



Rural Women's Land Use Rights in China: Acceptance and Enforceability

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6.1 INTRODUCTION

Legal control of land as well as social recognition of women's use of and rights to land can have catalytic effects of empowerment, increasing women's influence and status in their homes and communities (Araujo, 2017; Beijing Declaration and Platform for Action, 1995). In other words, land is a powerful asset, because of its strong social function. Its economic and social aspects are central in advancing gender equality. As land is Chinese rural peoples—and especially women's—only lifeline that forms the basis of their social security and economic independence, land tenure rights play a significant role. However, in China, with which this chapter is concerned, it is not always the case that people can fully enjoy the right to land.

Social norms strongly steer the land-rights situation in rural areas of China, even though there are other factors such as ambiguities in legislation, as well. The specific purpose of this chapter is to ascertain how rural women's land rights are fulfilled and whether these rights are (1) legally recognisable, (2) socially recognisable or (3) enforceable by the external

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authorities (Agarwal, 1994; Mehra, 1995). As part of the broader social context, these three stances affect rural women's position as independent and equal actors. This chapter presents an example of how society and its diverse practices affect rural women's contractual land rights in modern China.

Rapid urbanisation is causing problems in rural areas, as expanding cities need more land. Urbanisation puts pressure on rural people in areas close to expanding cities rather than on landholders in areas further away. For this reason, areas categorised as "rural" that surround and belong to cities are the fastest-growing regions in China. Furthermore, various agents are interested in these areas: cities are interested in expanding; builders and construction companies can see potential profit; while the people living in those areas (landholders) are left somewhere in between. This places pressure on local governments, which then expropriate lands from rural landholders, as Sect. 6.5 confirms.

To understand the problems rural women face in land contracting, it is important to understand the role of the land tenure system, which is discussed in Sect. 6.4. Another contributor is *hukou*, or the household registration system, in which citizens are registered with a certain status—namely, rural or urban—and a recorded area to live. More research on this is under way in another article that is part of a PhD thesis, which studies the position of rural women in Chinese society.¹ However, to assess the impact of land tenure on the treatment of rural women, it is necessary to understand the significance of it to Chinese society, which in turn is based on how its development is intertwined with Chinese history.

Both the controlling *hukou* or household registration and more ambiguous land tenure rights that regulate the allocation of rural land are supposedly gender-neutral, bestowing women with the same opportunities as men. However, the law in books differs from the law in action. The ambiguity of land use legislation and the dogmatic implementation of the *hukou* legislation deprive women of their chances of survival in rural China, and women become legally invisible, ignored and forgotten, as Sect. 6.5 demonstrates.

This chapter is based mainly on interviews. Previous research and official documents are also used, but they merely corroborate the research. The benefit of this approach is that it provides a better representation of the grassroots level at which rural women reside. The All-China Women

Federation (ACWF), which is the only women's organisation in China, was able to provide an important insight into the lives of rural women during the interviews. A combination of qualitative and intersectional thematic analysis was used in the data analysis.

As this chapter focuses on women in rural areas, a feminist standpoint (Hartsock, 1983) provides an interesting framework. It is easy for those at the top of social hierarchies to lose sight of real human relations and the true nature of social realities (Harding, 1987). In China, it is noticeable that the social realities of different groups, authorities and rural women are so far apart from each other that there is no real connection or understanding between them (Li & Dennis Wei, 2010). However, it is not enough to use gender as a single analytical category. Therefore, this research uses an intersectional approach to qualitative thematic analysis. It allows the simultaneous exploration of numerous intersecting themes (Hill Collins & Bilge, 2020). For example, according to my research, age, marital status, location and gender all play an important role in the situation surrounding women's equality: younger, unmarried rural women are commonly more vulnerable than women who are older or married, whether in rural or urban areas.

Of course, it is important to remember that land-rights issues are not the only challenge that women face in China. Women encounter all kinds of harassment (Srivastava & Gu, 2009) and systemic gender discrimination in employment (Dasgupta et al., 2015) and education (Ross, 2015). When lecturing at Fudan University, I was told of a professor (not Fudan-based) who categorically refused to take female students as Master's/post-graduate students because women "get pregnant and stay at home". In addition, news articles reveal the hostility from the authorities that has extended to women's rights activists over the last few years. In January 2016, Guo Jianmei, founder of the Beijing Zhongze Women's Legal Counselling and Service Centre, closed the organisation. It has been argued that the authorities ordered the closure (Zeng, 2014).

