

Vietnam Land Access for Women (LAW) Program

Photograph courtesy of ISDS



Women, Land and Law in Vietnam



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Acronyms

CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
ICRW	International Center for Research on Women
ISDS	Institute for Social Development Studies
LURC	Land Use Certificate
USAID	United States Agency for International Development
UDHR	Universal Declaration of Human Rights
LAW	Vietnam Land Access for Women

Summary

Access to land is one of the fundamental economic, social and cultural rights protected under various international treaties as well as in national constitutions. Yet too often there is a large gap between the law and women's ability to claim their rights as property owners. This report presents findings from a rapid assessment study that constitutes a baseline for the United States Agency for International Development (USAID) funded program called Vietnam Land Access for Women (LAW). The Vietnam LAW program is a two year pilot intervention implemented by the Institute for Social Development Studies (ISDS) and the International Center for Research on Women (ICRW) that aims to strengthen the reach and efficacy of land-related rights for farmers, particularly women. This pilot intervention is taking place in Hung Yen and Long An provinces. The study collected information about farmers' ability to access land, and their attitudes and knowledge of land law, particularly women's land rights and farmers' ability to solve land-related conflicts at the commune level. Data collection took place between October and November 2014. The team surveyed 864 couples of randomly selected households and interviewed 48 women and 18 men among local government representatives, representatives from civil society and farmers in both Hung Yen and Long An.

Key Findings

Farmers' ability to access land

In the survey, we asked men and women separately who they thought was the owner of the land in their family. Using the listing of land owners, we calculated the number of men and women land-

owners and the number of plots owned by them. In both provinces, we found that an overwhelming majority of land owners were men – 62% of landowners in Hung Yen and between 71% and 73% in Long An.¹

The law requires both names of spouses to be registered on land use certificates. However, we found that only 1% of the plots were registered under both names of couples in Long An and 35% in Hung Yen. Plots were most often registered under a man's name in both provinces.

Farmers' awareness of existing land rights and gender implications under current legislation

Participants in the study perceive that women and men face different barriers to accessing land. In both provinces, participants identified lack of knowledge about obtaining and registering their name on a Land Use Certificate (LURC)² as the main barrier for men, but traditional practices were additionally cited as a significant hurdle for women.

Seven key statements about women and land rights in Vietnam were selected to measure whether participants in the study had basic knowledge of the land law, and women's rights in particular. Twenty-four percent of men and 18% of women in Hung Yen and 19% of men and 14% of women in Long An answered all the questions about knowledge correctly. In both provinces most people knew that a woman can inherit land and/or houses if her husband dies, and that a woman must first give consent before her husband can sell the family land or house. However, fewer people knew that widows

1. In Long An, women's answers differed from men's answers. Women listed 411 landowners whereas men only listed 409 landowners. Using women's answers in Long An, 71% of landowners are men; using men's answers, 73% of the landowners are men.

2. In Vietnam land is owned by the government. The government can grant citizens and foreigners permission to use the land through granting land use certificates (LURC).

who remarry do not lose their rights to the land or house inherited from their deceased spouse, or that wives and husbands can own their own separate land or house during their marriage. In Long An, fewer people knew that childless women have the right to own land or houses than in Hung Yen.

We asked participants in the study about their attitudes towards the statements previously used to test their knowledge of the law. Basic women's rights were often accepted by men and women in Hung Yen and Long An. There was less agreement about separation of property during marriage, the ability of widows to remarry without losing their inherited land, and whether childless women could own land or houses. Disagreement with the aforementioned statements is higher among women and men in Long An than in Hung Yen.

Farmers' ability to solve conflicts and access justice to resolve land-related conflicts

Results from our qualitative study suggest that authorities at the commune level have very few resources to solve land-related conflicts and lack of knowledge of specifics of the new laws. Most survey respondents stated that there was an absence

of places and instruments for those who seek justice at the commune level. Only around 10% of people in Long An and 30% in Hung Yen said there were instruments available for those who seek justice in their communes. A higher share of participants in Hung Yen responded positively to questions about their ability to solve land related conflicts than participants in Long An. Women in Hung Yen and Long An had lower percentages of positive answers than men in both provinces. Women in Long An had the lowest percentage of positive answers about their ability to solve land related conflicts.

The allocation and distribution of land is under the discretion of provincial authorities, who may be influenced by customary practices that reinforce prejudicial attitudes and gender inequalities. Our findings suggest that it is necessary to target investments to increase knowledge of the law and positive attitudes towards women's land ownership at the commune level. Community volunteers for gender equality can play an important role in the improvement of women's ability to access land by supporting a positive change in attitude towards women's land ownership as well as by helping women and men increase their knowledge of the law and of the institutions that can guarantee their rights.

Introduction

The right to access, use, and have control of land is a fundamental right enshrined in the Universal Declaration of Human Rights (UDHR) and the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW). Access to and control of land allows people to build a home and/or to sustain a livelihood for themselves and their families. Individual ownership of homes and land can increase individuals' power within their households, communities, and states. However, the ability to own and use land depends on the complex interaction between legal and social contexts. While both men and women may be denied land and other property rights, women are more frequently marginalized by gendered social and legal norms.

A wealth of evidence points to stark gender inequalities in access to land throughout the world. Across all developing regions, women are less likely than men to own and operate land and to have access to rented land. When women do have access to land, it is often smaller in area and poorer in quality when compared to that of their male counterparts.³ ICRW's research suggests that actions to strengthen women's property rights should be directed towards actors at three levels: at the highest, advocacy should aim to influence the law and public policy making; at an intermediate com-

munity level, gaps in the implementation of law and public policy should be addressed; at the household and individual levels, efforts should focus on how intra-household power differentials—and the aforementioned levels—affect women's access to, and control of, resources.

In 1988, households were granted individual long-term use rights, marking a shift toward a market-oriented economy and decollectivization.⁴ The implementation of radical reforms in the 1990s was accompanied by strong laws to advocate for and defend women's equality. The 1993 Land Law created a real estate market and prompted a sweeping distribution program, permitting land transactions and legal titles for the first time in Vietnam.⁵ Although gender-neutral, the 1993 law seemed to benefit men more than women as the men received a larger portion of the LURCs, with only 10 to 12 percent issued in women's names.⁶ The 2003 Land Law corrected some of the gender inequalities by requiring LURCs to record the names of both spouses, as opposed to only the head of the household.⁷ This element was also present in the 2013 Land Law. Interest in gender equality is not uncommon in the legal framework in Vietnam. The Vietnamese government has demonstrated significant commitment to gender equality beyond the Land Law, including provisions

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3. FAO. 2011. *The State of Food and Agriculture: Women in Agriculture, Closing the Gender Gap for Development*. FAO: Rome. <http://www.fao.org/docrep/013/i2050e/i2050e00.htm>
 4. Packard, Le Anh Tu. "Gender Dimensions of Viet Nam's Comprehensive Macroeconomic and Structural Reform Policies: Occasional Paper 14." *The United Nations Research Institute for Social Development (UNRISD)*, February 2006. [http://www.unrisd.org/80256B3C005BCCF9/\(httpAuxPages\)/744074C1CB6B1C3CC125714D00433AF9/\\$file/OP14-web.pdf](http://www.unrisd.org/80256B3C005BCCF9/(httpAuxPages)/744074C1CB6B1C3CC125714D00433AF9/$file/OP14-web.pdf).
 5. Quizon, A. B. 2013. "Understanding the debates on land tenure rights and land reforms in the Asian context." *Land Governance in Asia*. Edited by D. Wilson, pp. 1–68. Rome: International Land Coalition. http://searice.org/wp-content/uploads/2013/06/r-en_web_framing-the-debate-vol-3.pdf.
 6. Ravallion, M. and D. Van de Walle. 2008. *Land in Transition: Reform and Poverty in Rural Vietnam*. The International Bank for Reconstruction and Development. The World Bank.
 7. Hatcher, J., L. Meggiolaro, and C.I.S. Ferrer. 2005. *Cultivating Women's Rights for Access to Land: Country Analysis and Recommendations for Afghanistan, Bangladesh, Burkina Faso, Ethiopia, Ghana, Guatemala, Malawi, Mozambique, Uganda, Viet Nam*. Rome: Action Aid International. 80 pages.
 8. Committee on the Elimination of Discrimination Against Women (CEDAW). 2005. *Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women: Vietnam, Combined Fifth and Sixth Periodic Reports of States Parties, CEDAW/C/VNM/5-6*, CEDAW, New York, NY.
 9. Op. Cit.
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for gender equality written into the Constitution, as well as several national action plans and long-term strategies, including the National Strategy for the Advancement of Women and others formulated specifically for women in the agriculture and rural development sector.⁸

Vietnam is one of the few countries where growing awareness of and policy attention to women's property rights has resulted in increasingly progressive laws that promote and protect these rights. Yet, too often a large gap remains between the law and women's ability to resolve serious challenges to fulfilling their rights. In particular, poor implementation often occurs when laws conflict with more traditional social norms, or larger social and economic dynamics restrict women from using the law to claim their rights.⁹ Women's lack of access to justice is also exacerbated by the limited availability of lawyers in Vietnam, particularly in rural areas. The Saigon Times reported in October 2013 that there are only about 6,200 lawyers in the country, which has a population of 90 million residents. Thus, the ratio of one lawyer per 14,000 residents is in stark contrast to other countries in the region, whose ratios are in the range of one per 1,000–1,500. Furthermore, lawyers in Vietnam are mainly stationed in Hanoi (1,630 lawyers) and in Ho Chi Minh City (2,880 lawyers), while other provinces and cities only have three to five lawyers each. This, together with high fees, renders it difficult for poor rural people to gain access to legal services. Moreover, previous studies also suggest prevalent problems that feed into the discrimination against women, such as son preference in inheritance.¹⁰ Practices rooted in patriarchal customs and norms, as well as a lack of knowledge of the law, contribute to the unequal treatment of women's rights.

