

Opinion: Vietnam's Need for Constitutional Reform
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By Tayson DeLengocky

Doan Van Vuon: national hero

A man's home, it has been said, is his castle. In countries where the rule of law prevails, everyone—government officials, property owners, and their neighbors—recognizes that a property owner has the right to own his or her land and to use it for his or her personal enjoyment or business purposes, subject only to local zoning ordinances.

In Vietnam, however, the situation is far different. All land is owned by the state, and citizens are granted temporary leases to use the land for their personal economic development at the household level. When a bureaucrat's plans change, your claim to a parcel of land can quickly become meaningless.

A recent incident involving Vietnamese farmer Doan Van Vuon shows what can happen in countries that lack or a strong system of protections for private property and a commitment to the rule of law. In January 2012, Doan Van Vuon coordinated an act of armed resistance by placing home-made bombs on his 47 acres of land in the Tien Lang district of Hai Phong city. He took this step to fend off the 100 policemen and soldiers the local authorities sent to invade his land and forcibly remove him and his family.

Vuon has been an exemplary and law-abiding citizen; he is an agriculture engineer by formation and served his country in the military in a time of war. He and his family members spent 14 years transforming a wasteland into shrimp and fish ponds, which were worth US\$250,000. Tragically, his daughter and nephew drowned during those development years.

It is common practice in China or Vietnam for local authorities to revoke the land lease and give it to other developers; the authorities take large sums of money in a process that amounts to bribery. The seizure of Vuon's land followed the common practice. The local authorities issued a revocation order a few years ago and did not provide any compensation for the land development.

Vuon took the matter to the People's Higher Court of Hai Phong for litigation and arbitration. The arbitration was agreed upon and signed by the local authorities and Vuon in front of the Court. The agreement stated that Vuon would drop the lawsuit and the local authorities would renew the land lease. As soon as the lawsuit was dropped, the local authorities proceeded with the land seizure without any compensation.

The agents were ambushed with home-made bombs and firearms even though Vuon was not present at the scene of the invasion or land seizure. Four police officers and two soldiers were wounded or injured in the skirmish. Vuon and three relatives were later arrested following the armed confrontation.

A few days later, the regional government apparently hired three local men to bulldoze Vuon's nearby house, even though the home wasn't on the contested property.

Vuon was about as far from a common criminal as one could imagine. According to Voice of

America, “Vuon has been hailed as a model farmer because he transformed barren land into a thriving fish farm, prompting other farmers in the area to follow his lead and make a profit.” Until the government arrived to seize his land, he embodied the ideal of the small farmer living peacefully and productively, an ideal that has been recognized for centuries.

Thomas Jefferson, author of the Declaration of Independence, wrote in 1781 of his admiration for farmers in his Notes on the State of Virginia. “Those who labor in the earth,” he wrote, “are the chosen people of God.” Even a number of retired generals, ministers and even former president Le Duc Anh came to Vuon’s defense and praised him for his hard work and achievement in transforming a wasteland into a productive agricultural development.

The Hai Phong authorities’ treatment of Vuon demonstrated not respect but contempt. The Communist authorities showed great disregard for his long-standing claim to the land that he farmed so effectively. Instead of seeing Vuon’s farm as an example of what hard work can achieve for a community, the Vietnamese authorities saw his land as a way to make profits with possible new redevelopment. Vietnam’s government should ensure that citizens who work hard and foster economic growth don’t lose everything they’ve built simply because central planners want to implement a new development project for their land.

In the US, the situation would have been resolved far differently. If a unit of government wants to exercise eminent domain to obtain land for a necessary public works project, such as an airport or highway, the unit of government has to provide the property owner with fair market value for his or her land. If the property owner disputes the necessity of the land condemnation, he or she could take the unit of government to court, where an impartial judge evaluates the evidence and rules on the legality of the property’s condemnation.

In Vietnam, however, decisions regarding land seizures are often made by local governments, such as the Hai Phong city government. With a court system that follows the dictates of the ruling Communist Party, citizens have few means of protecting their property. According to *Freedom in the World 2011*, published by the non-partisan research organization Freedom House, “Land disputes have become more frequent as the government seizes property to lease to domestic and foreign investors.