This chapter is organised in the following way. Section 6.2 introduces previous research. Section 6.3 begins by laying out the theoretical dimensions of the research and how the data have been analysed. After that, land rights are addressed to better highlight their effects on Chinese society and on rural women. Finally, a summary and discussion are provided.

6.2 PREVIOUS RESEARCH

Even though the rural population faces difficulties in land tenure practices, many previous studies have suggested that rural women experience more hardship. Also, rapid urbanisation causes difficulties because the relevant legislation does not adapt fast enough.

Long (2014) has noticed that rapid urban-rural transformation gives rise to the formulation of new policies affecting land use. However, Liu et al. (2014) point out that the overall land policy framework is still insufficient and that policy changes and their implementation have not always been positive towards rural women. These findings are parallel with Li et al. (2010, p. 432), who suggest that the “Chinese government at various levels needs to improve the system of property rights through reforming rural collective property rights”.

Liu et al. (1998) highlight the fact that regional and temporal variation in rural property rights signals a pattern in which decentralised institutional innovation occurs in response to the competing interests of the nation state, of local authorities and of present and possible future individual land users. As noted by Perry and Selden (2010), the current property rights problems are complicated, because the possible conflicts of interest between individuals, local collectives and the state are far larger than the desire for clarity and equality over property rights.

It is well established that studies on land rights have mainly focused on the rural population. Peter Ho (2017) has addressed property rights, but he also sees the rural population as a coherent group of people, as do Yongjun (Zhao, 2011), Chen et al. (2014) and Samuel P.S. Ho and George C.S. Lin (2003). In addition, Weil (2008) addresses property seizures, land disputes and inadequate compensation, but from a rural male’s point of view. However, he gives an excellent example of injustice towards two women that took place prior to the summer Olympic Games in Beijing in 2008: “two poor women in their 70s were sentenced to a year of ‘re-education through labour’... for appealing the undercompensated taking of their home” (Weil, 2008, p. 63).

There is a consensus among some researchers suggesting that land tenure and associated property rights in rural China affect the status of rural women (Li, 1993). As rural women face discrimination in all areas of land rights (Kelkar & Krishna Raj, 2013), the issue should also be addressed as a rural women’s problem, not just a problem in or of rural areas.

Some analysts (e.g. Liaw, 2008) discuss how existing legislation should be used as a tool to secure women's land rights in rural China. Liaw (2008) identifies the issue as a legislative problem, as ambiguities, especially in implementation, can cause problems in land-rights disputes. Tinker and Summerfield (1999) identify women's land problems as an issue of male dominance. It seems that the social structure allows the institutional exclusion of women from decision-making processes to continue. Jacka (2006a, b) and Sargeson (2006; Jacka & Sargeson, 2011) have conducted several studies on gender relations and social change in contemporary China, women in rural-urban migration, and gender and family relations. They have briefly addressed rural women's land-rights issues, criticising the *hukou* system, which causes hardship for rural women.

Other researchers (see Li, 2003; Duncan & Li, 2001; Zhu, 2001; Li & Yin-Sheng, 2006) have confirmed that a substantial number of rural women have lost their land rights in the process of land reallocation as a result of moving from their original residential villages to a new village after marriage, divorce or being widowed.

6.3 THEORY, DATA AND METHOD

China is, at least in theory, still a socialist country. However, since 1978, the Chinese Communist Party, under Deng Xiaoping's leadership, has slowly introduced the capitalist economy to Chinese society (Jiawen, 2009). Marxism no longer has a strong foothold either. In Daniel Bell's (2010, p. 8) words:

[H]ardly anybody really believes that Marxism should provide guidelines for thinking about China's political future. The ideology has been so discredited by its misuses that it has lost almost all legitimacy in society.

Although the power of the Chinese Communist Party (CCP) is still strong, the norms that govern society at the grassroots level are anchored deeper than in the structures of state and administrative power. Even though the CCP has a significant hierarchical power structure, power does not entirely lie in the hands of one person or even the Communist Party. The Communist Party and other structures such as village committees, other authorities and courts are aware of and operate within the known power structures (Wang, 2010). These are structures in which everyone (those who exercise power and the objects of the exercise of power) is stuck, but within which they also know how to operate.