To address these challenges, the International Center for Research on Women (ICRW) joined efforts with the Institute for Social Development

Studies (ISDS) to start a pilot program that combines commune-level legal rights counseling and education with advocacy efforts. This USAID-funded program based in two provinces—Hung Yen in the north and Long An in the south—aims to strengthen the reach and efficacy of land rights for farmers, particularly women farmers, by: (1) increasing their awareness of existing land rights under current legislation; (2) facilitating their ability to access their land rights; (3) generating evidence about gender specific barriers to realizing land rights in rural areas; and (4) increasing the capacity of civil society organizations and mass organizations to advocate for gender equitable land reform.

The theory of change for the LAW program is based on ICRW's previous experience in community-based gender and property rights programs, as well as its advocacy programs. It involves two levels of intervention: (1) community awareness raising and local legal assistance delivered by trained community volunteers for gender equality and advocacy; and (2) action-oriented research and strengthening advocacy efforts to better integrate gender into existing and future land laws. The first stage in the LAW program was to undertake a rapid assessment to inform the strategy of the program.

The objectives of this study were to assess the current state of:

- *Farmers' ability to access land*, as measured by their knowledge of where to obtain LURCs (both women and men) and by the current distribution of plots by gender.
- *Farmers' awareness of existing land rights and gender implications under current legislation*, through questions about women's and men's perceptions of women's land rights, their understanding of their own land rights, and knowledge of where to go and whom to approach for overcoming barriers

8. Khuat Thu Hong et al. 2015. Rights and Gender in Vietnam. Toolkit. Washington DC: ICRW.

9. ICRW. 2007. Snapshot: ICRW's Current Research on Women's Property Rights.

10. Nanda, P., Gautam, A., Verma, R., Kumar, S., & Brahme, D. (2013). Masculinity, son preference & intimate partner violence: a study conducted by ICRW in partnership with UNFPA.

to accessing land, including sources of information about solving conflicts around land rights.

- *Farmers' ability to solve conflicts and access justice to resolve land-related conflicts* measured using questions about women's and men's perceptions of their ability to achieve justice if facing land-related conflicts at the commune level.

This study used qualitative and quantitative data collection tools. The main data collection tool for the quantitative part of the study was a survey representative at the province level, which was administered to 864 randomly selected households. In total, 1728 people were surveyed, including 864 men and 864 women who self-identified as members of the main couple in the household.¹¹ Table 2 has the main characteristics of participants in the survey. Qualitative data were collected through focus group discussions with women and individual interviews with local governance representatives (communal authorities) and representatives from civil society or the NGO sector. Forty-eight women and 18 men participated in the qualitative study. Data were collected from October to November 2014 in Hung Yen and Long An, the two provinces in which the LAW program is being implemented. ICRW and ISDS analyzed the data to inform the baseline and strategy of the program.

This report presents the summary of the results of the quantitative and the qualitative studies. It starts by presenting contextual information related to land distribution in Hung Yen and Long An. After that, we discuss the findings about the participants' access to land and knowledge and attitudes towards land. We then present the findings about access to justice at the commune level. Conclusions and recommendations are presented in the last section of the report.

STATUS OF LAND USE IN HUNG YEN AND LONG AN

Hung Yen province has 1,159,700 residents and is located in the Red River delta of northern Vietnam. Long An province is located in the Mekong River delta in southern Vietnam. It has 1,477,300 residents. Hung Yen and Long An are largely rural in composition and have similar distributions in terms of land use with the majority of land in each province dedicated to agricultural production. In 2013, the Ministry of Natural Resources and Environment reported that 57% of the land in Hung Yen and 69% of the land in Long An was classified as agricultural land. Land use in Hung Yen is slightly different from the rest of the Red River delta, and more similar to land use in the Mekong River delta (see Table 1).

Table 1: Land Use in Hung Yen, Long An, Hanoi, and corresponding regions

Province/region	Total area (Thousand Hectares)	Agricultural production land	Forestry land	Specially used land	Homestead land
Ha Noi	332.4	45%	7%	11%	11%
Hung Yen	92.6	57%	(NI)	11%	11%
Long An	449.2	69%	9%	5%	5%
WHOLE COUNTRY	33,097.2	31%	47%	2%	2%

From Report No 1809/BC-BTNMT dated 15th May 2014 by the Minister of Natural Resources and Environment

11. To avoid biases towards men, the team intentionally avoided using the term "head of household" to identify respondents for the survey.

During fieldwork, participants in both provinces informed the team of recent conflicts around land use. The recent land reform has resulted in changes and transformations in the classification of large tracts of land from agricultural to industrial or from agricultural to housing in these two provinces.

In all four communes of the project area, agricultural land per capita has decreased partly as a result of changes in land use, as the quotes below illustrate.¹²

Decrease in agricultural land - Our agriculture land is going to be used for urban planning, then our commune is losing a lot of land [because of the] conversion of farmland to urban land. People also worry about their livelihood later [after] losing their land. (Male, commune authority, Hung Yen)

In some villages, there are a dozen households who have no farmland anymore. The industrial zone took over their land, so these households will have no land at all. (Male, commune authority, Hung Yen)

Participants in our study overwhelmingly stated that commune members and commune level authorities have no means to participate in these decisions and lack access to information about the future use of repurposed land. Lack of clarity about the future use of land creates frustration among people in the communes because land repurposed for uses other than agriculture cannot be used by them, even if the projects do not take place. For example, a woman in Long An mentioned:

People do not know what will happen after [the re-purposing of land] because we were not informed of the plans. We were told which area of land would be allocated for the project but we did not know what our life would be like or whether or not there would be any support.... When the project is suspended, land is available but left unused.

People feel sorry to see their land left unused but they do not dare invest in production on that land because they are not sure when the land will be taken away. (Female, FGD Long An)

The transformations taking place in the structure of land use in Hung Yen and Long An are not unique to these two provinces. Due to accelerating industrialization and urbanization, there is less available land for agriculture in Vietnam.¹³ Participants in our study pointed out that during recent years, the government has encouraged the development of industrialized agriculture and the concentration of land in larger farms to reduce land fragmentation and increase the use of modern technology in agriculture. This means that some households have lost the right to use land for an important source of livelihood. The loss of access to land has pushed more and more farmers, mostly men, into cities to find jobs.¹⁴

Our commune is a pure agricultural commune, and people are mainly farmers—planting rice, keeping livestock, or farming shrimp. Recently, it got more difficult with agriculture—land per household is being reduced, the price of agricultural products is low, which means profits from agriculture are not high—so relying solely on agricultural production is not enough to live. A part of the population shifted to work in the industrial parks nearby to improve their income. (Female, commune authority, Long An)

Men and women interviewed stated that the conversion of agricultural land for other purposes has led to the emergence of business and service establishments mainly owned by men. For example, in Hung Yen the emergence of industrial companies and universities led to the emergence of the local businesses selling construction materials and service establishments involving a significant

12. ISDS Field Report 2015

13. United Nations Development Programme (UNDP). 2010. Millennium Development Goals 2010 National Report: Vietnam 2/3 Of The Way Achieving The Millennium Development Goals And Towards 2015 HANOI: UNDP.

14. ISDS Field Report 2015

number of farmers. It is noteworthy that men own most of these establishments.

In our commune, there are dozen businesses. All but one are owned by men. (Male, commune authority, Hung Yen)

There are about a dozen households of established livestock farms, but most are headed by men because men are the ones who can apply for a change of land use or get loan for expanding production. (Male, commune authority, Hung Yen)

In all four communes visited during fieldwork, participants linked rapid industrialization with the acceleration in migration of young men and women previously employed in agriculture and an increase in the number of middle-aged or older women employed in agricultural activities. Women, who often cannot migrate because of their traditional role as caregivers, tend to stay in the communes with a heavier load of work and responsibilities because they need a livelihood to take care of children and the elderly.

Working in agriculture are mostly women in the age range of 35 to 50 years old. In some families, women 60 or older keep working in farming. People under the age of 40 are working in urban companies or businesses. (Male, commune authority, Hung Yen)

Hung Yen and Long An are transitioning their land use structure in a way that has affected the dynamics of the organization and population in both provinces. These rapid changes in land use structure have also increased the number of conflicts related to land access. Women and men in the communes, as well as the communal authorities, have reported feeling they lack opportunities to exercise their rights to access to land or to influence the decision-making processes affecting changes in the land use structure. This affects their livelihood and their basic socio-economic and cultural rights.

PARTICIPANTS' ABILITY TO ACCESS TO LAND¹⁵

The Land Law of the Socialist Republic of Vietnam 2013 and previous versions of the land law since 2008 have all included specific provisions to regulate equal access to land for women and men by mandating that LURCs include the names of both spouses. Despite these provisions, and other legal instruments that mandate gender equality such as the marriage and family law, women's land rights remain limited.

Our results in this section are presented by separating the answers given by men from those given by women. Showing the different answers will illustrate how sex of the respondent matters. This important methodological suggestion should be taken into account by policymakers and researchers in studies with a gender dimension.

ICRW and ISDS identified 426 households with access to agricultural land in Hung Yen and between 415 and 418¹⁶ households in Long An. Of these, 89% declared having a LURC for at least one plot in Hung Yen and 96% in Long An. There were some discrepancies between men's and women's answers. For example, whereas the percentage of households with LURCs out of the total number of households with access to land is the same when using women's and men's answers in Hung Yen, in Long An the percentage of households with LURCs (out of the total owning land) is 96% according to women's answers but 95% according to men's answers. It is noteworthy that these percentages are higher than the national average of 71% found by Menon, Rodgers, and Kennedy in their study of the 2008 Living Standard Measurement Survey (2013:13).

