

LEGAL FRAMEWORK FOR ENSURING EQUITY AND HARMONIZING INTERESTS OF PARTIES IN LAND ACQUISITION IN VIETNAM

QUADRO JURÍDICO PARA GARANTIR A EQUIDADE E HARMONIZAR OS INTERESSES DAS PARTES NA AQUISIÇÃO DE TERRAS NO VIETNÃ

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Abstract

Land acquisition for socio-economic development remains a complex and often contentious process, especially in contexts where affected communities face displacement. Existing compensation frameworks tend to focus narrowly on material losses, frequently neglecting the psychological, social, and cultural impacts associated with forced displacement. This study advocates for a more comprehensive and inclusive understanding of damages resulting from land acquisition. Specifically, it seeks to expand the scope of compensation to include immaterial losses and to propose diverse compensation strategies that promote equity, empowerment, and sustainability. Through a review of policy documents, legal frameworks, and case studies on land acquisition, the study examines current compensation practices and identifies gaps in addressing non-material damages. It further explores best practices for compensation mechanisms, with a focus on participatory and community-centered approaches. The study finds that conventional compensation practices often fail to account for the emotional, cultural, and psychological toll on displaced individuals. It highlights the importance of adopting broader compensation methods, such as land-for-land exchanges, access to vocational training, and financial services, to support long-term reintegration and the restoration of livelihoods. Moreover, it highlights the importance of involving community representatives in the monitoring and oversight of land acquisition processes to promote transparency, accountability, and trust. The study concludes that a multidimensional compensation framework that integrates both material and

Resumo

A aquisição de terras para o desenvolvimento socioeconômico continua sendo um processo complexo e frequentemente controverso, especialmente em contextos onde comunidades afetadas enfrentam deslocamentos. Os sistemas de compensação existentes tendem a se concentrar estritamente nas perdas materiais, frequentemente negligenciando os impactos psicológicos, sociais e culturais associados ao deslocamento forçado. Este estudo defende uma compreensão mais abrangente e inclusiva dos danos resultantes da aquisição de terras. Especificamente, busca expandir o escopo da compensação para incluir perdas imateriais e propor estratégias de compensação diversificadas que promovam equidade, empoderamento e sustentabilidade. Por meio de uma revisão de documentos de políticas, estruturas legais e estudos de caso sobre aquisição de terras, o estudo examina as práticas atuais de compensação e identifica lacunas no tratamento de danos imateriais. Explora ainda as melhores práticas para mecanismos de compensação, com foco em abordagens participativas e centradas na comunidade. O estudo constata que as práticas convencionais de compensação frequentemente não levam em conta o impacto emocional, cultural e psicológico sobre os indivíduos deslocados. Destaca a importância da adoção de métodos de compensação mais amplos, como trocas de terra por terra, acesso à formação profissional e serviços financeiros, para apoiar a reintegração a longo prazo e a restauração dos meios de subsistência. Além disso, destaca a importância de envolver representantes da comunidade no monitoramento e na supervisão dos processos de aquisição de terras para promover



immaterial considerations can lead to more just and sustainable outcomes. By institutionalizing inclusive compensation mechanisms and fostering community involvement, stakeholders can mitigate conflict and enhance social cohesion during development interventions.

Keywords: Land Acquisition. Compensation Mechanisms. Inclusive Development. Immaterial Losses. Land For Land Exchange.

transparência, responsabilização e confiança. O estudo conclui que uma estrutura de compensação multidimensional que integre considerações materiais e imateriais pode levar a resultados mais justos e sustentáveis. Ao institucionalizar mecanismos de compensação inclusivos e promover o envolvimento da comunidade, as partes interessadas podem mitigar conflitos e aumentar a coesão social durante as intervenções de desenvolvimento.

Palavras-chave: Aquisição de Terras. Mecanismos de Compensação. Desenvolvimento Inclusivo. Perdas Imateriais. Troca de Terra por Terra.

1 INTRODUCTION

Land for socio-economic development is primarily sourced from land recovered from individuals, households, and organizations. In Vietnam, this process results in significant job losses, about 700,000 farmers annually, due to the loss of approximately 72,300 hectares of agricultural land each year¹. The World Bank notes that modernization has exacerbated poverty among farmers, drawing attention to the inequality created when land is transferred to investors without fair compensation to original landholders. Investors often gain unearned benefits from locational advantages, leading to disproportionate land rent gains and social instability. Marxist theory asserts that land rent should belong to the landowner. In line with this, legal frameworks in countries like the U.S. and Japan mandate just, proportionate compensation when land is requisitioned for public use. These systems emphasize fairness and recognition of additional damages such as relocation and loss of livelihood.

In Vietnam, compensation obligations arise when the State acquires land for public or socio-economic development purposes. However, the legal framework, particularly Clause 5, Article 3 of the 2024 Land Law, defines compensation narrowly as the reimbursement of the land use right value, without addressing assets or structures on the land. This limited scope reflects a management-focused perspective, treating “land” as the primary subject rather than the broader rights and losses of affected individuals. As

¹ Nguyen Tran Tuan, "The consequences of expropriation of agricultural land and loss of livelihoods on those households who lost land in Da Nang, Vietnam" 9 *Environmental & Socio-economic Studies* 2 (2021) 26-38.

a result, the law overlooks critical elements of actual damages, such as livelihoods, built structures, or business disruptions. In contrast, compensation principles in countries like the United Kingdom follow the “*principle of equivalence*,” which requires damages to be assessed based on fair market value and to reflect all losses, “*no more, no less*.” Due to the absence of a comprehensive definition, the responsibility for interpreting and applying compensation measures has shifted to local authorities. This decentralization has led to inconsistencies across regions and uncertainty for affected landholders. Although compensation is fundamentally a civil law issue, the current approach remains administratively driven and lacks supporting legal documents that clearly define compensation standards in cases of land recovery for national or public interest. Ultimately, the existing legal framework does not fully protect the rights of those whose land is acquired, creating legal and social gaps in Vietnam’s land compensation system.²

Regarding Poland, Iga avers that there are situations when the state must expropriate land to construct highways, airports, railroad tracks, and other infrastructure projects. It is further noted that expropriation involves the “deprivation of property or proprietary rights”. Land expropriation consists of the government or an agency of the government issuing a proclamation of land acquisition against the will of the current landowners. The land acquisition is done for the general public good (to meet specific government objectives) and must be done according to the law. In addition, it can only be considered an expropriation if the current owner has valid, demonstrable ownership rights, including “the right to demand his consideration from all others... the right to exclusive disposal of the property”.³ The property right is explicitly protected in Polish law, as enshrined in Section 1, Article 21 of the Constitution of the Republic of Poland, which stipulates that the Republic of Poland shall protect ownership and the right of succession. However, the same Article has stipulated in Section 2 that “expropriation may be allowed solely for public purposes and for just compensation”. Additionally, the Constitution of the Republic of Poland, adopted in 1997, has established further guarantees in the form of economic rights. Article 64, Section 1 establishes equal rights for all to property ownership and the right to inheritance. Section 2 states that all persons

² Khanh Katherine Pham, "Between a Rock and a Hot Place: Economic Development and Climate Change Adaptation in Vietnam," (Master's thesis, Portland State University, 2018).

³ Iga Karasińska, ‘Fair Compensation for the expropriation of real estate for the purposes of the implementation of the Central Transportation Hub’ (2023) 99 *Studia Iuridica* XCIX. DOI: <https://doi.org/10.31338/2544-3135.si.2024-99.25>.

shall enjoy equal protection of their property ownership and inheritance rights, and Section 3 notes that ownership and inheritance rights can only be interfered with through legal means. Therefore, it is noteworthy that Poland respects and undertakes to protect land ownership rights. Nevertheless, there are situations where public good overrides individual interests and land acquisition is necessary.

A notable example of land expropriation for the greater public good in Poland is the Central Transportation Hub (*Centralny Port Komunikacyjny*) as noted by Iga.⁴ The railway system and road network projected to be complete and operational by 2027 entails “aviation and railway interchange between Warsaw and Łódź connecting international air, road, as well as rail transports”.⁵

In Vietnam, to ensure fairness, equity, and proportionality in land compensation, the *Land Law 2024* should adopt a broader and more comprehensive definition of compensation. The current provision in Clause 5, Article 3, limits compensation to land use rights, failing to include damages related to assets on the land and other associated losses. A revised definition is proposed to encompass all forms of damage resulting from land acquisition, including both land use rights and asset ownership, in alignment with the principle of proportional compensation. This revision is crucial in light of Vietnam’s increasing infrastructure requirements. According to the World Bank⁶, Vietnam ranks among the lowest in the ASEAN bloc for infrastructure investment, posing a significant barrier to sustained development. In response, the State has increasingly relied on land acquisition as a tool for infrastructure and socio-economic development. Legal reforms such as the amendment of Article 79 of the *Land Law 2013* (now reflected in the 2024 version) and Clause 3, Article 54 of the Constitution have helped define the scope of land acquisition more clearly and prevent misuse.