A feminist standpoint places women in the centre of the whole power structure (Hartsock, 1983; Harding, 1987). Hartsock is aware that power is an essentially contested concept and that different epistemologies are based on different theories of power (Hartsock, 2013). Hartsock also claims that it is women's unique standpoint in society that provides the justification for the truth claims of feminism while also providing it with a method with which to analyse reality (Hartsock, 1983; Harding, 1987). Social hierarchies, which are strongly present in Chinese society, lose sight of real human relations and the true nature of social reality. As Yingru Li and Dennis Wei (2010) have noticed, the social gap between the authorities and rural women is too wide to establish a real understanding.

Previously in gender studies, women were considered a standardised group with common interests, desires and problems regardless of class or ethnic connection (Mohanty, 1988; Nicholson & Seidman, 1995). Yet women's lives in a given society are shaped not by a single axis of social division (e.g. gender), but by many intersecting axes that work together and influence each other (Hill Collins & Bilge, 2020, pp. 3–30). In this chapter, age, marital status, location and gender all interact and interplay to position a rural woman within social and legal relations. These intersecting social justice problems are subclasses of topics such as gender inequality, gendered societies or gendered decision-making structures.

Several researchers have utilised government and other official documents to analyse Chinese policies. Likewise, this study utilises Chinese policy documents, but since the interest is in grassroots interaction, the specific data are interviews with personnel from the All-China Women's Federation (ACWF) and one expert on this topic. As this is a qualitative study, the idea was to produce contextual real-world knowledge about the social structures and political atmosphere in which the ACWF is currently operating, by using semi-structured interviews.² Even though such interviews usually produce results that cannot be generalised beyond the sample group, they provide a more in-depth understanding of participants' perceptions, motivations and emotions.

The main topic of the interviews was rural women's land-rights situation in rural areas of China. The interviews addressed the ACWF's work, the organisation's support for women on landownership and the overall situation surrounding equality in different areas. As this chapter tries to establish how land tenure legislation affects rural women's lives, the responses to the interview questions were revealing. The interviewees' responses painted a picture of various policies, practices and power

relations that have a great impact on women's economic and overall independence. Also, during the interviews, it was important to pay attention on what was not mentioned, the small silences. Nevertheless, the interviewees were very responsive and willing to answer the questions.

The interviews were conducted in City A in Central China in April 2017 and in City B in Eastern China in April 2018. There were three and four participants, respectively, from the ACWF but the reference is to the group as a whole. In addition, an interview with a professor of human rights law provided insight into women's legal status, equality and society's effect on land rights. The ACWF was chosen because it is basically the only national women's organisation in China. The interviews were not recorded, but full transcripts were taken.

Intersectional thematic analysis was conducted and the interviews were closely analysed to identify common themes—topics and patterns of meaning that came up repeatedly. Both inductive and deductive approaches were used. Primarily, the inductive approach allowed the determination of the main themes. Of course, there were some preconceived themes that were expected to be found based on existing knowledge. The themes that emerged from the interviews were gender inequality, the ostensible neutrality of legislation and gendered decision-making structures. These themes seem firstly to affect the work of the ACWF. Secondly, the themes and their consequences also have effects on women, as the ACWF is not able to provide adequate support and/or guidance concerning land tenure rights.

Gopaldas and DeRoy (2015, p. 24) argue that conclusions drawn from intersectional research tend to be more inclusive, precise and somewhat radical. Furthermore, McCall (2005, p. 1780) reminds us:

Interest in intersectionality arose out of a critique of gender-based and race-based research for failing to account for lived experience at neglected points of intersection—ones that tended to reflect multiple subordinate locations as opposed to dominant or mixed locations.

The rural women, whom the ACWF is representing, are living at such points of intersection, by and large neglected due to the Chinese political discourse.