The survey asked men and women to list up to two land owners. Survey participants in Hung Yen listed around 409 land owners. Both men and women de-

15. We produced two types of indicators to report the differences in the access to land between men and women. The first indicator is the percentage of land owners that are men or women. The second indicator shows the percentage of plots owned by solely men, solely women or in joint couples

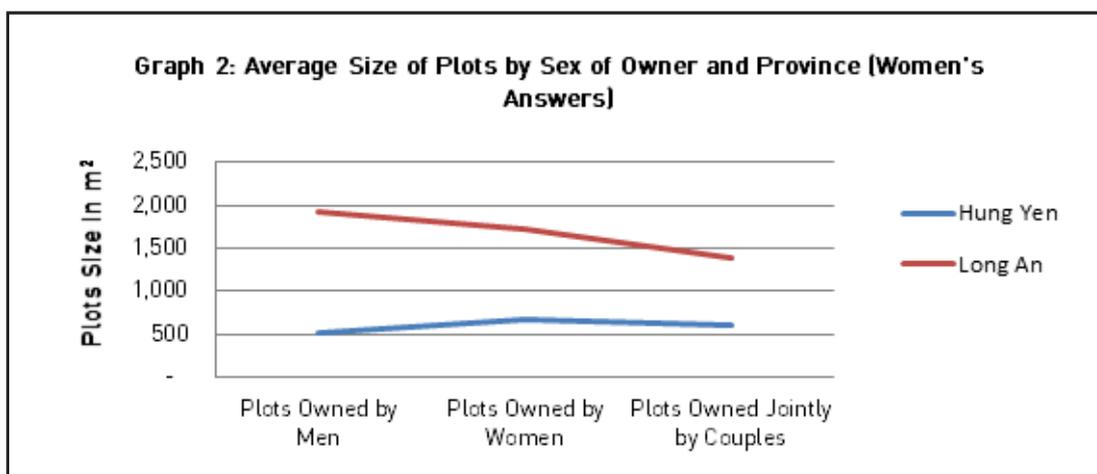
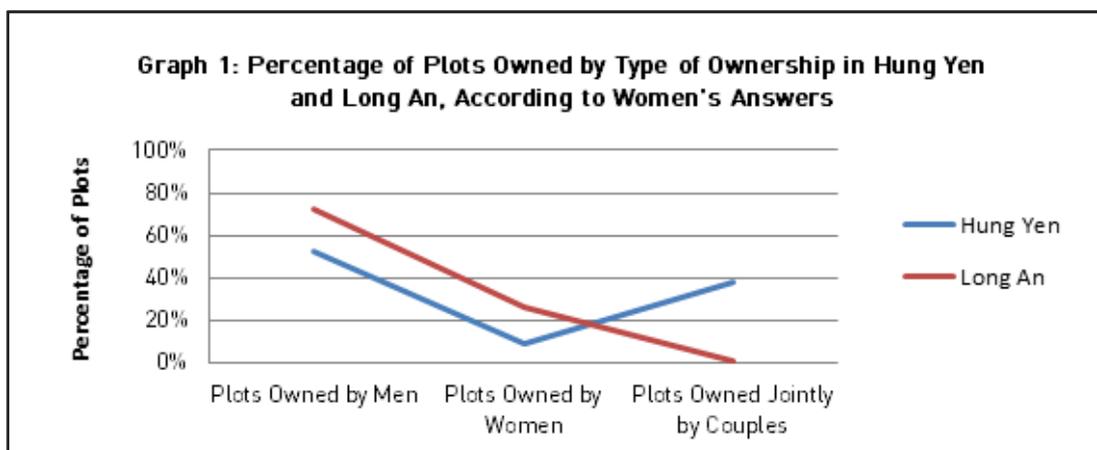
16. The answers varied by sex of the respondent. Women identified 415 households with land; men identified 418 households with land.

clared that 62% of these owners were men. In Long An, women listed 411 owners whereas men listed 409. Using women’s answers in Long An, 71% of landowners are men; using men’s answers, 73% of the landowners are men.

Our data allow us to identify the sex of the owners of plots, as declared by the participants in our study. People can own plots alone or with other members of their households. We found that sometimes a man would own a plot by himself or with one or more additional men in the household. For example, this could be the arrangement of a father and a son. We grouped these cases separate from the cases with a woman as sole owner, or more than one woman, identified as owner(s). We formed a third group of joint owners of the opposite sex, referred as couples in this report—sometimes a husband and wife were declared joint owners of plots. Percentages delineated by type of ownership vary slightly based on whether we are using male or female data. However, the trend illustrated in Graph 1 is the same regardless of the sex of the respondent.

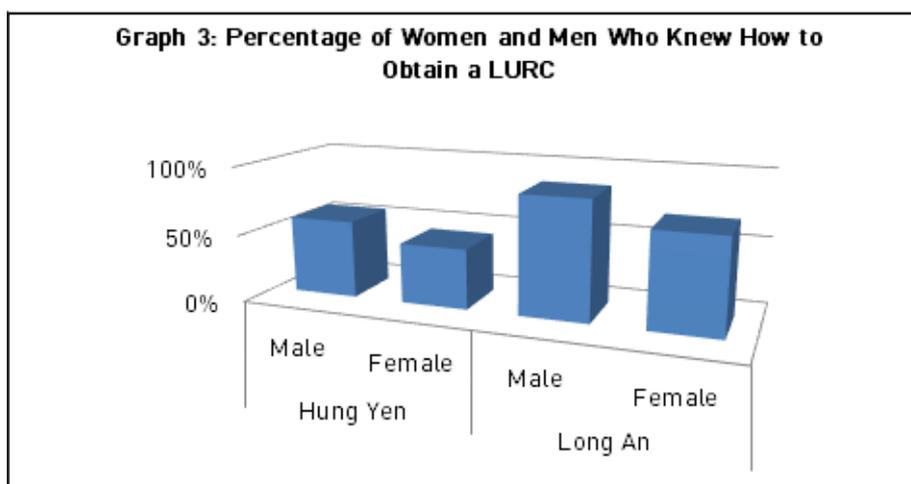
Graph 1 shows the percentage of plots owned by type of ownership. We found that only 1% of the plots were registered with both names of couples in Long An. More than 70% were registered under a man’s name, either alone or with other men in the household. Between 22% and 26% of plots were registered under a woman’s name, either alone or with other women in the household. In Hung Yen, around 35% of plots were owned by couples. Men—alone or with other men in the same household—own between 52% and 53% of the plots. Women—alone or with other women in the same household—own only between 9% and 10% of the plots (Graph 1)

On average, plots of land are larger in Long An than in Hung Yen. In Long An, both men’s and women’s answers suggest that plots owned by men alone are larger than those owned by couples or by women alone (Graph 2). In Hung Yen, data from men’s and women’s answers show that plots owned by women are larger on average than plots owned by men or plots owned jointly by couples (Graph 2).



In a more detailed analysis of averages resulting from answers given by men and women, we found that the average size of the plots owned by women in Hung Yen is larger using women's answers (666m²) than when using men's answers (625m²). In Long An, when we use women's data, the average size of plots owned by women alone is larger (1,723m²) than when we calculate this average using men's answers (1,642m²).

The team asked participants directly about their knowledge of where and how to obtain a LURC. Around 50% of the men and 44% of the women interviewed reported they knew how to obtain a LURC in Hung Yen. In Long An, 80% of men and 70% of women responded they knew how to obtain a LURC. Knowing how to obtain a LURC is an important aspect of being able to exercise the right to access to land. (Graph 3)



MAIN BARRIERS FOR FARMERS' ACCESS TO LAND

Several questions sought to identify participants' perception of the barriers women and men face in accessing land. In addition, we asked questions about their knowledge of the land law and of mechanisms to access land.

We asked women and men to identify the main barriers they thought men faced when attempting to access land. Most women and men in both provinces stated that lacking knowledge about the process of obtaining a LURC was an important barrier for men (see Graphs 4 and 5 for detailed results by province). Lack of knowledge was more often named as a barrier in Hung Yen than in Long An. Not being able to actually get their name included in the LURC was considered the most important barrier in Long An, second in importance in Hung

Yen. Long An participants declared that common land for redistribution is unusual. Participants in the study reported that in their communes it was common to receive land through inheritance. Therefore, it is more difficult for young people to access land or be able to register their name in LURCs.¹⁷