However, implementation at the local level often falls short of policy intent. Many projects suffer from delays and inconsistencies, which can significantly impact the livelihoods of displaced populations. The failure to fully utilize land as a productive resource highlights deeper issues in land governance, particularly the lack of adequate oversight in decentralization and a lack of clarity regarding the roles of legislative, executive, and judicial bodies in land ownership and management. This situation raises a

⁴ Ibid.

⁵ Ibid.

⁶ The World Bank In Vietnam (2019), www.worldbank.org/en/country/vietnam/overview#1, Accessed January 28, 2022.

critical policy question: How can the State balance economic development goals with the rights and livelihoods of affected communities? As outlined in Clause 1, Section IV of the Party’s guidance and *Resolution 18/NQ-TW (2022)*⁷, legal and policy frameworks must be reformed to align the interests of the State, land users, and investors. The goal is to ensure efficient, transparent, and equitable land use that drives development while preventing waste and corruption. Although Vietnam’s *Land Law 2024* is progressive, particularly in specifying cases for land acquisition related to public and national interest, significant gaps remain. These include the absence of a clearly defined concept and criteria for socio-economic development and land acquisition. While Article 91 introduces new mechanisms for compensation, support, and resettlement, its practical effectiveness is limited by these definitional shortcomings. Without clearly codified criteria, the State’s ability to equitably manage land acquisition and mediate the competing interests of all stakeholders remains constrained⁸. Overall, while *Land Law 2024* reflects positive institutional reforms, its effectiveness will depend on closing conceptual and regulatory gaps, especially in defining socio-economic development and ensuring proportional compensation. Strengthening these areas is crucial for Vietnam to utilize land acquisition as a legitimate and equitable tool for national development.

2 CURRENT LEGAL FRAMEWORK ON EQUITY IN LAND ACQUISITION

A. Poland: Determining Damages for Calculating Compensation When the State Recovers Land

According to OECD in Poland, the local governments are the main actors in land-use planning. They create and approve local spatial development plans. These plans are the sole legally binding zoning plans in Poland.⁹ However, this has not always been the case, as Poland has increasingly relied on special infrastructural acts that sometimes

⁷ Resolution No. 18-NQ/TW (2022) on “Continuing to reform and improve institutions and policies, enhance the effectiveness and efficiency of land management and use, and create momentum for our country to become a developed country with high income,” issued by the Central Executive Committee on June 16, 2022.

⁸ Phan Trung Hien and Dinh Thi My Linh, “Reforming legal regulations on land recovery for socio-economic development in the national, ethnic, and public interests,” (2021) <https://www.tapchiconsan.org.vn/nghien-cu/-/2018/815971/doi-moi-cac-quy-dinh-phap-luat-ve-thu-hoi-dat-de-phan-trien-kinh-te---xa-hoi-vi-loi-ich-quoc-gia---dan-toc%2C-loi-ich-cong-cong.aspx> Accessed February 19, 2021.

⁹ OECD, ‘Governance of Land Use in Poland: The Case of Łódź’ (OECD Publishing, Paris, 2016). <http://dx.doi.org/10.1787/9789264260597-en> .

conflict with existing spatial plans in recent years. The OECD has further noted that these special infrastructural acts are used to govern and expedite projects deemed to be of national importance, such as major roads, railways, airports, and even infrastructure needed for significant events, as witnessed during the 2012 EURO Football Championship.¹⁰ The OECD has also faulted the use of spatial infrastructure acts, noting that although they expedite the implementation of projects of national significance, they suspend local planning laws. The special infrastructural acts create additional problems because they are implemented even in cases where they contradict the goals of local planning laws, establish special expropriation rules, and sometimes disregard established planning procedures, including public engagement. It is argued that the special infrastructural acts in Poland create a system that is contradictory to the existing planning structures, undermining their efficacy and eroding trust in the due process. OECD further argues that the acts are often disjointed and regional. Local authorities are often not adequately informed about the investments and may not align with local needs and conditions.¹¹

According to Malgorzata and Tomasz in ‘Land Policy in Poland: Evolution of the liberalisation of urban Planning and Policy Making’, post-communist Poland has been plagued by a lack of a coherent land policy. They argue that in recent years, Poland has tried to solve challenges within its land policy. Still, ironically, the well-intentioned attempts at bolstering the Polish land policy have complicated the situation further by “enacting various *lex specialis*- laws that take precedence over general planning regulations.”¹²

In Poland, a policy focusing on property rights and the public interest in spatial development is known as spatial policy (*polityka przestrzenna*).¹³ Therefore, it is worth noting that in Poland, the term "land policy" (*polityka gruntowa* or *polityka terenowa*) is not commonly used as a technical term in both academic and scientific circles.¹⁴ Malgorzata and Tomasz argue that Poland’s lack of both official and actual land policy is informed by its recent communist background that came to an end with the fall of the

¹⁰ Ibid.

¹¹ Ibid.

¹² Malgorzata Barbara Havel and Tomas Zaborowski, ‘Land Policy in Poland: Evolution of the Liberalisation of Urban Planning and Policy Making’ in: Thomas Hartmann and others (eds), *Land Policies in Europe* (Springer, Cham, 2025). https://doi.org/10.1007/978-3-031-83725-8_10

¹³ Ibid.

¹⁴ Ibid.

communist regime in 1989. Also, Land Policy in Poland is two-tiered (i) at the national level and (ii) at the municipal level. Currently, Poland lacks a comprehensive national spatial planning policy. In the absence of a formal, implementable national land policy, Poland uses project-specific enactments known as (*specustawy*). The *specustawy* are used while dealing with urgent projects of national importance, such as constructing railways, airports, or addressing housing shortages.

According to Andrzej and others, Polish law allows for the expropriation of land within legal confines for ‘the benefit of State Treasury or local government units.’ Before land acquisition, there must be a genuine attempt at negotiations between the expropriated person and the expropriator to reach an amicable agreement. If the parties do not reach an agreement, the expropriation procedure kicks in. The prevailing market value informs the compensation amount of the expropriated land¹⁵. In addition, Andrzej and others note that Poland also relies on the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted on November 4, 1950, which it ratified in 1950.

Iga notes that the term expropriation was introduced into the Polish constitution on 31 December 1989 and was retained in the amended Polish constitution of 2 April 1997. Iga further notes that although Section 2, Article 21 of the Constitution of Poland stipulates that expropriation is permissible where it benefits the general public, it falls short of defining expropriation. However, Polish legislation has stipulated when expropriation may be carried out and the fair compensation for the same.¹⁶ Furthermore, the Property Management Act of 21 August 1997 is a general piece of legislation that is vital in defining the objects and subjects of expropriation. Citing T. wo’s¹⁷, Iga notes that the Property Management Act of 21st August 1997 may be regarded as a ‘primary source law regarding expropriation of land’.

B. Fair Compensation in Poland

The process of compensation after expropriation (for example, expropriation for road construction) in Poland is sometimes fraught with challenges. One of the main challenges is identifying the entity legally entitled to compensation. This challenge is often triggered by ‘undetermined legal status of properties, the lack of inheritance

¹⁵ Andrzej T, Alicja D, Aleksandra O and Wiktor P, 'Real Estate Laws and Regulations in Poland' (2021 December 23) *CEE Legal Matters*. <https://ceelegalmatters.com/real-estate-2021/real-estate-poland-2021>

¹⁶ Iga, n.3

¹⁷ T. Woś, *Wywłaszczenie nieruchomości i ich zwrot*, LexisNexis 2011, chapter I, p. 4.

proceedings, limited property rights, claims by banks and bailiffs, or agreements on the assignment of receivables'.¹⁸

Anna Trembecka has noted that the Act of 10 April 2003 on Special Principles for the Preparation and Implementation of Investments in the Area of Public Roads has made the expropriation process easy by replacing the bureaucracy surrounding negotiation with property owners during expropriation with 'legal procedures for real estate acquisition exercised by virtue of law'.¹⁹ Anna Trembecka notes that according to Act of 10 April 2003 on Special Principles for the Preparation and Implementation of Investments in the Area of Public Roads: real properties or parts thereof, covered by investment boundary lines, become the property of the State Treasury if they are national roads or of the relevant local government units if they are provincial, county, or communal roads. Subsequently, compensation is made to benefit the present owners.²⁰

Anna points out a problem relating to the amount given as compensation as per determined by the condition of the expropriated land on the day Act of 10 April 2003 on Special Principles for the Preparation and Implementation of Investments in the Area of Public Roads which requires that '*the amount of compensation is determined according to the condition of the property on the day of issuing the decision granting permission for the implementation of a road investment by the authority of first instance and according to its value on the day the amount of compensation is determined.*' The question that arises is what would happen if land ownership changes between the date permission is granted and the date the value is determined?