6.4 LAND RIGHTS

Previously, when socio-economic development plans called for land development, Chinese municipal governments increased their land supply through land acquisition, a conversion of landownership from the collective to the state. In cases of land acquisition, municipal governments compensated farmers for their land. Since there were no land markets, peasants were instead compensated with a package that included job offers in which farmers would work for the enterprises established on the acquired land, housing compensation, referred to as resettlement fees, compensation for the loss of crops and belongings connected to the land, and urban *bukou*. It was common for large projects such as motorways, railways and water projects to leave farmers with no land to farm (Ding, 2004).

Nowadays, the compensation for compulsory land acquisition is primarily guided by the Land Administration Law (LAL), which was first passed in 1986 and then amended in 1998. In 1986, the LAL followed the old model used in the system to guide land acquisition compensation, which contained four main components: land compensation, resettlement subsidies, compensation for young crops and attachments on the land, and labour resettlement. Despite the positive impact of land acquisition and public land leasing for local government financing, an examination of land acquisition reveals institutional flaws that lead to socio-economic and administrative problems, which are addressed in the following sections.

In 1984, the state stipulated that land use rights should be leased to villagers for a minimum of 15 years, which was extended to 30 years in 1993. If a piece of land is leased for 30 years and the lessee receives a land-rights certificate, then land use rights should be protected during the entirety of the lease term. However, there are grey areas where basic land-rights certificates do not offer *enough* land use rights protection: pieces of land can be taken back if certain conditions are met. For example, reallocation is allowed if approved by more than two-thirds of the members of a collective. An extra layer of protection is provided by the clause “reallocation is prohibited before expiry date,” if it is included on land-rights certificates.

However, in China, anything not specifically banned is considered to be acceptable. If the clause “reallocation is prohibited before expiry date” is not included on land-rights certificates, the understanding is that reallocation may be permissible (Feng et al., 2014, p. 255). This implicit but practically effective requirement captures the importance of the formality

of land-rights certificates and measures the impact of the functionality of these certificates.

There have been some reforms of the land-rights legislation over the years, and the situation has improved, but not enough. When the first version of the RLCL debuted in 2002, one matter was clear: Articles 6, 30 and 54 in the law vowed to uphold women's rights to use and to manage land under tenure contracts. Also, the law banned rural collective economic organisations—which were the legally designated owners of farmland, comprising villages and village groups—from revoking their female members' access to land upon marriage, divorce or widowhood. In other words, so long as their families hold valid land tenure contracts with rural collectives, women's land rights should not be compromised by changes in marital status. What the 2002 RLCL omitted to mention, though, were the criteria necessary to determine the membership of rural collectives. In the absence of criteria defined by the state laws, rural collectives remained free to decide who could or could not enjoy membership, a question at the heart of the distribution of income and benefits based on land use. The law's silence on this matter soon proved to be highly problematic, leaving millions of women with little certainty about their standing as members of a particular community (Li, 2020).

The problem of land management and division has also been identified by Tamara Jacka and Sally Sargeson, who have long studied the problems faced by women in Chinese society. Jacka and Sargeson are concerned about the fact that women, especially those in rural areas, are often left out of decision-making and not given enough attention as full members of society (Jacka, 2006b; Jacka & Sargeson, 2011; Sargeson, 1995, 2006).

The non-transfer of new land to women is also often justified by the authorities with the fact that the land has been allocated for 30 years under Section 14 of the Land Management Act, although the same section allows for the division of land if a two-thirds majority supports it. However, the interviews revealed that most of the decision-makers are men, creating a gendered process.

During recent decades, changes in Chinese land tenure rights and practices have given incentives for rural developments, including farmer incomes and living standards (Ding, 2003; Keliang & Prosterman, 2007; ACWF, 2014, 2017). As Fan et al. (2004, p. 400) state in their article, “the well-being of many rural landowners has been improved by various indicators and factors such as human capital”.

Furthermore, those improvements have benefitted the entire Chinese economy, as Bingqin Li (2014) discovers in his article. However, this positive progress does not necessarily apply to women. As Woodhams et al. (2009) note, women's status in China is far from equal to men's.³ Rudd (2007) and Song and Dong (2017) follow Woodhams and her colleagues, arguing that women's situation is even more complicated in rural or peri-urban areas.⁴

6.4.1 *Land, Social Benefits and Hukou*

Land tenure rights constitute the most significant form of income, economic safety and social security for the rural population (H. Li et al., 2015; Liang & Burns, 2017). In other words, a farmer's land not only generates income but also acts as a means of life security.