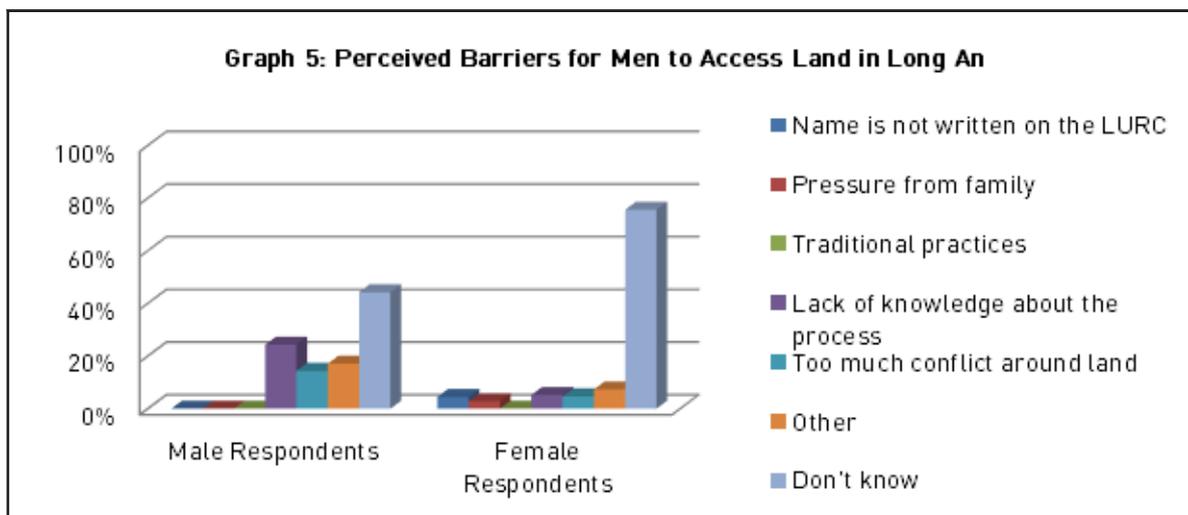
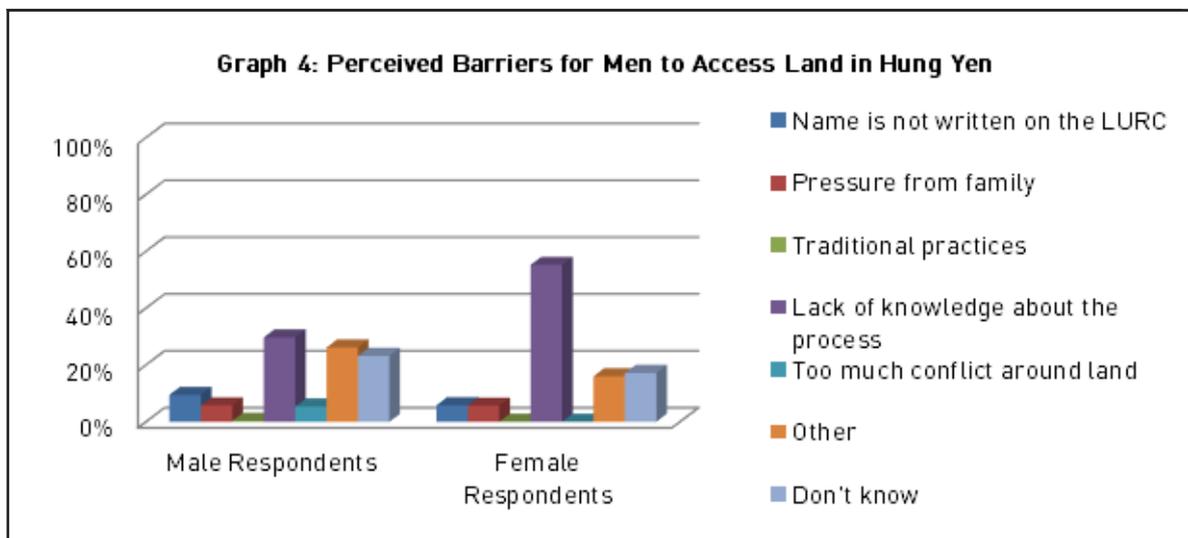
In addition to asking participants about the main barriers faced by men to access land, we asked what barriers, if any, affected women in particular. Our questions were informed by previous research about women's access to land in Vietnam that has highlighted deep historical ties to feudal and patriarchal ideologies as one of the key elements influencing the tradition that regards men as decision-makers for family assets—such as land—and women as obedient domestic caretakers, second to men in family and social affairs.¹⁸ Research has also documented large discrepancies between

17. ISDS Field Report 2015

18. Cam, H, L.T. Sang, N.T.P. Châm, and N.T. Photon. 2013. Women's Access To Land In Contemporary Vietnam. http://www.vn.undp.org/content/dam/vietnam/docs/Publications/Women%20access%20to%20land_EN.pdf

statutory and customary law regarding access to land in areas where customary practices prevail, which often prevent women from fully enjoying rights enshrined in the Constitution and other modern legal mechanisms.¹⁹ Research also points at specific cultural practices, such as son preference in inheritance.²⁰ Contrary to the gender provi-

sions included in the 2003 and 2013 Land Laws, it is also commonplace for most LURCs to bear only the name of the husband, as he is traditionally recognized as the head of household.²¹ Despite multiple protective legal provisions, divorced women almost never acquire LURCs in their own names or a share of joint assets.²²



19. Op. Cit.

20. Bélanger, D., and X. Li. 2009. "Agricultural Land, Gender and Kinship in Rural China and Vietnam: A Comparison of Two Villages." *Journal of Agrarian Change* 9: 204–230.

21. FAO, IFAD and ILC. 2004. "Rural Women's Access to Land and Property in Selected Countries." Progress Towards Achieving the Aims of the Convention on the Elimination of All Forms of Discrimination Against Women. FAO: Rome. 70 pages. <http://www.landcoalition.org/sites/default/files/documents/resources/cedawrpt.pdf>

22. Op.Cit.

Common problems discussed during fieldwork in Hung Yen and Long An

- Women who marry often move to a different locality, losing their right to access their family of origin's land.

Although husband and wife are equal according to the law, due to the traditional customs since ancient times until now, parents always pass their property to their son, and their daughter largely follows her husband. Then the husband's property belongs to him and has his name on the certificate, but not his wife's name. A woman's name is recorded only when she gets land from her own parents. (Female, commune authority, Long An)

- Some families with larger plots may include both daughters and sons in testaments. However, if they need to make a choice because there is little land to share, sons will be preferred heirs or will receive larger portions of land than daughters.

In terms of housing land, in our commune most parents pass their house and land to their sons because daughters stay with their husband's family after they get married but sons stay with their parents. If a couple has three grown sons, then they share their land in three portions. In most cases, land is passed to sons, except in families with no sons, then the daughter gets a share. (Male, commune authority, Hung Yen)

In the past, daughters [would] get nothing. At present time, sons still get more but daughters get something, though much less. (Female, FGD, Long An)

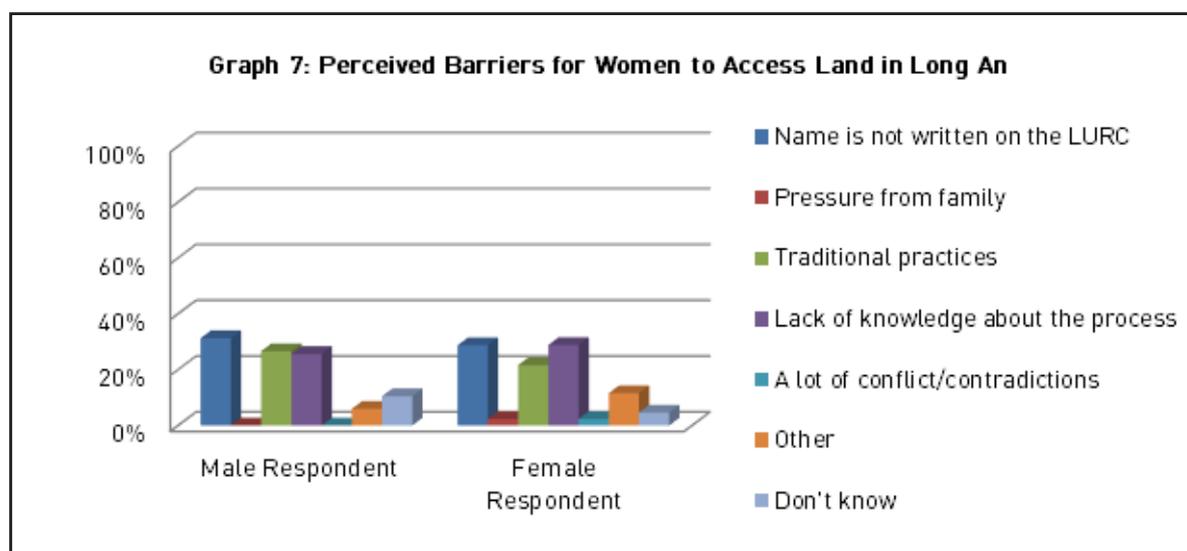
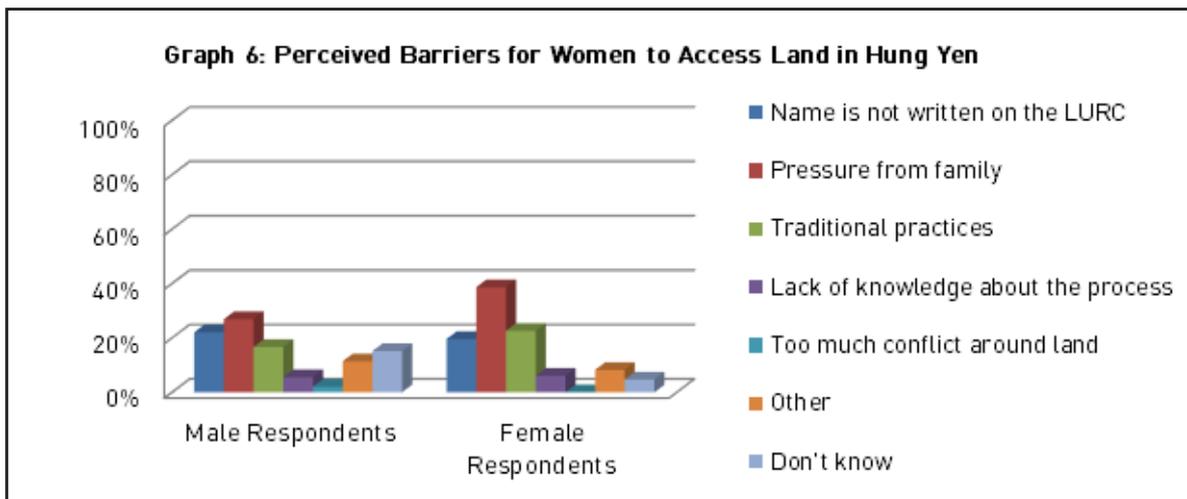
- Prevalence of cultural customs that give sons a more important role in the family and link the expected gender roles to access to land and the continuation of the family line and religiosity. Ancestor worship would be one example. Family headship is still placed upon men and not equally upon men and women, or the main couple in the household.