Iga has avers that although Article 21 section 2 of the constitution of the Republic of Poland has spoken to the need for a fair compensation without delving into the meaning of fair compensation or the procedure or reaching the same, the Constitutional Tribunal addressed the lacuna to a certain degree when it determined that fair compensation is a compensation that mitigate the effects of expropriation as much as possible. The tribunal noted that compensation for expropriation would be deemed fair by considering (i) the amount, (ii) the method of its calculation, and (iii) settling the payment as soon as possible.²¹

¹⁸ Anna Trembecka, 'Selected issues in compensation entitlement for real estate expropriated or road investments' 23 *Budownictwo i Architektura* 2(2024) 107-117. DOI: 10.35784/bud-arch.5339

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ Iga, n 3

C. Vietnam: Determining Damages for Calculating Compensation When the State Recovers Land

Based on examining the operating methods of the industrial economy, George Stigler introduced the theory of social cost problems, also known as the Coase theorem, in 1961. According to this theory, he argued that activities related to socio-economic matters can all cause harm to third parties, even though they do not participate in that activity. Additionally, Arthur C. Pigou (1877–1959), a British economist famous for welfare economics theory, believed that solutions to the above problem require government intervention in imposing its authority on entities causing losses to others. Therefore, in the role of the State, it is necessary to regulate in order to harmonize the interests of parties in the relationship, taking into account the losses of third parties, whether direct or indirect, caused by the damaging party, and ensuring adequate property compensation through the State or an agreement.

Under the *Land Law 2024*, the compensation mechanism continues to rely on a fixed list of damages eligible for compensation. While this approach offers administrative clarity, it risks limiting flexibility in practice. As a result, competent authorities may struggle to respond appropriately when damages arise beyond those explicitly listed in the legal framework.²² For instance, several gaps persist in the current legal provisions on housing and construction works. There are no specific guidelines for proportionate compensation for houses of traditional or cultural value. Additionally, critical factors such as the location, area, design, and architectural uniqueness of housing and structures are not adequately considered during land acquisition. Compared to Australia's approach, the land acquisition model in other countries provides a more nuanced and equitable framework. In Australian practice, compensation is determined based on the optimal use and condition of the property, taking into account various factors including design, materials, size, and purpose of use. Further, compensation reflects not only property value but also associated costs such as relocating business operations and re-establishing brand presence, including advertising costs.²³

In practice, Vietnam's compensation mechanisms also suffer from inconsistency, particularly in relocation cost compensation for socio-economic development projects

²² Phan Trung Hien, 'What you need to know about compensation, support, and resettlement' (Truth National Political Publishing House, 2018) 321-322.

²³ Tran Vang Phu "Determining compensation value for houses and construction works when the State recovers land" State and Law Journal 2 (2018).

pursued in the national or public interest. Local regulations vary significantly across provinces. For example, seven out of sixty-three provinces calculate relocation costs based on distance brackets, while six compensate based on actual incurred expenses. Eight provinces determine compensation according to house type and construction area, while thirty-two provinces use administrative divisions (commune, district, or provincial level) to assign compensation amounts ranging from 2,000,000 to 15,000,000 VND. Alarming, ten provinces provide no compensation for relocation costs at all²⁴. These inconsistencies reveal a broader issue of legal fragmentation and inequity in Vietnam's land acquisition practices. Without a uniform and comprehensive compensation framework that reflects the real value of losses incurred—both material and non-material—affected individuals are unlikely to receive fair and proportionate redress.

Comparing this issue with experience from Australia, under Article 55 of the WA Land Administration Act 1997, compensation is determined according to the principle of “value to owner,” recognizing that compensation levels are higher than market value. Value to owner includes: Market value of affected interests; special value due to ownership or use of recovered land; damage due to land plot division; damage from noise or other damages. The price for calculating compensation is the current market price, determined by the management agency in consultation with the head of the valuation agency. Damages are determined as the amount of money that the property could be sold for voluntarily and readily at a specific time.²⁵ Unlike laws in some developed countries, our country's law has not yet widely recognized cases of damage compensation occurring even when the land is not recovered.²⁶ This is because when determining compensation, our country defines the scope “according to legal provisions.” Unforeseen damages will fall outside this scope. Additionally, Vietnam's forecasting mechanism is limited to damages incurred during the land acquisition process, excluding intangible damages, damages resulting from the issuance of land acquisition notices (before land acquisition), and damages occurring after the land acquisition process.

²⁴ Nguyen Dac Nhan, “Looking back at 10 years of implementing Resolution 19-NQ/TW: Current situation of land recovery, compensation, support, and resettlement work,” (2022). <https://baotainguyenmoitruong.vn/nhin-lai-10-nam-thuc-hien-nghi-quyet-19-nq-tw-bai-2-thuc-trang-cong-tac-thu-hoi-dat-boi-thuong-ho-tro-va-tai-dinh-cu-333906.html>, Accessed June 20, 2022.

²⁵ Ministry of Natural Resources and Environment, “Foreign experience in land management and law,” (September 2012), 19-20.

²⁶ Phan Trung Hien, “Law on compensation and site clearance in Vietnam – Balancing interests between the State and the People's interests” 10 *Journal of Science of Can Tho University* 114 (2018).

In practice, many land acquisition cases for socio-economic development and public interest continue to experience inadequate damage assessments and unfair compensation, leading to legal disputes. A notable example is found in Judgment No. 232/2023/HC-PT by the High People's Court in Ho Chi Minh City. In this case, the People's Committee of Ninh Kieu District issued Decision No. 385/QD-UBND to acquire the entirety of Mrs. P's land. During discussions with the relevant authorities, Mrs. P requested full compensation for a 154.2 m² differential land area that she had stably used. The land had no disputes or encroachments and had been developed with residential structures and perennial trees. She also raised concerns regarding resettlement arrangements. However, in Notice No. 129/TB-HDBT dated June 24, 2019, the Compensation and Resettlement Council informed her that while the land was recognized, she would receive only 60% of its value as support rather than full compensation. Dissatisfied, Mrs. P filed a formal complaint. Since the Chairman of the District People's Committee failed to resolve her grievance, she initiated legal action to compel a response. The Can Tho City People's Court issued a first-instance administrative ruling (No. 11/2020/HC-ST on July 8, 2020), which upheld the local authority's position.

Mrs. P appealed the decision. The appellate court overturned the lower court's judgment, determining that her case did not fall under the exceptions outlined in Clause 4, Article 12 of Decree 47/2014/ND-CP. It found that she had been using the land since at least 1987 without any administrative violations, with permanent structures and long-term crops in place. Despite the absence of a formal Land Use Right Certificate, her use of the land was considered stable and legitimate. Consequently, the appellate court ruled that she was entitled to 100% compensation for both the residential land and the land with perennial crops. This decision was based on Clause 1, Article 20 and Article 21 of Decree 43/2014/ND-CP, Article 6 of Decree 47/2014/ND-CP, and Clause 1, Article 75 of the Land Law 2013. The court rejected the initial ruling and annulled the administrative decision of the Can Tho City People's Committee.

This case underscores the inadequacy of existing compensation frameworks in Vietnam and highlights the need for more structured and equitable damage determination. Scholars argue that damages in the context of state land acquisition should be categorized more clearly to improve precision and fairness. These categories include damages to land, property, and business; tangible versus intangible damages; material and emotional

damages; and damages incurred before, during, and after the acquisition process.²⁷ Rather than subsuming the idea of damages within the broader concept of compensation, Vietnamese law should articulate a distinct legal concept: “damages when the State recovers land.” Additionally, the identification of those who suffer damage should be clarified into two primary groups: Group 1, comprising persons whose land is directly recovered, and Group 2, consisting of those indirectly affected by the acquisition process. In all instances of land recovery for socio-economic development, it is essential that authorities accurately and comprehensively calculate all damages, both tangible and intangible. This includes damage to land users and to assets attached to the land. Furthermore, current support policies should be eliminated. Once all forms of damage are properly quantified, there is no longer a justifiable need for separate support regulations, as comprehensive compensation will already encompass these concerns.²⁸

D. Interest Regulation Through Forms of Compensation

The implementation of industrialization and urbanization creates significant pressure on mandatory land transfer mechanisms, with those losing land tending to become impoverished due to loss of livelihood, while investors receiving land obtain considerable land value. From the above analysis, expert Dr. Pham Sy Lien argues: “If land acquisition does not pay attention to protecting people's assets on land, it leads to abuse in land acquisition, prone to corruption because the scope of applying land acquisition methods is too broad, many projects are difficult to justify as being for national interests or public interests.”²⁹ In the context of economic development, the exercise of land acquisition rights has the potential to create surplus value that only benefits the final property owner, not the original owner. Suppose the surplus is greater than the cost of land acquisition. In that case, it means the organization receiving land use rights will obtain the surplus, which motivates them to persuade the government to implement land acquisition on their behalf, even when the recovered land area only serves private interests. Therefore, laws in developed countries, such as the UK and the US,

²⁷ Phan Trung Hien, “Determining damage and compensating for damage when the State recovers land” 10 *Legislative Research Journal*5 (2016) 15.

²⁸ Pham Phuong Nam and Bui Nguyen Hanh, “Policy to ensure 'farmers have fields' in using agricultural land by applying high technology,” 17 *Journal of Natural Resources and Environment*, (2021) 15.