Hukou affects the social benefits of Chinese citizens. Even though peasants' and urban residents' health insurance and other benefits have been improved,⁵ peasants' insurance is still less comprehensive than that of China's elite and those living in cities with urban *hukou* (Liang & Burns, 2017, pp. 75–115). Judith Banister (1987, p. 328) notes the dichotomic social order produced by the registration system, finding that:

[Urban] areas are essentially owned and administered by the state, and their residents are the state's direct responsibility. The state budget must supply urban areas with employment, housing, food, water, sewage disposal, transportation, medical facilities, police protection, schools, and other essentials and amenities of life.

The opposite side of the coin is that the state assumes direct responsibility for none of these services for the *countryside*. Nor does it provide rural people with any of the other vital services and welfare benefits that are routinely provided to urban residents, particularly to state sector employees, including free or subsidised healthcare, retirement benefits and subsidised food and housing. To the extent that any of these services have been available in the countryside, they have relied on the highly differentiated resources allocated by self-reliant rural communities (villages) or their collective subunits, namely production teams (Afridi et al., 2015).

It is easy to agree with Chengri Ding's (2007, p. 2) argument that, despite the benefits of the public land leasing system for local government

financing, flaws and ambiguities within the legislation and implementation of land leasing policies have produced negative impacts for various sectors of society.

6.4.2 *Lack of Contracts*

The Land Contract Law for Rural Areas (Law of the People's Republic of China on the Contracting of Rural Land, 2002, RLCL) increased tenure security for rural people. Two documents are supposed to record rural people's land rights and provide them with some measure of protection: contracts and land-rights certificates (RLCL Art 21). Still, many households and individuals do not possess the required documents. According to the Summary of 2011 17-Province Survey Findings, 36.7% have both documents (contracts and land-rights certificates) as required by law and policy. However, only 20.9% of issued contracts and 40.3% of issued certificates contain all the legally required information. Women's names are generally not listed on land documents (Zimmermann, 2012, p. 1):

rural women sometimes don't have written contracts. Their father, brother has their [rural women's] land, in contract. (ACWF, City A)

The head of the family administers the land tenure on behalf of the women in the family. This fundamental act of suppression violates rural women's freedom of contract. In addition to that, denying rural women their right to have a written land use contract has far-reaching consequences that affect more than just their social status as equals. Refusal to compensate rural women accordingly affects not only their economic and social situation but also their economic freedom. In a way, refusal constructs gender-based violence that forms a barrier to women's equal participation in society and affects their overall social and economic development and independence (García-Moreno et al., 2014; World Bank, 2014).

As selling land is usually one of the largest sources of revenue for local governments (Xiangzheng et al., 2010), economic reasons are a key factor in discriminating against rural women. Village officials might be tempted to abuse their power and dismiss the rural population so that they do not receive proper compensation for expropriated land (Ong, 2014). Rural women are subject to even more discrimination when their compensation is refused or given to someone else⁶:

The village or the local government gets more money, but it is not given to the original landholder. (ACWF, City A)

The following case demonstrates how rural women are discriminated against in more than just one way. First, rural women do not have their name on the land use contract, and, second, the father of the household does not give the compensation to the women. It also shows how the mother of the family considers the situation of not receiving compensation to be normal and so she herself refuses the compensation:

CASE 1, source All-China Women's Federation:

A family, 5 members. Mother, father, 2 sons, 1 daughter. Father was the head of the family. The mother's and daughter's land contract was in the father's name. The sons had their names on their contracts. The father and brothers were given compensation when their land was expropriated. The mother's and daughter's share was given to the father. The mother did not want the money, but the daughter did.

The ACWF case presented here is a normal one among the complaints they receive. After arbitration,⁷ the parties decided that the father must give the compensation originally provided by the local government (RMB 16,490 yuan) to the daughter, because she was the actual proprietor of the land even though the tenure contract was not in her name. In opposition to the RLCL, which demands that everyone has a written tenure contract, this case illustrates how family relations enable discrimination and how the society surrounding the family accepts this.