It is the tradition that when parents get old, their sons take care of them. When the parents pass away, sons inherit their land and worship them and their ancestors. In reality, I think if the family has no son, then daughters can play this role. However, daughters cannot do this as well as sons because daughters have to take care of their husband's family too. (Female, FGD Long An)

About the Red Book (LURC registry), in our commune it is recorded in the name of the head of household—that is the husband's name only. For all families. (Female, FGD, Hung Yen)

Survey respondents identified pressure from family and traditional practices as the main barriers to accessing land for women in Hung Yen (Graph 6). Traditional practices were more often mentioned among participants in the study in Long An (Graph 7). In Long An, men and women participants expressed commonalities in terms of the barriers to accessing land, such as lacking knowledge about the process to obtain a LURC and actually getting their name on the LURC. These categories, however, are not exclusive. For example, not being able to write your name on a LURC can be the result of

family pressure or demands of traditional practices. Still, we maintained these answers separately because participants stated that there were many other reasons why men and women would not be able to write their name on a LURC. For example, the lack of processes of redistribution of land in some communes in Long An has meant that many young households are not able to receive land independently of their families of origin. The lack of land for redistribution seems to be a pressing problem that affects men and women in both provinces, but particularly in Long An.



KNOWLEDGE OF LAND RIGHTS

Seven key statements about women and land rights in Vietnam were used to measure whether participants in the study had basic knowledge of the land law, and women’s rights in particular. In Hung Yen, 103 men and 76 women, out of 852, responded correctly to all the questions about knowledge according to the law. Only 7 people did not respond to any of the questions correctly. In Long An, only 80 men and 59 women out of 842 people responded all the questions according to the law. Only 6 men and 31 women did not respond to any of the questions correctly. For clarity purposes, we are reporting only the statements that showed a high percentage of respondents lacking knowledge of a specific aspect of the law. Identifying specific elements of the law that are unclear is important for purposes of

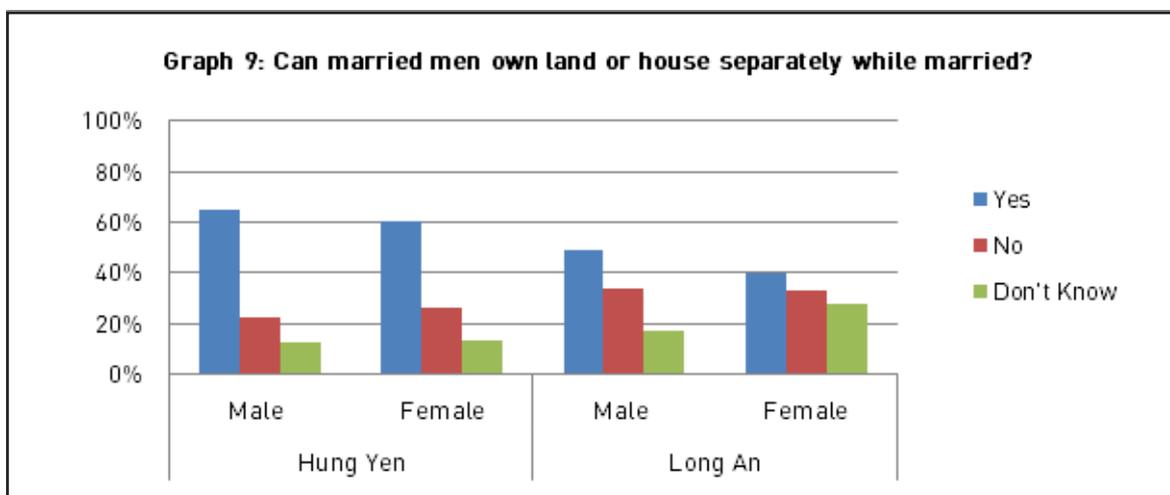
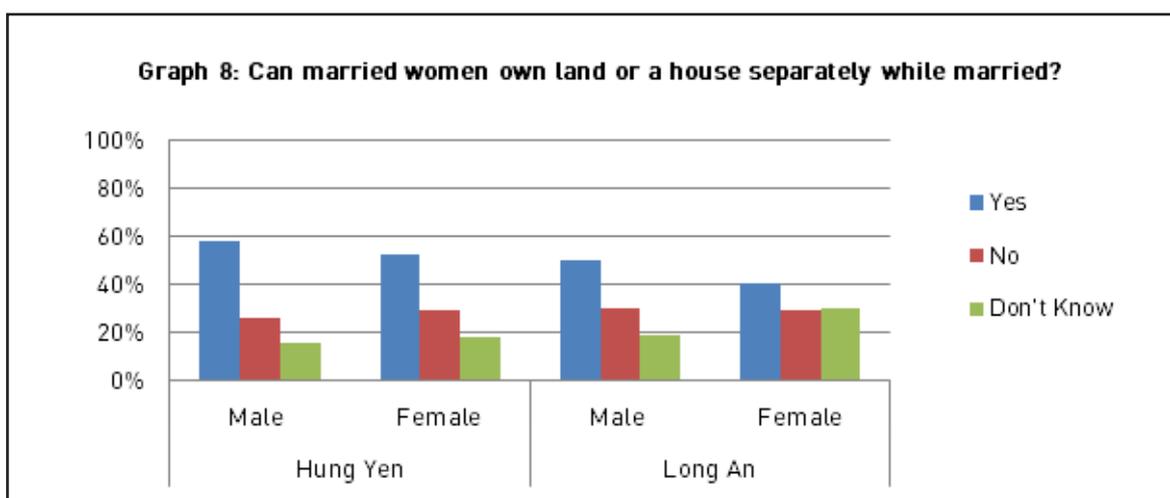
refining messages in programs that seek to educate the population about land ownership and gender equality.

In Hung Yen, more than 80% of respondents knew that a woman can inherit land and/or houses if her husband dies. Most people also knew that a woman must first give consent before her husband can sell the family land or house, and that childless women have the right to own land or houses. However, less than 80% knew that widows who remarry do not lose their rights to the land or house inherited from their deceased spouse, or that wives and husbands can own their own separate land or house during their marriage. Although the same was true in Long An for most of the statements, less than 80% of participants in Long An knew that childless women can own land or houses.²³

Knowledge of whether married women could legally own their own separate land varied by sex and province (Graph 8). In Hung Yen, more than half the women and men interviewed knew that married women could own their own land or house while married. The percentages of women and men who knew women could own land separately while married was lower in Long An.

When asked if married men could own land or houses separately from their wives, there was

slightly more agreement among women and men in Hung Yen. However, over 35% of men and 40% of women responded that men could not own land or houses separately or that they did not know whether that was legally permissible (Graph 9). The trend in Long An was similar when asked about separate women's ownership. Less than 50% of men and women knew that married men could own separate land or houses while married.



The right of widows to keep property inherited from deceased husbands if they remarry was unclear for participants in both Hung Yen and Long An (Graph 10). In Hung Yen, 40% of men and 37% of women knew that widows do not lose land they inherited

from a deceased husband if they remarry. In Long An, 46% of men and 33% of women interviewed knew that widows do not lose land they inherited from a deceased husband if they remarry.

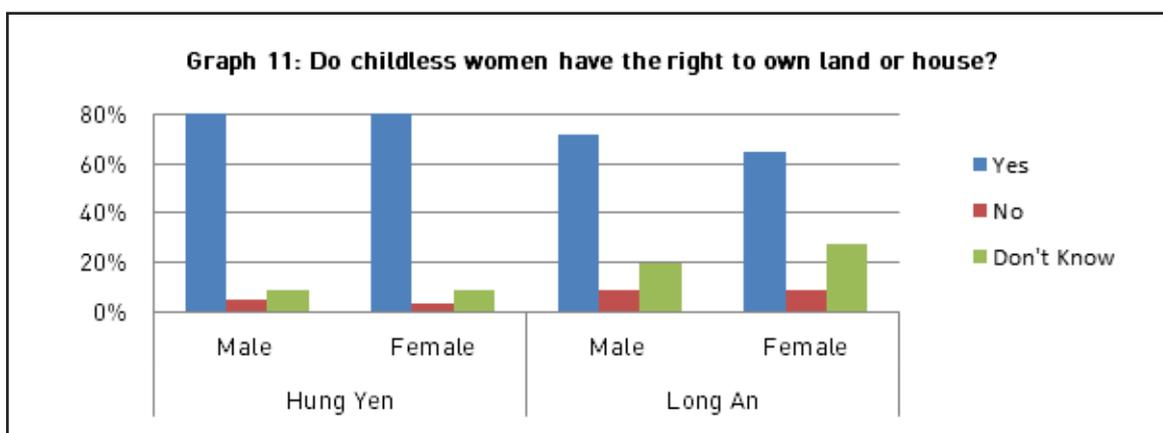
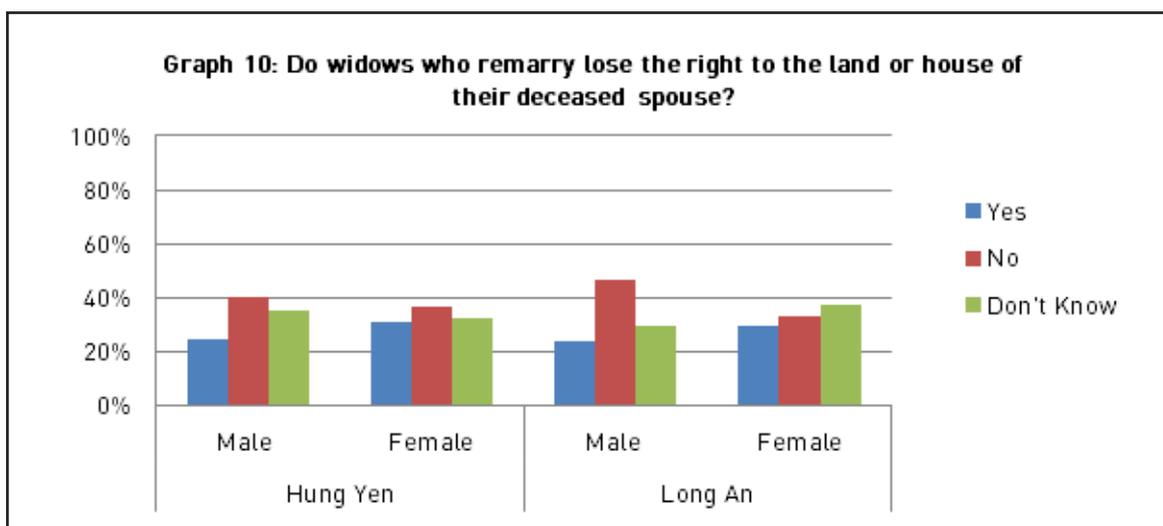
23. For the purposes of this report, we will highlight here only statements that showed a higher percentage of disagreement between genders or by province.