²⁹ Pham Sy Lien, “On some institutional issues in the Land Law,” *Conference proceedings: Evaluating some limitations in implementing the 2013 Land Law and proposing improved solutions*, (Vietnam Union of Science and Technology Associations, Hanoi, November 16, 2017), 8-10.

require courts to carefully consider the use of mandatory land expropriation powers for public interest when “one or a few people will obtain surplus value.”³⁰

Based on the Report on Results of the Project to Improve Mechanisms, Policies, and Laws on Land Acquisition, Compensation, Support, and Resettlement to Accelerate Site Clearance Progress for Investment Projects by the General Department of Land Administration (2018), the total area of land recovered for investment projects was 2,188,577.22 hectares (from 2014 to 2018), including 1,594,485.38 hectares of agricultural land, 591,787.73 hectares of non-agricultural land, and 2,304.11 hectares of unused land (compiled from 42 out of 63 provinces and centrally-governed cities). Overall, the recovered land area has met socio-economic development objectives and ensured local defense and security. People's Committees have closely directed the implementation of land acquisition at all levels, whereby the recovered land area has basically met the demand for “clean land” to implement investment projects, especially projects serving public purposes.

From 2015 to 2019, land-for-land compensation was implemented over 13,022.83 hectares, including: 250.50 hectares of residential land compensation, 12,636.63 hectares of agricultural land compensation, and 135.71 hectares of non-agricultural land compensation. Additionally, compensation in localities for those whose land was recovered was mainly implemented through cash payments. To date, provinces have made cash payments totaling 46,896.48 billion VND (residential land compensation: 16,344.63 billion VND, agricultural land compensation: 25,282.70 billion VND, and non-agricultural land compensation: 4,377.26 billion VND).³¹

Through consultation with a research sample of 540 households whose land was recovered for socio-economic development purposes in 2020, including 188 households in Hanoi, 177 households in Ho Chi Minh City, and 175 households in Da Nang. The questionnaire used a 5-point Likert scale. Research results show that people's satisfaction level with compensation and support when the State recovers land for economic development and community service purposes remains generally low at 2.54 points;

³⁰ Elizabeth F. Gallagher, “Breaking New Ground: “Using Eminent Domain for Economic Development”, 73 *Fordham L. Rev.* 1837(2005), <https://ir.lawnet.fordham.edu/flr/vol73/iss4/13>

³¹ Nguyen Dac Nhan, “Looking back at 10 years of implementing Resolution 19-NQ/TW: Current situation of land recovery, compensation, support, and resettlement work,”(2022) <https://baotainguyenmoitruong.vn/nhin-lai-10-nam-thuc-hien-nghi-quyet-19-nq-tw-bai-2-thuc-trang-cong-tac-thu-hoi-dat-boi-thuong-ho-tro-va-tai-dinh-cu-333906.html>, Accessed June 20, 2022.

people's perception of land compensation prices averaged 2.32 points; charges in life after state land acquisition compared to expectations were not highly rated at 2.45 points.³²

To address this, Article 83 of the 2024 Land Law diversifies forms of land compensation. Compared to the 2013 Land Law, where those whose land was recovered could only receive compensation with land of the same use purpose or cash compensation, the 2024 Land Law provides more diverse compensation forms for those whose land is recovered, such as: compensation with land of the same use purpose as the recovered land type, cash compensation, compensation with land of different use purpose from the recovered land type, or housing compensation if the person whose land is recovered has such needs and the locality has land fund conditions (previously regulated as same-purpose land or cash); simultaneously stipulating that those whose residential land is recovered are prioritized to choose cash compensation if needed and must register when establishing compensation, support, and resettlement plans.

However, inadequacies still exist around this issue as Clause 2, Article 91 of the 2024 Land Law does not clarify the principles of land compensation when the State recovers land, whether such acquisition must be “equivalent to market price,” “approaching market price,” or “consistent with market price” - this remains unclear, while previous land laws had clearly institutionalized land compensation principles. Similar to Vietnam, countries such as the US, UK, India, and China are also gradually diversifying their compensation forms. However, these countries have institutionalized compensation principles as fairly and equally as possible. For example, in the US: Those whose land is recovered receive an amount equivalent to the market value of the affected land and property. According to the Fifth Amendment of the U.S. Constitution, the government may only recover private land for public purposes if there is “Just Compensation”.

In practice, “Just Compensation” is commonly understood as the current market value of the property at the time of acquisition.³³ Additionally, many countries have indirect compensation policies through shares and project benefits (Equity or Benefit-Sharing Compensation), whereby people can receive shares or profits from projects using recovered land, instead of just receiving a one-time payment. For example, in Tanzania,

³² Doan Ngoc Phuong, “People's satisfaction with compensation and support when the State recovers land,” *12 Journal of Economics and Forecasting*, 12 (2021) 105–108.

³³ U.S. Constitution – Fifth Amendment: “...nor shall private property be taken for public use, without just compensation.” <https://www.archives.gov/founding-docs/amendments-11-27#toc-amendment-v>

the country allows benefit sharing in the mining sector. Tanzania has applied fair benefit-sharing principles in mining, enabling local communities to benefit from projects through revenue sharing and other forms of support.³⁴ Or in South Africa, allowing those who lost land to have joint ownership in the Makuleke ecotourism project: After having land ownership rights restored, the Makuleke community partnered with tourism companies to develop eco-resorts in Kruger National Park. They received employment, training, revenue percentages, and gradual ownership rights in these projects.³⁵

Although not yet complete, the diversification of compensation forms under the 2024 Land Law has demonstrated the Party and State's spirit regarding appropriate compensation work for those whose land is recovered. However, the principle of ensuring market-price compensation is only stipulated for actual damages to houses, residences, and construction works in Clause 4, Article 102; and for damages to crops and livestock in Clause 6, Article 103 of the 2024 Land Law. This will significantly affect damage compensation work in the future. Because in reality, although laws previously institutionalized land compensation principles, practical application shows that in the land allocation process for investment project implementation in Da Nang, with plots A2 and A3 under the Son Tra-Dien Ngoc Resettlement Area project, Da Nang City decided on a compensation price of 2,570,000 VND/m² for affected households, with total compensation of 25 billion VND for plot A2 and 63 billion VND for plot A3³⁶. One month after being allocated land by the Da Nang People's Committee, the enterprise transferred the project to a new investor. Accordingly, the value of plot A2 became 133 billion VND - a difference of 107 billion compared to the original price.³⁷

³⁴ Natural Resource Governance Institute – Equitable Sharing of Mining Profits: The Best Deal for Tanzania?, <https://resourcegovernance.org/publications/equitable-sharing-mining-profits-best-deal-tanzania>

³⁵ Makuleke ecotourism project (2018), https://www.peoplenotpoaching.org/makuleke-ecotourism-project?utm_source=chatgpt.com

³⁶ Chau Hoang Than, “Improving legal regulations on the process of determining specific land prices,” 12 *Legislative Research Journal*, 412(2020) 28–31.

³⁷ Inspection Conclusion Notification No. 160/TBKL-TTCP dated January 17, 2013, by the Government Inspectorate, on the responsibility of the Chairman of Da Nang City People's Committee in complying with laws on Inspection, Complaints, Denunciations and Anti-corruption; inspection of some investment projects using land; public disclosure of the content of the Prime Minister's directives on post-inspection handling. (p. 5)

E. Interest Balance Through Determining Land Prices for Compensation Calculation

In the classic work “The Wealth of Nations” (1776), Adam Smith - the father of modern economics - affirmed the crucial role of land in creating national prosperity.³⁸ From this, when land is transferred from one owner to another, they should naturally have their rights preserved as land users. However, in reality, they may have their fields taken back and land transferred to another owner, and damage compensation for land tenants never equals the actual damage.³⁹ In his work, Adam Smith demonstrates that cases of power abuse and unfair land policies still exist, resulting in the inappropriate and unfair allocation of land resources.⁴⁰ Therefore, the state plays the role of land management agency, responsible for regulating the interests of parties to align with society's common interests in determining land prices for damage compensation calculation.

Accordingly, based on Clause 3, Article 112 of the 2013 Land Law, when the State recovers land for socio-economic development in national and public interests, the land price for compensation calculation “must be consistent with prevalent market land prices.” This is still somewhat imposed, as specific land price determination largely tends to be lower than market prices.⁴¹ “At most, it only reflects relative nature, because market prices have many fluctuations.”⁴² Compensation value determination is based solely on the current land use status, without considering land value increases that may occur after the State recovers people's land and investors implement projects. In reality, the State's land price framework only equals about 20%-30% of market land prices. Provincial land price frameworks also only equal 30%-60% of local market land prices. This leads to a situation where, during land acquisition, compensation land prices are far below market prices.⁴³ Specifically, with Judgment 345/2022/HC-PT dated May 17, 2022, regarding

³⁸ The produce of land constitutes the most important and primary source of revenue for every society.” (Adam Smith, *The Wealth of Nations*, Book I, Chapter XI)

³⁹ Adam Smith , *An inquiry into the nature and causes of the wealth of nations – Books I, II, III, IV and V*, Edited by S. M. Soares, (MetaLibri Digital Library, 2007) 405.

⁴⁰ Adam Smith – *The Wealth of Nations* , Book IV, Chapter VIII: “Where the law gives privilege or monopoly over land, it distorts the natural process of wealth creation” (1776).