It appears that women's property rights in community-based systems, such as the land tenure contracting system in China, are derived from their status as mothers, daughters, sisters or widows—rather than in their own right. Thus, women usually lose their rights to land when their status within the household changes (Cleaver & Schreiber, 1994) and if they are divorced, widowed or abandoned (Li, 2015; Kelkar & Krishna Raj, 2013; Liu & Chan, 1999). The following case is an example of a situation where a land use contract is not externally enforceable or socially recognised:

CASE 2, source All-China Women's Federation:

A girl married and moves into a new village. She kept her [written] land contract in the original village. Her father, mother and brother grew grain on her land. All the family land was expropriated, and monetary compensation was paid. The daughter was left without compensation.

The village committee decided in this case, with the daughter's family, that because the daughter did not live in the village, there was no need to compensate her. In other words, the village committee and the family acknowledged the tenure contract but said it was void because the daughter did not live in the village. After arbitration, it was decided that the father must pay the compensation (RMB 54,684 yuan) to the actual contract holder, the daughter.

These acts of inequality underline the fact that there are discriminative legal practices and social norms. The state has failed in protecting women because there are frictions and ambiguities in the legislation. Furthermore, it seems that the state tolerates friction in land legislation and its application.

It is worth noticing that when rural women have sought help from the ACWF in arbitration situations, the organisation has been able to help. It seems that ACWF's input in these difficult situations is vital.

6.5 RURAL WOMEN BETWEEN MEN, FAMILY AND STATE DOMINANCE

The issue of women losing rights to land and property at marriage, divorce and widowhood has long been regarded as a major obstacle to achieving gender equality in rural China (Liaw, 2008; Wu, 2016). In these situations, Chinese rural women are placed in a disadvantaged position, and become vulnerable and dependent on their immediate family's help (Li, 2003; Duncan & Li, 2001; Zhu, 2001).

Furthermore, it seems that the impact of society and public opinion on the functioning of village committees is greater than that of official legislation, as Rosen suggests (2017). This is the case in today's China; village committees are constantly aware of the expectations set for them (Xu & Fuller, 2018).

Even though both men and women face difficulties in rural areas, women are more vulnerable and so more at risk of facing poverty and abuse. The wording used in the legislation concerning land rights is ambiguous. This ambiguity of legislation and legal loopholes create a space for the officials to interpret legislation unequally.

This dilemma is also familiar for Nordic feminists, where attention has been drawn to the fact that formally gender-neutral legislation can mask and even prop up gender-segregated practices and ways of thinking (Lykke, 2010).

In addition, local-level officials are left with little guidance or no guidance at all. That creates a challenge: officials at the lower levels, including village councils, avoid interference or simply forbid everything in fear of doing something wrong. However, problems in implementing decisions or legislation are part of the overall system of Chinese policy-making (Shi et al., 2014). This also came up during the interviews:

There is no interpretation guidance. ...officials don't know how to interpret the law... they forbid everything so that they don't do anything wrong. (Professor of law, City A)

Furthermore, government officials making decisions at the national level do not understand life in rural areas. It can also be argued that since legislators at the national level do not understand life in rural areas, the areas do not receive the support they need.

Most of the national legislators live in big cities. They don't know what is going on in rural areas. (Professor of law, City A)

6.5.1 *Legal and Social Recognition, and Enforceability by External Authorities*

The rights to land should not be only legally and socially recognisable but also enforceable by external authorities such as village-based institutions. However, these external authorities, which decide on the unwritten social agreements that create behavioural and gendered norms of conduct, are male-dominated (Kandiyoti, 1988; Mautner, 2011):

Old customs are very strong; women are lower than men. (ACWF, City A)

Even though social recognition of the land tenure contract is crucial, legal recognition and external enforceability also play an important role (Agarwal, 1994; Mehra, 1995). For a land tenure contract to be externally enforceable, it must be recognised by the village council:

village councils are powerful; they can choose [*decide who is allocated a certain piece of land*] about the land. They are decision-makers. (ACWF, City A)

Village councils do not just ignore the existing law but also use their own strong customs that ignore rural women's right to land. In this context, it can be argued that there is an obvious lack of social recognition concerning rural women's land rights.

village committees just ignore the law sometimes. They have their own laws.
(ACWF, City A)

Chinese village councils have the power to decide whether land contracts belonging to a tenant can be enforced. Local officials have created regional traditions that allow them to interpret the law in their own way. Therefore, the male-dominated village councils (Du, 2018) are engaged in social cooperation through which they together choose the principles in accordance with which rights and duties are assigned (Rawls, 1971). In this light, the law is not effective enough to protect rural women's right to landownership. Village councils have established procedures and agreements among themselves that replace the meaning of the law and discriminate against rural women. In a way, the village councils have created an informal institution within formal society by creating circumstances that tolerate their strong and selected cooperation. There is a lack of recognition and enforceability and a lack of two crucial mechanisms that create stability: predictability and, importantly, equality.