Affected residents and farmers rarely find the courts helpful, and their street protests have resulted in harassment and arrests by the state.” Although Vuon has a lawyer to represent him, according to Freedom House, in general, “lawyers are scarce, and many are reluctant to take on human rights and other sensitive cases for fear of harassment and retribution—including arrest—by the state.” Unlike the court system in the United States, the judicial branch provides little protection to Vietnam’s citizens.

This case is truly very revealing about where real power lies in the Vietnamese system. The court failed to resolve the dispute and the legality of the local authorities’ order of land seizure. It was up to Prime Minister Nguyen Tan Dung, who made the final determination that the order was an illegal act. Furthermore, as the Land Lease Law is about to expire next year and the communist authorities are unable to decide how to reform the law; potential reforms include lengthening the term of the land lease or allowing private land ownership.

Prime Minister Nguyen Tan Dung just decreed an extension of the land lease for another 20 years. He bypassed the legislative power of the National Assembly, which is actually a rubber

stamp for all policies forwarded by the Communist Party of Vietnam.

Vuon's case shows that Vietnam is in need of major constitutional reforms. The Vietnamese government should move rapidly to end its monopoly on property and give its citizens the ability to own the land that they have farmed for decades. Beyond property reform, though, citizens should demand that Vietnam's Communist government give them the ability to speak freely about political issues without fear of imprisonment.

Vietnam's Communist leader, Ho Chi Minh, invoked what can best be described as the language of human liberty when he delivered his "Proclamation of Independence of the Democratic Republic of Vietnam" on September 2, 1945. He opened his speech by repeating, almost verbatim, a line from the United States' 1776 Declaration of Independence.

Ho Chi Minh said, "All men are created equal. They are endowed by their Creator with certain inalienable rights, among these are life, liberty, and the pursuit of happiness." His Proclamation included a litany of France's abusive conduct toward Vietnam, just as the U.S. Declaration of Independence described the tyranny of Great Britain's King George III. Ho Chi Minh later observed, "All the peoples on the earth are equal from birth, all the peoples have a right to live, to be happy and free."

He concluded his Proclamation with these words: "The entire Vietnamese people are determined to mobilize all their physical and mental strength, to sacrifice their lives and property in order to safeguard their independence and liberty." Today, the greatest threat to liberty comes not from a foreign colonialist power, but rather from Vietnam's Communist government. Under a Communist regime, Vietnam will remain only a shadow of what it has the potential to be. A government dominated by like-minded individuals—loyal members of the Communist Party—is not well-positioned to thrive politically or economically.

The sad thing is that while Vuon, his brother and his nephew are being charged for attempted murder, the local authorities who abused their power and vandalized Vuon's house have not been criminally charged because they are party members. Even Vietnam's press finds it laughable that the same local authorities who seized Vuon's land were later called upon to rectify their mistake. After the outcry by the public, the local authorities were dismissed or suspended temporarily.

Vandalism is a crime. The local authorities should be charged instead of enjoying their privileges of being officials and party members.

When the land revocation order was judged as an illegal act, the mobilization of force to enforce an illegal act is also illegal. Therefore, the local authorities are solely responsible for the wounded officers. Vuon and his family did nothing wrong morally and legally. Vuon and his family were not even at the scene when the officers were injured by the mines.

How can they be charged with attempted murder even though they were not even at scene? Vuon may be held for illegal possession of arms. However, the officers were trespassing illegally onto Vuon's land and did so at their own peril. America is lucky to have the 2nd Amendment, which allows the citizens to bear arms to oppose tyrants.

Vuon's act of courage to resist forcefully the tyranny of local authorities has set in motion a process that will help millions of farmers over the next two decades—the length of the 20-

year land-lease extension set by Prime Minister Nguyen Tan Dung.

The Vietnamese communists acted so quickly in issuing the lease extension decree because they wanted to avoid the implosion of their control and power of the country. There may have been armed resistance movements against the communist regime or arms used by street criminals and gangsters in Vietnam. Vuon's act of making weapons—as a law abiding citizen—to resist tyranny is the first such act in the communist history.

This is the turning point of the regime as oppression can only apply so much until one day the whole system implodes, just as it did in Tunisia, Egypt and Libya. Not because political parties fight for power, but because the people have had enough of the communist government's oppression and intrusion, and the people will rise. Therefore, We Are All Doan Van Vuon.

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