data indicate that local cadre corruption has had numerous consequences on the state and society. Along with other types, local cadre corruption has created discontent and protests from the masses.

In Hà Bắc province, during the nineties, the limited number of cases that provincial authorities investigated shows that corruption caused a huge loss of different types of material property of the state and the people, including tens of billion VND, hundreds of tonnes of paddy and other materials, and most significantly, hundreds of hectares of land. The loss of this land due to corruption does not mean that the land has disappeared. Instead, in various forms, it has been transformed from public and communal land, the use rights of which are held by the local authorities or organisations, to residential land, the use rights of which are held by individuals and households. For example, in only four investigations in 1993, the provincial people's committee discovered an unauthorised allocation of 101,853 square metres of land, and illegal sale of 68,706 square metres of land by cooperative and commune cadres.⁶⁵ In 1995, the provincial people's committee investigated 179 cases and revealed a loss of 110.3 ha of land.⁶⁶ During 1997–1998, the provincial people's committee investigated 135 cases and discovered a loss of 73.73 ha of land.⁶⁷ In 1999, the same committee inspected 81 cases and revealed a loss of 22.21 ha of land.⁶⁸ This does not include the various cases of state land law violation previously noted, where the authorities did not admit that corruption was involved but I imagine it would be hard to exclude.

In short, conflicts over land rights stemmed from different issues, the main ones being the villagers' claims to land use rights, various patterns of land law violations, land use rights compensation, and the problem of local cadre corruption. These conflicts were often complex, involving different groups of people and institutions such as the ordinary villagers, cadres, party members, and higher state officials.

65 Ủy ban Nhân dân tỉnh Hà Bắc, 'Báo cáo kết quả thực hiện Chỉ thị số 15/CT-TW của BCT và Quyết định số 171/Ttg của Thủ tướng Chính phủ về công tác đấu tranh chống tham nhũng và buôn lậu' [Report on results of implementation of the Politburo's Directive No 15/CT-TW and Prime Minister's Decision No 171/Ttg on the fight against corruption and smuggling], 1994.

66 Ủy ban Nhân dân tỉnh Hà Bắc, 'Báo cáo tình hình và công tác đấu tranh chống tham nhũng, buôn lậu năm 1995' [Report on the situation and the fight against corruption and smuggling], 1995, pp. 2–3.

67 Ban Chỉ đạo chống tham nhũng tỉnh Bắc Ninh, 'Báo cáo tình hình và công tác đấu tranh chống tham nhũng (từ tháng 1/1997 đến 3/1999)' [Report on the situation and the fight against corruption (from 1/1997 to 3/1999)], 1999, p. 3.

68 Ban Chỉ đạo chống tham nhũng tỉnh Bắc Ninh, 'Báo cáo tổng hợp kết quả đấu tranh chống tham nhũng năm 2000' [Summary report on results of the fight against corruption], 2000, p. 2.

In the broadest terms, conflicts have been identified by two key signals: villagers' petitions and acts of denunciation in the state offices, and their confrontational actions in the home communities. Regarding the first aspect of conflicts, the state authorities at different levels have noted an increase in the number of villagers' petitions and acts of denouncement related to land and local cadres since decollectivisation. The villagers' petitions and denunciations did not stop at the level of district authorities but in many cases often escalated to the provincial authorities and even to the central organs of the state in Hanoi because the villagers considered their complaints were not being handled properly by the district authorities, or because the authorities failed to settle the issues in ways in which the petitioners and denouncers wanted. A more critical aspect of conflicts appears to be the villagers' confrontational actions occurring in their home villages. Villagers' reactions have in a number of cases led to tensions in the communities, and the state has often called them 'complicated cases and hot spots'. In Hà Bắc for example, from 1987–1997, 148 cases of conflict occurred. Among these, 83 were complex, and 27 cases became hot spots.⁶⁹ With regards to the 83 complicated cases, 48 cases arose because of land use rights disputes (57.8 per cent), 27 cases were due to local cadre corruption (32.53 per cent), and the rest (9.67 per cent) resulted from other problems.⁷⁰

Conclusion

In addition to the moral economy, rational peasants, and everyday politics, this study offers another approach to analyse and explain the peasant nature and the various reasons for their political actions. This approach is illustrated by the exploration of the perspectives of various parties to analyse the attitudes, relations and conflicts over the question of how and in what ways land rights in a dynamic Vietnam since decollectivisation should be owned, managed, used by whom and for whose benefits.

This study has shown how contending views result in conflicts. Conflicts over land resources have occurred to different extents in the Red River Delta communities during the past decades. In some cases, conflicts resulted in debate among the involved parties in the village. In other cases, they involved confrontational protests, which occasionally resulted in what have been called 'complicated situations' or 'hotspots' and go beyond the local boundary. The nature of these land-based conflicts includes discussion, tensions, negotiations, discontent and protests among and between various parties. Such public conflicts over land, however, are not unusual in the transition from a centrally planned to a market economy, especially in a context in which the state formulated a new land tenure regime basing on three types of land rights for allocation among different groups of possessors, a categorisation significantly different from that adopted in previous regimes.

Conflicts over land originated from two key sources. The first stemmed from contending views between villagers and the state land tenure policy at large. The second source for land conflicts originated from, and/or was exacerbated by, contending

69 These statistics were drawn from a provincial party committee's report on the situation and resolution of people's internal conflicts during 1987–1997 in Bắc Ninh, 1998, p. 1.

70 *Ibid.*, p. 2.

perspectives between villagers and a number of local cadres, who implemented the state land tenure policy at the local level. These contending perspectives ranged over how certain areas of land or policies involving land resources should be handled in local communities.

Added to the above reasons were other factors and values that intensified the extent of conflicts. First, in the dynamic context of Vietnamese society since decollectivisation, the meanings of and need for agricultural land use rights have gradually increased among villagers, entrepreneurs, and the state at large. While retaining its value as a means of production and related source of income and occupation, agricultural land use rights have revitalised its former value: a valuable form of property, which had almost disappeared during collectivisation. Secondly, the distribution of agricultural land use rights, in fact, has meant the privatisation of agricultural land use rights, which has therefore promoted private property in land according to the perspective of many villagers. Thirdly, due to more intense demographic pressures and the requirements of land use rights for villagers, entrepreneurs, and other institutions of the state versus the decreased supply, the meanings and values of agricultural land use rights have further changed in different ways. Fourthly, the market economy has emphasised the distinction between property belonging to private hands, the collective or community, and the state at large. As a result, in contrast to the former period of collectivisation, it is now very important to clearly distinguish who possesses which rights to land.