⁴¹ Luu Quoc Thai , “*Legal issues regarding Vietnam's land use rights market*,” (Hong Duc Publishing House, 2016) 36.

⁴² Phan Trung Hien , “Determining land prices for calculating compensation when the State recovers land,” *Legislative 1+2 Research Journal*,(2017) 98-99.

⁴³ Hoang Kim Huyen and Nguyen Thi Ngoc Ha , *Causes of failure of the policy mechanism for regulating land value increment in Vietnam*, Proceedings of the National Scientific Conference: Resolution 18/NQ-TW/2022 and issues raised in amending the 2013 Land Law, National Economics University, (National Economics University Publishing House, Hanoi, 2022)165

complaints about acquisition decisions and compensation support during land acquisition, tried by the High People's Court in Ho Chi Minh City, the judgment content shows that Ms. Nguyen Thi D sued Phan Rang-Thap Cham City People's Committee (Ninh Thuan) regarding the acquisition of 1,481.2 m² of land and applying a compensation price of 70,000 VND/m² for perennial crop land with housing in the city center. She argued that the compensation price was inappropriate and requested cancellation of the acquisition and compensation decisions.⁴⁴

Explaining why land compensation prices have not approached market prices, some scholars provide various reasons. Among these, the timing for determining specific land prices remains unclear, as Clause 2, Article 74 of the 2013 Land Law stipulates that provincial People's Committees decide the specific land prices at the time of land acquisition decisions. However, there are still no guiding documents for “the timing of land acquisition decisions”.⁴⁵ To resolve these inadequacies, the 2024 Land Law was promulgated with 05 articles on land prices, compared to the 2013 Land Law with many innovations such as: (i) abolishing land price framework regulations; (ii) stipulating 05 land pricing bases in Clause 2, Article 158, specifically regulating land pricing methods including: comparison method, income method, residual method, and land price adjustment coefficient method, while assigning the Government to regulate other land pricing methods beyond these 04 methods after approval by the National Assembly Standing Committee; stipulating cases and conditions for applying land pricing methods; cases where applying land pricing methods to determine specific land prices yields results lower than land prices in the Land Price Table shall use prices in the Land Price Table; (iii) specifically stipulating principles, bases, and land pricing methods in Clauses 5, 6 of Article 158; (iv) separating content regulations on land price tables and specific land prices into 02 separate articles: Article 159 and Article 160; (v) stipulating land price table construction for each land plot based on value zones and standard land plots; (vi) stipulating Land Price Table Appraisal Councils and Specific Land Price Appraisal Councils.⁴⁶

⁴⁴ Judgment 345/2022/HC-PT dated May 17, 2022, on the lawsuit against decisions on recovery, compensation, and support when recovering land

⁴⁵ Phan Trung Hien, “Determining land prices for calculating compensation when the State recovers land,” *Legislative 1+2 Research Journal*, (2017) 98-99

⁴⁶ Chau Hoang Than (2024), Land price regulations in the 2024 Land Law - New features and impacts, National Scientific Conference 2024 on Economics, Law, Management and Sustainable Development under the impact of the 2024 Land Law, University of Economics Ho Chi Minh City, National University Ho Chi Minh City Press, p.410.

Simultaneously, clearly stipulating that competent People's Committees must issue specific land price decisions within no more than 180 days from the time of land price determination for cases of State land allocation, land lease, land use purpose conversion permission, land use extension, land use term adjustment, land use form conversion, land allocation and lease decision adjustment, detailed planning adjustment; For cases applying land prices in land price tables to calculate land use fees and land rental fees, competent People's Committees must record land prices in land allocation, land lease, land use purpose conversion permission, land use extension, land use term adjustment, and land use form conversion decisions.

The regulation expands the composition of the Specific Land Price Appraisal Council, which, in addition to specialized agencies under People's Committees, may invite representatives of land price determination consulting organizations and land price experts to participate as Council members, along with Vietnam Fatherland Front Committees at the same level and other socio-political organizations to participate in land price appraisal meetings to ensure independence and objectivity in the pricing process.⁴⁷ However, this regulation still has issues that need consideration:

First, based on Decree No. 71/2024/ND-CP on land prices, this document has clarified the procedures and content for land price determination, specifically stipulating factors affecting land prices. Accordingly, factors affecting land prices for non-agricultural land include the location and position of land plots and areas; traffic conditions: width, road surface structure, adjacency to one or multiple road fronts; water supply and drainage conditions, electricity supply, etc. However, Vietnam has not yet developed a set of criteria for inspecting and evaluating specific land pricing work at the local level, leading to consequences where land price determination lacks consistency and equity between localities in methods and implementation procedures.

Through research conducted with 180 officials in localities such as Quang Ninh, Hai Phong, and Hai Duong, using multivariate linear regression analysis and AHP methods, the research team of Bui Thi Then, Bui Thi Cam Ngoc, and Dang Thi Hang designed a research scale including 05 criteria groups: (i) Principle compliance; (ii) Land pricing methods; (iii) Evaluation of specific land pricing; (iv) Land price determination

⁴⁷ Le Minh Ngan , “New points of the 2024 Land Law and some notes for the Justice Sector. Conference documents on disseminating and implementing the 2024 Land Law of the Justice sector” (Hanoi, dated March 22, 2024), 15.

consulting organizations; (v) Infrastructure facilities. Research results show that the land pricing methods criteria group has the most influence on the inspection and evaluation of specific land pricing work at 34.8%; land pricing organization criteria at 24.9%; specific land prices at 24.5%; principle compliance evaluation criteria group at 10.5%; and infrastructure only accounts for 5.4%. This shows that to conduct land pricing objectively and fairly, issuing a set of criteria for inspecting and evaluating specific land pricing work at the local level is necessary in the current period.⁴⁸ This aligns with International Valuation Standards (IVS), issued by the International Valuation Standards Council (IVSC) and applied in over 100 countries. Among these, IVS 400, Real Estate Rights, clearly stipulates the factors affecting real estate value, including Geographic location, Legal status, Infrastructure, Land use purpose, and Environmental conditions.⁴⁹ Additionally, according to the RICS guidance, Global Valuation Standards, the Royal Institution of Chartered Surveyors (RICS) has issued the Red Book, which includes global valuation standards incorporating IVS principles. RICS requires valuation experts to comply with strict valuation processes, including Determining valuation purposes, selecting appropriate valuation methods, analyzing factors affecting real estate value, and reporting valuation results transparently.⁵⁰

Second, based on Clause 1, Article 158 of the 2024 Land Law, determining land pricing principles, the following principles must be ensured:

- a) Land pricing methods according to market principles;
- b) Compliance with correct methods, procedures, and land pricing processes;
- c) Ensuring truthfulness, objectivity, openness, and transparency;
- d) Ensuring independence between land price determination consulting organizations, Land Price Table Appraisal Councils, Specific Land Price Appraisal Councils, and agencies or persons with authority to decide land prices;
- e) Ensuring harmony of interests between the State, land users, and investors.

Regarding this principle, it is noted that the market: although land pricing

⁴⁸ Bui Thi Then, Bui Thi Ngoc Cam and Dang Thu Hang, “Developing criteria for inspection and evaluation of specific land valuation work at the local level” 52 *Journal of Natural Resources and Environmental Sciences*, (2024) 75

⁴⁹ IVSC, New edition of the International Valuation Standards (IVS) published, <https://ivsc.org/new-edition-of-the-international-valuation-standards-ivs-published/#:~:text=Regularly%20updated%20by%20the%20IVSC's,for%20download%20through%20IVS%20Online.>, 24 January 2024

⁵⁰ RICS, International Valuation Standards (IVS), <https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/valuation-standards/red-book/international-valuation-standards>

principles are based on market principles, the land use rights market in Vietnam is not yet truly complete and transparent, with most land transactions still occurring off-exchange, lacking complete information. Many “underground” transactions still exist, with declarations of prices lower than the actual reality, as reducing taxes and fees is common. Specifically: “In reality, in Hanoi City, there exists a situation where taxpayers declare real estate transfer prices in purchase contracts, transfer contracts, or tax determination declarations that do not match actual transactions, leading to under-declaration of obligations to the state budget,”⁵¹ which leads to the consequence that the database for determining market-based land prices is not yet accurate.

The lack of a synchronized, accurate, and timely updated land database is one of the major barriers to market-based land pricing. Although the 2024 Land Law stipulates the construction of a national land database, implementation has not been completely synchronized nationwide to date. According to information from the Ministry of Natural Resources and Environment, as of now, the national land database application model and software have been deployed in 63 provinces and cities, but only 32 localities have implemented synchronized and unified data structure connectivity with the Ministry's database. The remaining provinces have been operating, but they have not yet achieved complete synchronization.⁵²

Third, land compensation prices for land acquisition cases under Article 78 for national defense and security purposes and Article 79 for land acquisition for socio-economic development in national and public interests will essentially not differ in price determination principles, and both are calculated for damage compensation according to market principles and determined at the time of land acquisition decisions. However, in the author's view, although these two land acquisition cases are similar in content and serve community interests, the land acquisition case under Article 79 of the 2024 Land Law presents an intersection between economic and community factors, so land prices for damage compensation calculation should differ between these two cases.