In addition, there were disagreements among participants with respect to whether childless women have the right to own land or a house particularly in Long An. In Long An, 28% of men and 35% of women responded that they did not know or did not think the law allowed childless women to own land or houses (Graph 11).

Lack of knowledge about the law is common among women, according to participants in our focus group discussions and interviews. This is often linked to traditional gender roles and representa-

tions, such as the belief that only men have a place in public life or that men are better at solving problems or doing paperwork.

Because men can do the paperwork better, we women have much less knowledge and hesitate to go to do such work. The other day, when I went to the Commune Land Management Unit for some paperwork, I saw only men coming for the certificate, and hardly saw any woman. (Female, FGD Long An)



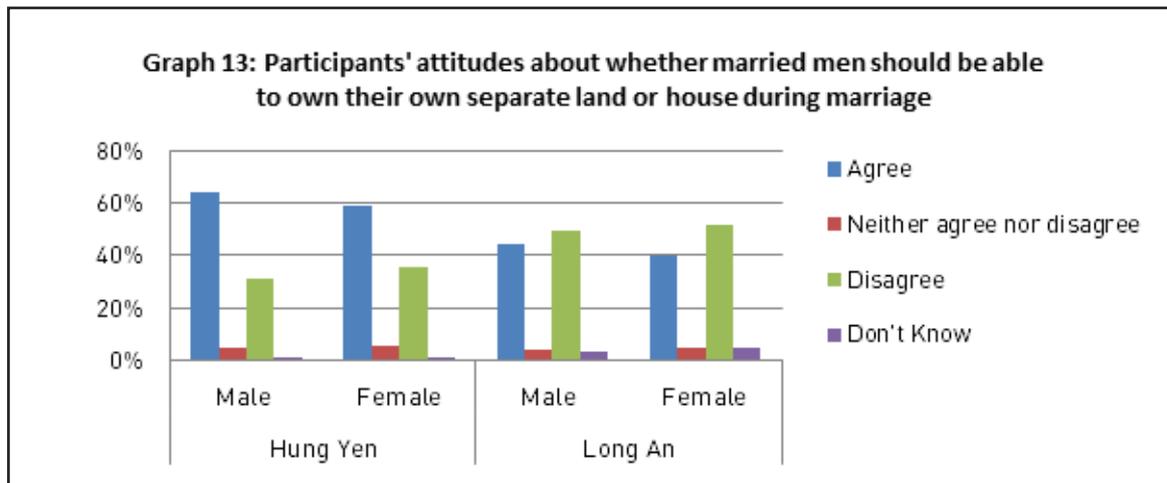
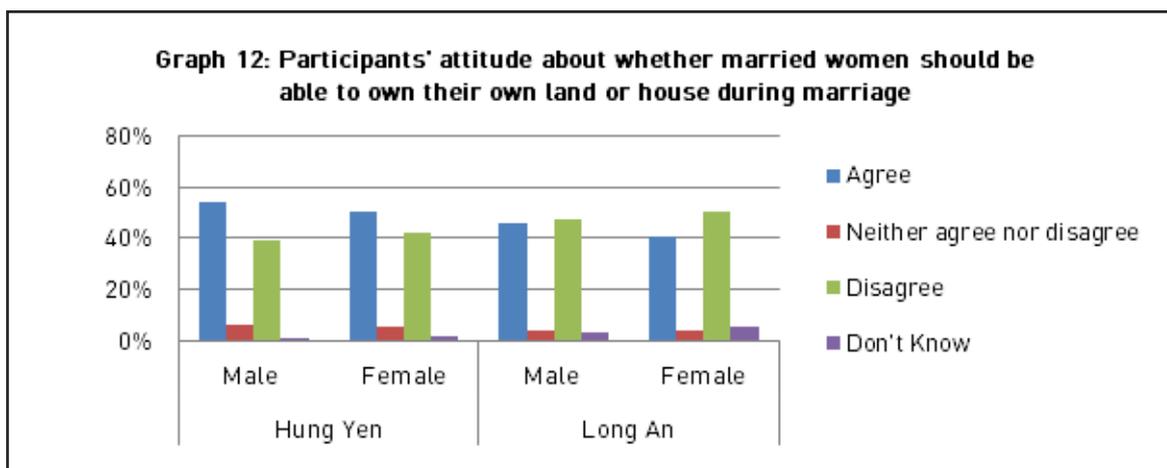
ATTITUDES ABOUT LAND RIGHTS

We asked participants whether they agreed or disagreed with the same statements previously used to test their knowledge of the law. The findings show positive attitudes towards women’s land and property rights in some respects. In both Hung Yen and Long An, more than 90% of all respondents

agreed with the following statements: “A woman must first give consent before her husband can sell family land or house,” “If a woman’s husband dies, she can inherit land,” and “If a woman’s husband dies, she can inherit his house.” There was less agreement about separation of property during marriage, the ability of widows to remarry without losing their inherited land, and whether childless

women could own land or houses. We have highlighted areas of greater disagreement to help identify specific areas of misunderstanding that need to be addressed by projects and policy aiming to transform people's attitudes towards women's ownership of land. As our research indicates, basic women's rights are often accepted by men and women in Vietnam. However, the rights of women in particularly vulnerable situations remain contentious; such is the case with childless women and widows.

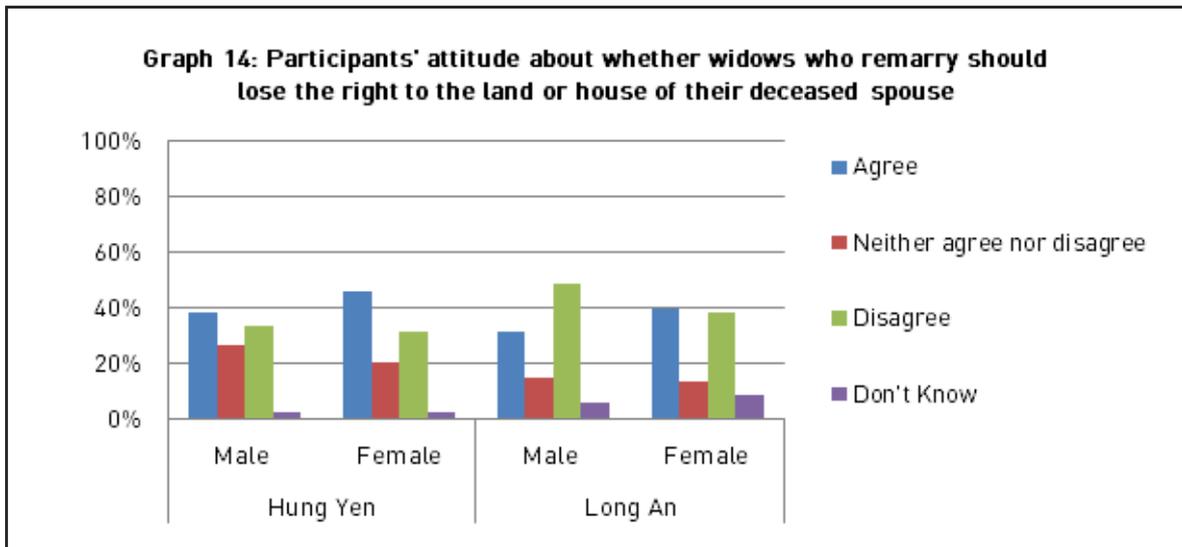
Graphs 12 and 13 show that in Hung Yen there is more agreement among men and women about men's right to own separate property during marriage than there is about women's right to do the same. In Long An, more than roughly 50% of male and female respondents disagree with men's or women's right to own separate property during marriage.



Thirty-eight percent of men and 46% of women in Hung Yen and 31% of men and 40% of women in Long An agreed with this statement: "Widows who remarry should lose the right or house of their deceased spouse" (Graph 14).

Although there was more consensus around childless women's right to own land or houses, there

was still some disagreement around this subject in both provinces. Between 7% of respondents in Hung Yen and 9% of respondents in Long An disagreed with that idea.



ACCESS TO JUSTICE AND CONFLICT RESOLUTION FOR LAND OWNERS AT COMMUNE LEVEL

During fieldwork, the team visited different authorities, such as the women’s union and farmer’s union—part of mass organizations in Hung Yen and Long An. In addition, we asked women and men about the availability of organizations to help them solve land-related conflicts and whether they felt there were mechanisms available for those seeking justice at the commune level. Most participants in the two provinces responded that either there was an absence of mechanisms for those who seek justice at the commune level, or that they did not know about them. Around 10% of people in Long An said there were mechanisms to seek justice in their communes. Approximately 35% of men and over 50% of the women did not know about these mechanisms. This finding supports the Vietnam LAW pilot project assumption about the need of community-based gender advocacy volunteers in the two provinces.