6.6 DISCUSSION AND CONCLUSION

The fulfilment of rural women's land tenure rights and whether these rights are (1) legally recognisable, (2) socially recognisable or (3) enforceable by external authorities is a key issue in protecting rural women's economic and social independence. At the moment, though, it seems that there are problems in accomplishing and securing rural women's land tenure rights. Since the land tenure system is a crucial institution in defining an individual's socio-economic status and opportunities in rural China, it impacts not only women's bargaining power but also their social security, economic well-being and independence.

Between the 1980s and mid-1990s, gender bias was explicit in the implementation of land tenure policies and population control, especially in rural China. Since then, explicit gender bias has been reduced, reflecting China's goals of modernisation. However, the policies are still not gender-neutral in their implementation. Women are more likely to become

“landless” at some point in their lives. The greatest threat follows marriage, divorce or if they become widowed. The lack of recognition of women’s land use rights deprives women of their chances of survival in rural China. Even though both men and women face difficulties in rural areas due to the land tenure system, the system has failed to protect the latter.

Although a written land tenure contract and a land use certificate are two of the most important documents that secure rural women’s economic situation and land use rights in the case of expropriation, there are other key factors that contribute to the actualisation of rural women’s land rights. To enhance women’s ability to claim and keep control of their land, one aspect needs attention: reducing gender bias in village land tenure contracting practices and in village council rulings. Although women’s rights to land in the People’s Republic of China have, in theory, always been equal to those of men, the household tenure contracting and male dominance in decision-making have created a situation in which practices exist that do not involve rural women, their well-being or their equal treatment. This practice is (ab)use of power, which society enables. As was pointed out in the introduction to this chapter, the legal and social acceptance of a land tenure contract is vital for the empowerment of rural women.

It is also important to acknowledge that rural Chinese women form a distinct and significant group that needs to be addressed as such, and that rural women in China face discrimination in land-rights situations. The discrimination, however, is part of a deep-rooted gender discrimination spectrum reflected not just in rural areas but throughout Chinese society.

The implementation of relevant legislation should focus on rural women’s rights to access, use and control land. Social factors and a lack of guidance prevent rural women from obtaining secure rights to land. It is crucial to ensure that legislation and land reform policies are gender-responsive and consider rural women’s historically disadvantaged socio-economic position compared to rural men. Furthermore, an environment that encourages rural women’s increased participation in (political) decision-making, such as village committees, should be created and maintained.

Since women make up half of the world’s population, research and analysis on women is critical in understanding many forms of social stratification. Women undoubtedly face unique disadvantages and social problems because of their gender. Trends and changes in women’s lives and the obstacles that women face in improving and securing their own rights are worthy of research, documentation and analysis.

NOTES

1. This chapter was funded by the Academy of Finland (ASLA: Actors, Structures and Law, decision 312497); the Joel Toivola Foundation, Finland; and a NIAS-SUPRA scholarship, University of Copenhagen.
2. The interviews were a result of a wide and almost-endless flow of emails, phone calls and word-of-mouth communication. However, after reaching one core person, it was relatively easy to arrange the interviews.
3. For more information, see Riley (1997); and Rudd (2007).
4. In this study, the word “peri-urban” means areas between the city and the countryside, which are shaped by the urbanisation of formerly rural areas at the urban boundary.
5. Enrolment has increased from 20% of the population in 2000 to 95% in 2012 (Huang, 2015).
6. After expropriation, the state must compensate the original contractor; however, the compensation can be quite low in comparison to the real value. Also, the distribution of the compensation by the village collective can be discriminatory (Chan, 2003; Wu, 2016).
7. Arbitration with the help of the ACWF is equivalent to an appeal against the original decision.

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