⁵¹ Tram Anh, “What does the Hanoi Tax Department recommend if you “falsely declare” real estate transfer prices lower than actual selling prices?” VnEconomy (2022). <https://vneconomy.vn/techconnect//lo-khai-gian-gia-chuyen-nhuong-bat-dong-san-thap-hon-gia-ban-thuc-te-cuc-thue-ha-noi-khuyen-nghi-gi.htm>, Accessed April 27, 2025.

⁵² Hong Huong, “Towards meeting national land database standards by June 2025,” (2025). Accessed April 27, 2025.

When comparing experience in India, according to Article 22, Part 3 of the Land Acquisition Act, in cases where land is needed for economic development, the State calculates compensation based on the market value of the land. Land damage will also be considered when determining compensation levels at the time of land acquisition notification. In addition to market price calculations, courts may consider adding 30% to the compensation value, as this is a case of mandatory land acquisition.⁵³ Referring to the same issue with experience in Taiwan, according to Taiwan's Land Acquisition Law of 2000, real estate valuation must distinguish between land value and assets created on the land. Land compensation prices are values at the time of land allocation, and compensation values for construction works on land are calculated according to replacement prices under equivalent conditions.⁵⁴ Through this, land compensation prices for public interest purposes in some countries have compensation calculations higher than the market prices. Because ultimately, this is a mandatory land transfer mechanism, which may go against land users' wishes.

Fourth, Taiwan has many similarities with Vietnam. The basic difference is that the authority to decide land prices and compensation values belongs to valuation committees, comprising multiple decision-making members, not decided by administrative agencies, as in Vietnam. Notably, at the provincial level, there are specialized land price management agencies that assist local leaders, independent of financial management agencies and land management agencies. Vietnam can consider Taiwan's experience in applying mechanisms for assigning responsibility for market-based land price decisions and compensation levels to a land price valuation committee. Laws can assign various tasks related to land prices to this committee, such as resolving land price disputes and handling land price complaints.⁵⁵

F. Balancing Interests Through Support Policies

1. Support Policies for Training, Career Transition, and Job Seeking

In the context of rapid urbanization, industrialization, and the implementation of socio-economic development projects, the acquisition of agricultural land has

⁵³ Ministry of Natural Resources and Environment, “*Foreign experience in land management and law*,” (September 2012_19).

⁵⁴ Dang Hung Vo, “*International experience in land price management*,” (2022). <https://tapchitaichinh.vn/nghien-cuu--trao-doi/trao-doi-binh-luan/kinh-nghiem-quoc-te-ve-quan-ly-gia-dat-20380.html>, Accessed January 1, 2021.

⁵⁵ Dang Hung Vo, “*International experience in land price management*,” (2012). <https://tapchitaichinh.vn/nghien-cuu--trao-doi/trao-doi-binh-luan/kinh-nghiem-quoc-te-ve-quan-ly-gia-dat-20380.html>, Accessed January 1, 2021.

significantly impacted the livelihoods of a portion of the population. To ensure the legitimate rights and interests of those whose land is recovered, the State has issued support policies for vocational training, job transition, and seeking new employment opportunities. These policies not only help people adapt to new socio-economic conditions but also promote sustainable labor restructuring, improve human resource quality, and contribute to social security stability in localities where land acquisition occurs. However, while on average, each hectare of recovered land affects the employment of 10 workers⁵⁶, research by the Vietnam Academy of Social Sciences shows that: “only about 10% of farmers whose land was recovered found new employment, nearly 60% of workers whose land was recovered continued with agriculture; nearly 30% of workers whose land was recovered had jobs but were unstable (working as construction assistants, scrap dealers, motorcycle taxi drivers, etc.). What is concerning is that 53% of households experienced reduced income compared to before land acquisition, and only 13% of households became better off.”⁵⁷

To address this issue, Articles 108 and 109 of the 2024 Land Law provide additional support provisions for those whose land is recovered. New regulations include support for training, career transition, and job seeking for vulnerable groups with limited working capacity such as individuals under social protection, monthly social allowance beneficiaries, war invalids, sick soldiers, and families of martyrs; support for relocating livestock for households; and amendments to career transition and job seeking support regulations by removing the “working age” condition for “individuals directly engaged in agricultural production.” These are new provisions aimed at facilitating propaganda and mobilizing people to comply with land acquisition policies, demonstrating the coordination of various policies related to people's rights and interests.⁵⁸ Regarding the mechanism for balancing interests through support policies, certain obstacles still exist:

First, the law governing support for training, career transition, and job seeking when the State recovers land for socio-economic development in the national and public interest is outlined in Article 19, Section 4, Chapter II of Decree 88/2024/ND-CP.

⁵⁶ Pham Thu Thuy , “Solving employment and protecting sustainable livelihoods for people whose agricultural land is recovered,” 4 *Journal of Legal Studies*, (2023) 56.

⁵⁷ Tran Thi Minh Ngoc , “*Employment of farmers in the process of industrialization and modernization of the Red River Delta region by 2020*,” (National Political Publishing House, Hanoi, 2010) 123, 124.

⁵⁸ Do Thi Viet Ha, “*Some new points of the Land Law: Important foundation for resolving difficulties and obstacles in practice in Bac Giang and solutions for organizing law implementation*, Document presented at the Conference on Dissemination and Implementation of the 2024 Land Law of the Justice Sector,” (Hanoi, dated March 22, 2024).

However, similar to the 2013 Land Law, the forms of support for training, career transition, and job seeking in Article 109 of the 2024 Land Law do not specify minimum land area conditions for acquisition. This leads to cases where only a few square meters of agricultural land are recovered, yet beneficiaries still receive the same policy benefits as those significantly affected. Logically, this needs reconsideration, as in reality, people are not losing their livelihoods entirely. Additionally, Clause 2 of Article 109 of the 2024 Land Law states: “Cash support not exceeding 5 times the price of similar agricultural land in the local land price table for the entire area of recovered agricultural land, with the supported area not exceeding the local agricultural land allocation limit.” The law only quantifies the maximum support limit of not more than 5 times the agricultural land price, without indicating a minimum limit. This may lead to disparities in support amounts between localities.⁵⁹

When comparing law implementation at the local level, there is a lack of consistency and equity among subjects whose agricultural land is recovered. Specifically, according to Article 13 of Decision 54/2024/QĐ-UBND of Cao Bang Province on compensation, support, and resettlement regulations when the State recovers land in Cao Bang Province, the support level is set at 3.5 times the agricultural land price; Article 9 of Decision 38/2024/QĐ-UBND of Nam Dinh Province issued on September 24, 2024, sets the support level for training, career transition, and job seeking at 3 times the agricultural land price; Article 14 of Decision 31/2024/QĐ-UBND of Quang Nam Province dated October 25, 2024, sets the support level at 3.5 times the agricultural land price. Specifically, Decision 45/2024/QĐ-UBND applicable to Bac Lieu Province sets the cash support level at 2.0 times the agricultural land price.⁶⁰

Second, upon closer examination, compensation and support policies designed to balance the interests of affected beneficiaries remain largely formalistic. These policies are typically reactive, meaning that support mechanisms are only activated when a type of damage is explicitly listed in the law. As a result, the deeper and longer-term socio-economic impacts of land acquisition on affected individuals, especially the disruption to livelihoods during and after displacement, are often overlooked or insufficiently

⁵⁹ Phan Trung Hien, “*Compensation, support, resettlement - results from surveying households whose land was recovered in Can Tho City.*” In V.V. Thang (Ed.), *The role of higher education in socio-economic development*, (2014) 389-390.

⁶⁰ Nguyen Thanh Phuong and Tran Thi Thu Van, Law on support for training, career conversion, and job search in cases where the State recovers agricultural land under the 2024 Land Law, *35 Journal of Science & Development Economics*, (2025), 83-85.

addressed. To provide a more holistic and accurate basis for support, many countries have adopted the use of Livelihood Profiles. These profiles serve as structured frameworks for capturing detailed information about how households earn, manage, and sustain their economic lives. A Livelihood Profile typically includes data on both primary and secondary sources of income, whether derived from agricultural or non-agricultural activities. It also maps out how households organize their economic activities—what they produce, whom they sell to, and the level of income generated.

Additionally, these profiles document household assets, including land, livestock, production tools, and the skills of laborers. They also assess key factors such as production and consumption costs, market access, credit availability, and access to vocational training. Through this comprehensive lens, the actual impact of land acquisition on people’s lives can be quantified more effectively. In international practice, this data is often used as a basis for determining the extent of support required to maintain or restore livelihoods. The application of these criteria is typically summarized and operationalized using models such as those illustrated in Table 1.

Table 1

Criteria for Determining Support Based on Livelihood Disruption Due to Land Acquisition

Criteria	Before Acquisition	After Acquisition	Notes
Agricultural income	80% of the total income.	0%	Need vocational training support.
Total production assets	3 hectares of land, two tractors.	No land remaining.	Startup capital needed.
Other income assets	None	Freelance labor	Low income, employment support needed.