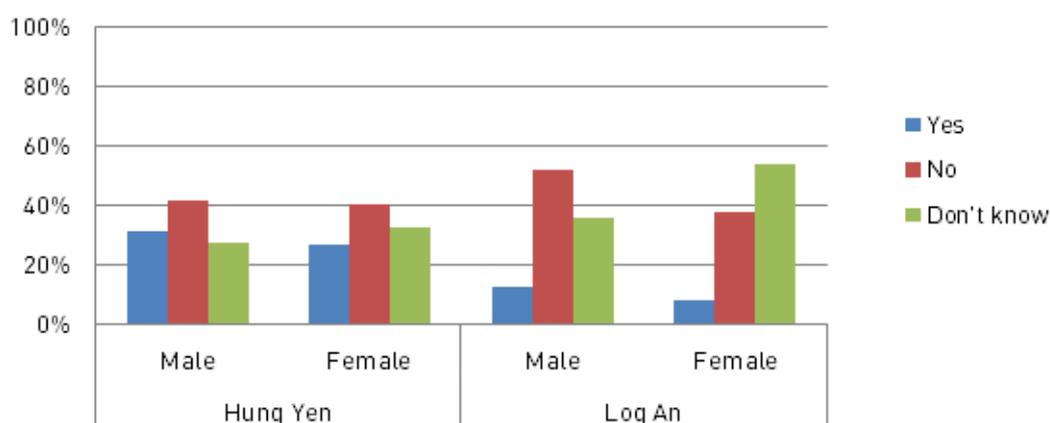
We asked questions regarding self-efficacy—as the concept refers to the individuals’ perception and belief in his or her capacity to produce specific outcomes—using questions adapted from established international self-efficacy scales.²⁴ In order

to control for a possible general perception of impaired self-efficacy, the first question asked participants whether they generally feel able to solve difficult problems. This question was followed by others inquiring about participants’ perception of their capacity to solve specific land-related problems. Participants were given alternatives that ranged from “I definitely cannot do this,” to “I definitely can do this.” For clarity purposes, we grouped the negative responses under the option “I definitely cannot do this” and the neutral and positive responses as “I can do this” (Graph 15 to 19).

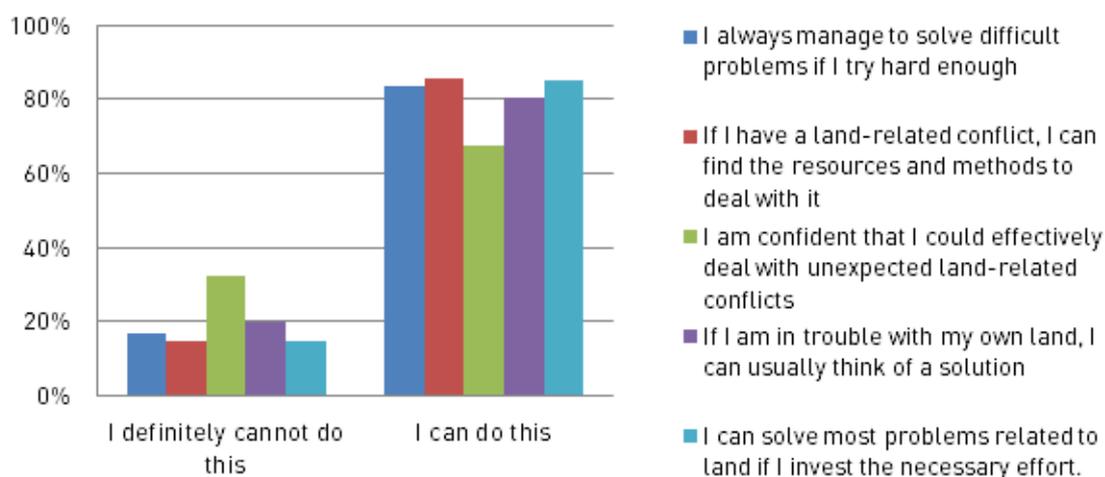
Over 80% of women in Hung Yen responded positively to the self-efficacy questions, even when asked if they could find resources to deal with conflicts over land. It is important to note that the percentage of positive answers lowers when women are asked if they are confident that they could effectively deal with unexpected land-related conflicts. These results suggest that around 17% of women who thought they could access methods and resources to deal with land-related conflicts still felt that having those resources did not necessarily mean they could resolve land-related conflicts effectively. Between 80% and 90% of men in Hung Yen responded positively to the questions about self-efficacy.

24. Schwarzer, R., and M. Jerusalem. 1995. “Generalized Self-Efficacy Scale.” In J. Weinman, S. Wright, & M. Johnston, Measures in health psychology: A user’s portfolio. Causal and control beliefs (pp. 35-37). Windsor, UK: NFER-Nelson.

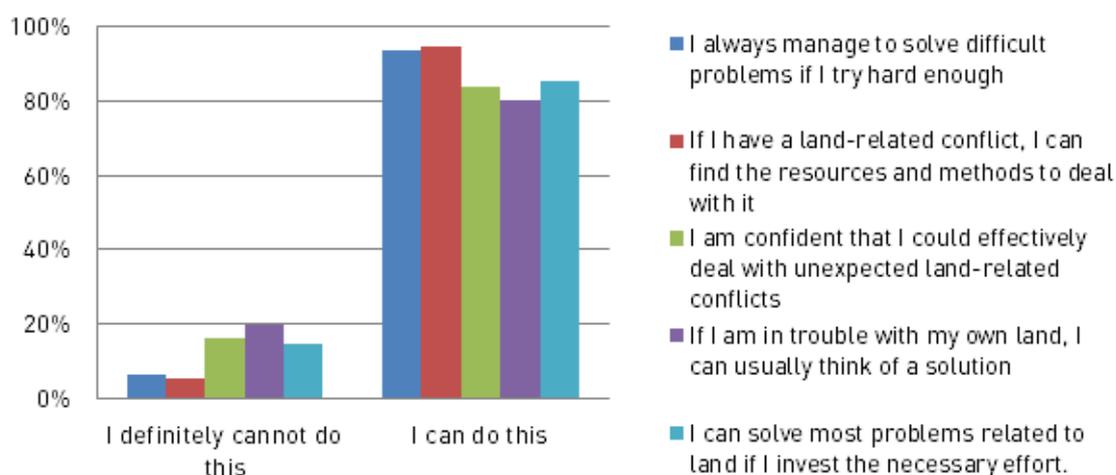
Graph 15: Do you know if there are mechanisms available for those seeking justice at the commune level



Graph 16: Self-Efficacy of Women in Hung Yen



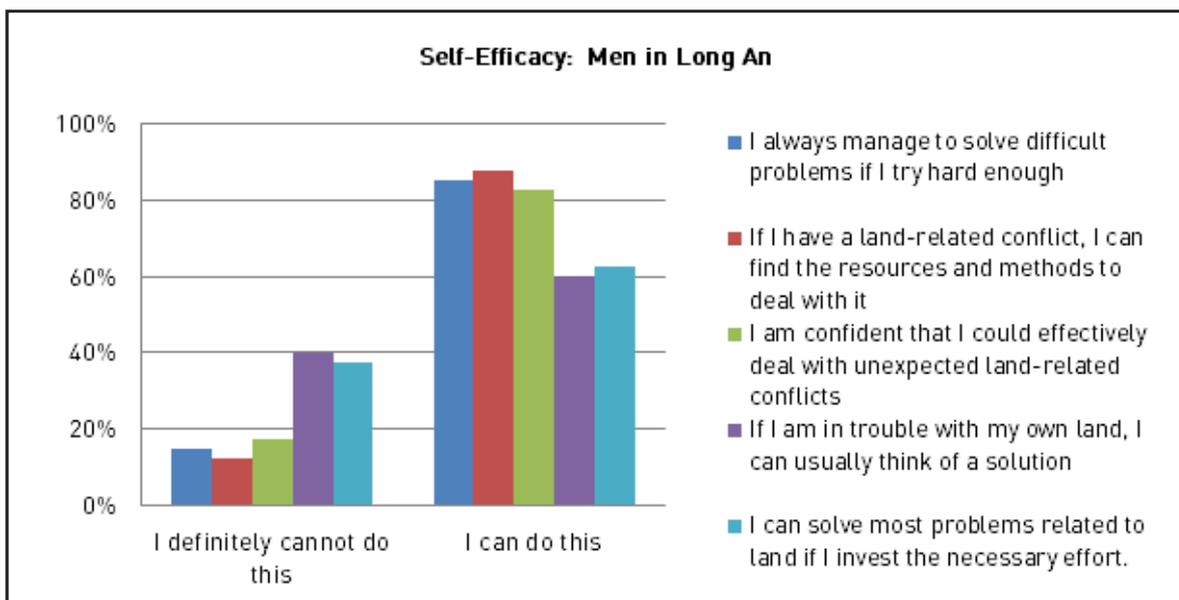
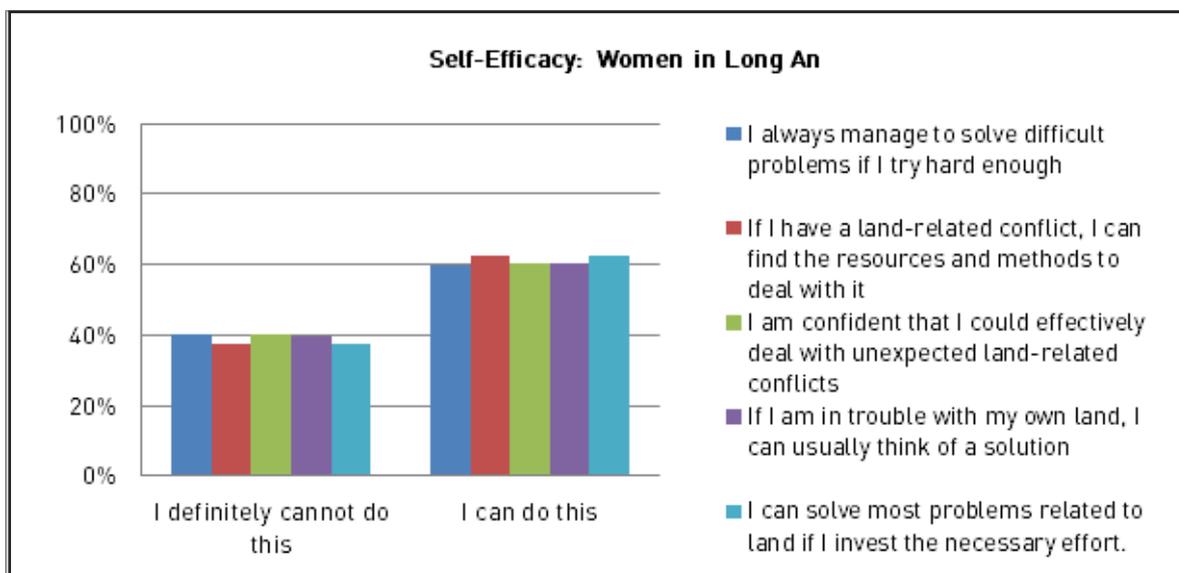
Self-Efficacy: Men in Hung Yen



Results about self-efficacy are different in Long An, where both men and women expressed low levels of self-efficacy for some of the questions. Over 80% of men declared having confidence in their ability to manage general problems in their lives, including land-related conflicts and accessing resources to solve them. However, only around 60% of them responded that they could think about solutions and solve problems if they invested the necessary effort themselves. However, the lowest percentage of participants with positive self-efficacy responses was found among women in Long An. Only around 60% of women in Long An responded

positively to any of the self-efficacy questions. These results are important for targeting efforts because they suggest that women in Long An may have the lowest ability to manage land conflicts, so project actions should concentrate in this province.

Our qualitative field work suggests that access to justice for land disputes is extremely limited outside Hanoi.²⁵ Research suggests that Vietnamese courts can resolve such disputes, but the system is weak and judges still fail to base rulings on the land law.²⁶ In particular, our results from Long An may suggest an ongoing struggle to find contextually relevant solutions to manage the discrepan-



25. ISDS Fieldwork notes 2015

26. Gillespie, J. 2011. "Exploring the Limits of the Judicialization of Urban Land Disputes in Vietnam." *Law and Society Review*. Volume 45, Issue 2, pages 241–276, June 2011.

cies between the law and local customs. Mass organizations such as the Women's Union and Farmer's Union are usually the first places where women go when they face a conflict. However, according to representatives of the unions, they also lack knowledge to solve conflicts and resources to intervene and carry out activities that aim to spread information about women and land rights. These problems explain the results about self-efficacy, especially in Long An where the lack of knowledge about mechanisms to access to justice seems to be higher among women. These results suggest that targeting actions to improve knowledge and positive attitudes towards women's rights and access to land should also include commune authorities in order to help bring justice to the most vulnerable.

As Cam and colleagues (2013) posit, women face barriers to effectively accessing legal services in their communities based on their social position, local configurations of power, and the complexities of bureaucracy. In places where women face more of these barriers, women have lower positive feelings about their ability to exercise their rights, which can affect their participation in initiatives to solve land-related conflicts. Participants in focus group discussions in Hung Yen and Long An discussed problems that suggest patrilocality remains widespread, especially in rural areas. For example, women typically move into their husbands' homes after marriage. Therefore, they often receive no land from their own parents. Thus, in terms of housing, women become totally dependent on their husband's family. In these cases, women do not own housing or land because their names are not registered on a land use certificate.

PERCEIVED EFFECTS ON WOMEN OF THE LACK OF ACCESS TO LAND AND HOUSING

Participants in our study identified the main effects that the inability to register their names on the LURCs had on women, and pointed out the lack of resources at the commune level to work on changing knowledge or attitudes about women's land rights.

One of the main problems identified is that not having land leaves women in a vulnerable position, particularly for widows if relatives of the deceased try to claim assets inherited from her spouse.

In one case, after a woman's husband died by accident, she remarried another man. Her former husband's family came to her house, planted banana trees on her land, and changed the locks on her house. (Male, commune authority, Hung Yen)

Vulnerability also results from the compounded effect of moving away from their family of origin and lacking access to land or other resources. It was common to hear of cases where women had been experiencing violence, but were unable to leave because of their dependence on their partners

Participants also expressed that not having their name included on the LURC can also take away a woman's right to participate in decisions over family matters. Women and men discussed multiple cases where men had bought or sold assets without discussing with their spouses, even taking out loans that were left unpaid.

There was one case when a man gave the [land use] certificate as mortgage to borrow money to engage in...gambling, but his wife had no clue at all until creditors came to ask for money. They would take the house if the couple was unable to pay the debt. The wife had to work hard to pay back her husband's debt. (Male, Farmer Association, Long An)

In addition, some participants mentioned that not having their name on the LURC affected women who wanted to finalize a problematic relationship through divorce or separation. Participants mentioned that, despite the law, women who want to divorce would face a high risk of losing all access to property, even after taking their case to court.

Conclusions

More men than women have their names registered on LURCs. Women own fewer plots of land than men. This is explained by the limited access women have to land, as fewer plots are owned solely or jointly by women. Several factors explain the difference. To start, the qualitative assessment and our survey suggest that cultural aspects that favor men such as son preference in inheritance practices are still relevant in Vietnam. These results suggest that there is a need for social and legal practitioners and the government to work at the commune level to support people's demand for information about the law, their rights, and the processes to obtain land. Reaching these communes to sensitize and promote gender equity in the land use certification processes would be an important step in the right direction. Province authorities granting LURCs should be vigilant and request clarification when people want to register their property without including the name of their spouse.

Farmers' awareness of existing land rights and gender implications under current legislation

Our study shows that barriers men face are often related to lack of the ability to include their name in a LURC, often related to the problem of lack of recent redistribution processes. However, women face barriers related to traditional customs and negative attitudes towards women's access to land. Lack of knowledge of processes to obtain the LURC and registering the name in a LURC are also important barriers for women. We have also identified aspects of the law that seem to be the most difficult to understand and are less accepted. Key pieces of the law about women's and men's right to own separate property when married or women's ability to inherit or own property when childless need clarification among men and women. Clarifying the law to people in the communes is challenging for current authorities. Fast changes in the law

have increased the complexity of the legal frameworks that govern land distribution. This has created more difficulties for authorities at the commune level who need to interpret the new law to solve disputes. Informative programs that take place at the commune level and that involve not only judges but also authorities from the mass organizations, who are close to men and women in the communes and who can translate the law into language using tools that are familiar to people, should be supported.

Policy and advocacy work can maximize impact by targeting five specific elements of the law that our research showed cause the most confusion: (1) men's and women's right to own separate property when married; (2) women's right to own or inherit property when childless; and (3) widows' right to keep property inherited from their dead spouse if they remarry, (4) how to obtain a LURC and (5) the importance of joint registration.

Creating an enabling environment for women's improvement in their access to land and housing also involves changing attitudes towards women's right to own property. There was general agreement about some of the identified key messages about women's rights.

Farmers' ability to solve conflicts and access justice to resolve land-related conflicts

Our results suggest that there is a lack of mechanisms to access justice at the commune level in Hung Yen and Long An. Results from our qualitative study suggest that authorities at the commune level have very few resources to solve land-related conflicts and lack of knowledge of specifics of the new laws. Mass organizations such as the Women's Union and Farmer's Union are usually the first places where women go when they face a conflict. However, according to representatives of the unions, they also lack knowledge of resources to solve conflicts and to intervene and carry out ac-

tivities that aim to spread information about women and land rights. These problems explain the results about self-efficacy, especially in Long An where the lack of knowledge about mechanisms to access to justice seems to be higher among women. These results suggest that targeting actions to improve knowledge and positive attitudes towards women's rights and access to land should also include commune authorities in order to help bring justice to the most vulnerable.

Research shows that protecting women's property rights creates widespread benefits, including im-

proved health, economic and educational outcomes for women and their children.²⁷ Thus, it is of critical importance that women in Vietnam become aware of their land use rights, and that an enabling environment in which they can fully realize these rights is established. People from their community can have easy access and enough familiarity to ask them for information and bridge the gap between the community and formal justice organizations. This study suggests that investing in community-based volunteers is an important step in improving the access to conflict resolution services.

Annex: Table 2. Number of people surveyed by sex and province

Province	Hung Yen		Long An	
Sex	Male	Female	Male	Female
Total participants interviewed	426	426	421	421
Mean age (s.d.)	50 (13.3)	49 (12.5)	49 (11.4)	49 (11.0)
Partnership Status (percentages)				
Single	2	0	5	2
Co-habiting	0	0	3	3
Monogamous civil marriage	97	96	86	86
Other types of marriage: monogamous religious & customary	0	0	5	5
Divorced/separated/widowed	1	3	1	4
Ethnic group (percentages)				
Kinh	100	100	100	100
Hmong	0	0	0	0
Highest level of education completed (percentages)				
None	4	6	26	36
Primary (grade 1-5)	19	20	42	44
Secondary (grade 6-9)	55	57	21	11
High School (grade 10-12)	16	10	8	7
Intermediate School (e.g., junior college)	3	2	1	0
College, university	3	4	2	1
Other (graduate school)	0	0	0	0
Engaged in any type of work in last 12 months (e.g., salaried, agriculture, production)- (percentage)				
Yes (Any type of work)	93			84
No	7			16

27. Menon, N., Y. Rodgers, and A. Kennedy. 2014. "Land Reform and Welfare in Vietnam: Why Gender of Land-Rights Holder Matters." <http://www.american.edu/cas/economics/news/upload/Rodgers-Paper-1-29-14.pdf>.

Menon, N., Y. Rodgers, and H. Nguyen. 2013. "Women's Land Rights and Children's Human Capital in Vietnam." *World Development* Volume 54, February 2014, Pages 18-31

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