The application of livelihood profiles in the context of land acquisition holds significant value in accurately assessing damage beyond the mere measurement of recovered land area. By integrating livelihood data, the assessment process extends to capture disruptions to income sources, employment capacity, and overall household economic stability. This enables a more nuanced understanding of the socio-economic impacts of land acquisition, ensuring that compensation and support measures are not only legally compliant but also substantively fair and effective. Livelihood profiles enable differentiated support based on the severity of the impact. Households severely affected,

such as those that lose their primary or entire sources of income, can be identified as priority beneficiaries for comprehensive interventions, including vocational training, resettlement assistance, and job creation programs.⁶¹ Conversely, households experiencing minimal disruptions may only require limited or no support. This stratified approach minimizes the inefficient allocation of public resources and avoids blanket compensation schemes that extend benefits to individuals or households that are only marginally affected.

Moreover, the use of livelihood profiles enhances post-acquisition monitoring by providing a structured mechanism to track the recovery of livelihoods and assess the real-world efficacy of implemented support policies. Monitoring this trajectory ensures that assistance is adjusted responsively and that policy interventions remain aligned with ground realities. Several developing countries have already adopted livelihood profiling as a standard component of land acquisition frameworks. For example, Ghana has operationalized a Land Acquisition and Livelihood Policy Framework (LALPF) to guide its urban development and infrastructure projects. This framework has facilitated a comprehensive understanding of community-level livelihood systems, spanning agriculture, livestock, handicrafts, and other economic activities, thus enabling the identification of the most vulnerable populations.⁶² Based on these insights, targeted compensation and support programs are designed to address actual needs, rather than relying on generalized assumptions. The Ghanaian experience demonstrates the practical utility of integrating socio-economic data into land governance. It highlights how evidence-based profiling can inform equitable compensation strategies and enable more adaptive, just, and sustainable resettlement outcomes.⁶³ As such, livelihood profiling should be viewed as a foundational tool in modern land acquisition processes, particularly in contexts where socio-economic resilience is tightly linked to land-based livelihoods.

⁶¹ Frimpong, A. , Factors Influencing the Effects of Large-Scale Land Acquisition on the Livelihood of Smallholder Farmers in the Pru District of Ghana, 16 European Scientific Journal, 11(2020)1857-7881, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3623863

⁶² R O Mensah and C Quansah, ,” Effects of Large-Scale Land Acquisition on the Livelihood Outcomes of Smallholder Farmers in the Pru District of Ghana,” 11 International Journal of Business and Social Science,8 (2020), 83-94., <https://www.researchgate.net/publication/345978993>

⁶³ World Bank, “Land Acquisition and Livelihood Policy Framework” (2020) 12-14. Retrieved from <https://documents1.worldbank.org/curated/en/431721608298441576/pdf/Land-Acquisition-and-Livelihood-Policy-Framework.pdf>

3 SUPPORT POLICIES FOR LIVELIHOOD STABILIZATION WHEN THE STATE RECOVERS LAND

Compared to the status quo, the 2024 Land Law has separated the support mechanisms for livelihood stabilization and production into two distinct provisions, instead of integrating them as before. Additionally, lawmakers have also removed the condition requiring land users to be directly engaged in agricultural production to qualify for policy benefits. Accordingly, in Article 19 of Decree 88/2024/ND-CP, livelihood stabilization support has been specifically explained. From the provisions on conditions used as a basis for determining livelihood support amounts when the State recovers agricultural land, several observations can be summarized:

First, Decree 88/2024/ND-CP still maintains the spirit of the previous Decree 47/2014/ND-CP when establishing multiple land acquisition thresholds to ensure equity for land users. However, this change is not entirely comprehensive and does not fully meet social requirements. Cases may occur where households whose land acquisition is negligible still receive support policies (for example, losing 100m²/200m² will be converted to 50% of the existing agricultural land). Conversely, subjects with land acquisition areas many times larger may not be considered for support (for example, losing 3,000m²/20,000m² currently owned), showing that there will be cases of large land area loss, but the percentage conversion ratio over existing land area is quite small. Therefore, this issue needs to be considered and corrected promptly.

Second, livelihood stabilization support regulations are determined according to each acquisition decision, showing that there will be cases affected by multiple different acquisition decisions. However, according to each land acquisition decision, the lost land is fragmented. Even though the total accumulated lost land area is quite large, according to each separate decision, it will not meet the ratio for support consideration.⁶⁴ Additionally, it is noted that in the Constitution and related laws concerning the rights, responsibilities, and obligations of cadres, civil servants, public employees, retirees, and monthly salary and allowance recipients from the budget, the law does not restrict rights nor prohibit these subjects from engaging in agricultural production. In practice, income from agricultural production is still a major, primary income source for many people

⁶⁴ Phan Trung Hien , “*What you need to know about compensation, support, and resettlement when the State recovers land,*” (Truth National Political Publishing House, 2020) 265

receiving monthly salaries and allowances from the budget. The classification of support recipients according to Decree 88/2024/ND-CP needs more specific guidance.

Third, the support amount calculated based on rice prices, then converted to money, appears illogical, maintaining the thinking from the 2013 Land Law. If this were initially determined according to regional minimum wage levels, it would appear more reasonable and fair among subjects, given the fact that rice prices will have certain disparities.⁶⁵ In essence, the term “livelihood stabilization” must encompass the most comprehensive values, such as eating, housing, transportation, entertainment, etc. Pricing based on rice value cannot reflect the core essence of support.⁶⁶

Fourth, the current law application regarding support lacks consistency and equity according to the principles in Article 91 of the 2024 Land Law. Specifically, Clause 2 of Article 19 of Decree 88/2024/ND-CP stipulates: “In cases where households and individuals currently using land as specified in Clause 1 of this Article have less than 30% of their agricultural land area in use recovered; households and individuals using land who do not meet conditions for land compensation or due to receiving contracted land for agricultural, forestry, aquaculture, or salt-making purposes from state-owned agricultural or forestry farms or agricultural and forestry companies converted from state-owned agricultural and forestry farms, agricultural production groups, agricultural cooperatives and having land use contracts, then the Provincial People's Committee shall decide the support level, support duration, and periodic support payment schedule appropriate to each specific case but not exceeding the support level specified in Clause 1 of this Article.” Previously, cases involving land acquisition of less than 30% of the total area in use would not receive support or would receive different support mechanisms depending on the locality. However, according to the spirit of Clause 2, Article 19 of Decree 88/2024/ND-CP, cases involving land acquisition of less than 30% of the agricultural land area in use may still receive livelihood stabilization support, provided that it does not exceed the support level specified in Clause 1 of this Article. This regulation leads to the consequence that cases involving land acquisition below 30% and those with acquisition from 30-70% of the agricultural land area may receive the same support.

⁶⁵ Pham Van Vo , “The issue of support when the State recovers land under the 2013 Land Law,”1 *Journal of Legal Studies*,(2015) 63

⁶⁶ Nguyen Thanh Phuong , “Law on support for livelihood stabilization when the state recovers agricultural land, and some recommendations for improvement,” 11 *Journal of Democracy & Law*, 332 (2019), 42–47

This inconsistent regulation leads to consequences in the application of local law, where agricultural land acquisition cases involving less than 30% of the area may still receive support policies similar to those for cases involving acquisition of 30-70% of the area. Specifically, Article 10 of Decision 45/2024/QD-UBND of Bac Lieu Province stipulates: “Households and individuals currently using agricultural land as specified in Clause 2, Article 19 of Government Decree No. 88/2024/ND-CP having less than 30% of their agricultural land area in use recovered; households and individuals using agricultural land who do not meet conditions for land compensation or due to receiving contracted land for agricultural, forestry, aquaculture, or salt-making purposes from state-owned agricultural or forestry farms or agricultural and forestry companies converted from state-owned agricultural and forestry farms, agricultural production groups, agricultural cooperatives and having land use contracts shall receive livelihood stabilization support for 6 months if not required to relocate residence and for 12 months if required to relocate residence; in cases requiring relocation to areas with difficult or especially difficult socio-economic conditions, the support period is 24 months.”

Sixth, one of the principles to be observed according to Clause 1, Article 91 of the 2024 Land Law is “public disclosure, in accordance with legal provisions.” However, when applied locally, this principle is still not ensured, as the law's application has not clearly distinguished specific support amounts. Specifically, for cases that do not meet compensation requirements, the State may consider applying “other support” mechanisms. However, Article 16 of Decision 45/2024/QD-UBND of Bac Lieu Province, regarding other support mechanisms, still contains many inadequacies, as “other support” encompasses production and business stabilization support, as well as livelihood stabilization support.

The above issue shows that localities have not clearly identified which subjects qualify for livelihood stabilization support policies and which subjects do not qualify and should be considered for other support. Local regulations lacking a scientific basis may lead to the consequence that all subjects whose agricultural land is recovered, regardless of the acquisition area, are calculated and considered for livelihood stabilization support policy benefits, which need to be reviewed and amended in the future.⁶⁷

⁶⁷ Danh Thanh Y (, “Law on support when the State recovers agricultural land from individuals – Practice in Hong Dan District,” Bac Lieu Province, Master's thesis, Supervisor: Assoc. Prof. Dr. Phan Trung Hien, (Mekong University, 2005)56.

3.1 Recommendations for equitable land acquisition

A. Clearly Define Support Recipients and Compensation Criteria

Land acquisition for socio-economic development remains a highly sensitive and multifaceted issue, primarily because it involves balancing the interests of various stakeholders, particularly the rights and well-being of affected residents. One critical recommendation in addressing this challenge is the issuance of clear and specific regulations that define who qualifies as a support recipient. This should encompass not only individuals whose land is formally acquired but also those who are indirectly affected by the acquisition process. Implementing such a framework would represent a significant step toward enhancing equity, transparency, and public trust in the governance of land acquisition. For instance, Tran identifies a major gap in current practice to be: lack of clarity regarding eligibility for support, which has led to numerous cases where residents remain uncertain about their rights and entitlements. This ambiguity often results in prolonged grievances and complaints.⁶⁸ By explicitly defining support recipients—including people residing near acquisition zones who may not hold formal land titles—legislation would empower residents to understand and assert their rights more confidently, while fostering broader community participation in the decision-making process. Such inclusivity helps reduce social tensions and preempt conflicts commonly associated with land acquisition.

Equally important is the need to establish precise and scientifically grounded criteria for determining damages. Compensation should not be restricted to the market value of the land alone but must also account for property loss, disruption to livelihoods, and less tangible yet significant effects such as psychological distress, cultural dislocation, and the erosion of community ties. Without well-defined and transparent criteria, compensation assessments risk appearing arbitrary or insufficient, thereby fueling dissatisfaction and opposition within affected communities.⁶⁹ Developing these standards through expert consultation and participatory research ensures that damage assessments are both rigorous and socially legitimate. Furthermore, a fair and coherent

⁶⁸ Tran, Cong Lap. "The Current Status of Compensation, Support, and Resettlement when the State Acquires Land for Socio-economic Development," *6 International Journal of Law and Politics Studies I*(2024) 27-34.

⁶⁹ Johnson, Craig, and Arpana Chakravarty, "Re-thinking the role of compensation in urban land acquisition: empirical evidence from South Asia." *2 Land 2* (2013) 278-303.

compensation plan strengthens public confidence in the intentions and practices of governing institutions. When residents perceive that they are being treated with fairness and dignity—reflected in equitable compensation for the totality of their losses—they are more likely to cooperate with land acquisition processes. This cooperation, in turn, facilitates the smoother and more timely implementation of socio-economic development projects. Ultimately, introducing clear regulations on both support recipients and damage assessment will enhance the overall effectiveness of land acquisition policies. Beyond ensuring legal compliance, such measures serve to protect residents' rights, promote social stability, and support more sustainable and inclusive development outcomes.

B. Develop the Concept of “Damages from State Land Acquisition”

Land acquisition for socio-economic development represents a complex and often contentious process, primarily due to the competing interests of various stakeholders, particularly those of the affected residents. A crucial step toward ensuring fairness and transparency in this process is the formulation of specific regulations that clearly define the recipients of support. These regulations should encompass not only individuals whose land is formally expropriated but also those indirectly impacted by the land acquisition process. Such clarity is vital in promoting equity and fostering greater public trust in land governance. Currently, many affected individuals remain uncertain about their eligibility for support, which often leads to prolonged grievances and disputes.⁷⁰ By clearly identifying all eligible support recipients, including those residing near, but not owning, the acquired land, laws can help residents better understand their entitlements and engage more effectively in the compensation process. This clarity reduces perceptions of bias or exclusion and minimizes social tension associated with land acquisition.

Equally important is the need for clearly defined criteria to determine the full scope of damages. Compensation must not be limited to the market value of the land, but should also account for damage to property, disruptions to livelihoods, and non-material losses, such as psychological stress and cultural disintegration. Without such comprehensive and scientifically informed criteria, compensation processes may appear arbitrary or inadequate, exacerbating dissatisfaction within the affected communities.⁷¹ Establishing such criteria through expert consultation and participatory research methods

⁷⁰ Johnson Craig, and Arpana Chakravarty, "Re-thinking the role of compensation in urban land acquisition: empirical evidence from South Asia".

⁷¹ Nguyen Tran Tuan, and Gábor Hegedűs. "Land compensation and policy enforcement in Vietnam: A case study in Danang," 30 *Real Estate Management and Valuation* 2 (2022) 34-46.

ensures that damage assessments are both credible and equitable. Moreover, a transparent and fair compensation framework plays a critical role in building trust between residents and government institutions. When communities perceive that they are being treated with dignity and fairness, evidenced by comprehensive and just compensation, they are more likely to cooperate with land acquisition initiatives. This cooperation is essential for the efficient and timely implementation of development projects. Overall, the introduction of specific regulations that define support recipients and outline clear criteria for damage assessment is not only a legal necessity but also a social imperative. These measures will enhance the overall effectiveness of land acquisition policies, safeguard the rights of affected populations, and promote inclusive and sustainable socio-economic development.

C. Regulating Interests Through Various Forms of Compensation

Applying diverse compensation methods in land acquisition is a critical recommendation aimed at safeguarding the rights of affected residents while promoting conditions for long-term, sustainable development. In the current landscape, where land acquisition processes are frequently met with public resistance, the pursuit of equitable and comprehensive compensation strategies has become more urgent than ever.⁷² These methods must go beyond traditional monetary compensation to encompass broader mechanisms that facilitate livelihood restoration and successful reintegration into the community. One such approach is land-for-land compensation, which offers displaced individuals an alternative form of restitution that preserves their productive capacity. Rather than receiving only financial compensation, affected individuals can be allocated equivalent land in other locations, allowing them to continue agricultural or other income-generating activities. This strategy not only sustains residents' livelihoods but also fosters a sense of continuity and security, thereby reducing the psychological and economic shocks associated with displacement. Moreover, land-for-land compensation can mitigate large-scale rural-to-urban migration, thereby easing demographic pressures on urban infrastructure and public services.

Career transition support is another essential dimension of a modern compensation framework. The loss of land often entails the loss of a primary means of subsistence, particularly in agrarian communities. In such contexts, vocational training,

⁷² Belaynesh Kebede and K. N. Singh, "Implication of land acquisition on the livelihood assets of farm households in Sebeta Hawas and Sululta Woredas of Oromia, Ethiopia." 87 *GeoJournal* (2022) 4491-4509.

entrepreneurship grants, and job placement services become crucial tools for resilience. These initiatives not only empower individuals to rebuild their economic lives but also contribute to the overall development of human capital in affected regions. By investing in residents' skills and employability, career transition support ensures that compensation is not merely reactive but developmental, equipping individuals with tools for long-term adaptation and growth. Equally important is the facilitation of access to financial support mechanisms. Affected residents often face challenges in securing capital to rebuild or re-establish their livelihoods. Government-backed support funds, preferential credit schemes, or low-interest loans can provide the necessary financial cushion during the transition period. When structured appropriately, these mechanisms create a favorable economic environment that reduces vulnerability and encourages self-reliance. This approach not only speeds up the post-acquisition recovery process but also contributes to social stability and economic continuity within the community.

4 CONCLUSION

Land acquisition for socio-economic development remains a complex process involving competing interests, particularly those of affected communities. To promote fairness and sustainability, it is essential to adopt a comprehensive understanding of damages, encompassing both material and non-material losses, and to implement diverse compensation methods such as land-for-land, livelihood restoration, and financial support. These approaches help protect residents' rights, support long-term livelihood recovery, and foster social stability. Equally, transparent monitoring and community participation are vital to ensuring fair implementation and building public trust. Together, these measures form the foundation for equitable and sustainable land acquisition practices.

Unlike Vietnam, it can be argued that Poland could learn a lot from the Vietnam scenario. Although in both Vietnam and Poland, land expropriation/ acquisition is done for projects deemed necessary for the greater public good, Poland needs to streamline its legal framework like Vietnam. Both jurisdictions have anchored the concept of expropriation in their legislation; however, Poland's case presents some challenges, which will be discussed.

Equitable compensation after acquisition is enshrined in law. It seeks to restore those affected by the acquisition to a situation almost similar to where they were before the appropriation, not leaving them worse off or better off. Also, the determination of the amount to be given as compensation is pegged on the prevailing market value.

The key lesson Poland can learn from Vietnam is the importance of creating a unified single legislation on compensation following land acquisition. Vietnam's Land Law, No. 31/2024/QH15, dated January 18, 2024, serves as a comprehensive guide on valuation and compensation for land after acquisition. This has not been the case in Poland because it has frequently passed special infrastructural plans at the expense of existing legislation and plans. These special spatial plans have been relied upon for the rapid expropriation and delivery of infrastructure projects.

However, as Poland increasingly relies on the Special Infrastructural Acts, it continues to create different expropriation and compensation regimes for various projects and areas. This could easily lead to confusion and legal challenges. Therefore, Poland should adopt the Vietnamese concept of a uniform expropriation and compensation regime.

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Authors' Contribution

Both authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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