

# Married Women's Rights to Land in China's Traditional Farming Areas

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*Women's land rights are one of the major issues of the rural land contract in contemporary China. Married women in relatively developed rural areas and under marriage misfortune have elicited much academic and public attention. However, less attention has been devoted to studying married women in traditional farming areas where they are still relatively poor. This paper focuses on women's land rights in their maiden village in traditional farming areas, and shows, based on an analysis of a case study combined with a questionnaire survey, that married women's land rights tend to be retained in their parent village with the implementation of new policy and land contract laws, but that they have almost no rights in their maiden families after marriage, due to the influence of traditional marriage notions and customs. Given the situation of the political and legal framework, it is necessary to further probe, by reviewing past practice and experience, how to ensure women's rights through restricted and specific land readjustment, which may be a realistic and valid approach.*

## Introduction

Problems relating to women's land rights emerged only gradually in the course of China's evolving rural land contract system. Early reports indicated that women were losing land rights after marriage, were unfairly treated during land requisitioning in suburban areas, and were excluded from benefits in relatively developed and industrialized areas where land had increased in value. More recent attention, from both policy and academic circles, has focused on two issues affecting women's land rights. First, a great deal of research has concentrated on women with a 'special' marriage status, such as divorced women and widows. Their land problems are closely connected to family breakdown and dispersal. Another research focus is on rural women whose land rights are cast into doubt by their 'unorthodox' marriages. This includes studies of the land rights of women married to non-agricultural registered residents (*feinongye hukou*), as compared to the majority of rural women who marry rural residents (*nongye hukou*), and women married uxorilocally. These studies tend to be regionally specific, as they concentrate on recently developed and suburban rural areas and localities with good land resource conditions where women

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are willing to reside in their natal villages after marriage, but customary laws and beliefs dictate that they can't be treated the same as other villagers. In some cases, these groups of women have resorted to the law to successfully challenge village traditions and defend their land rights.

In contrast, this paper focuses on the problems relating to women's land rights in what we have dubbed 'traditional farming areas'. The term 'traditional farming areas' refers to places in which rural registered residents primarily depend for their living on having land access and participating in agricultural production.<sup>1</sup> Hence, these areas are relatively poor and underdeveloped. A second, institutional, characteristic of traditional farming areas is that most women marry exogamously, within a limited area. The range of women's post-marital movement rarely extends beyond a county, or even a township.<sup>2</sup> Moreover, divorce is uncommon.

Problems relating to women's land rights in traditional farming areas have been overlooked in recent political discussions, policy design and academic analysis. Some scholars and officials think that it is unnecessary to consider woman's land rights as a specific issue because unless misfortune visits the woman's family, she lives in what they view as a 'normal' situation. In this view, the family is assumed to be a single, indivisible interest system that incorporates women's rights and interests. Hence, they take it that there is no difference between the land rights of husbands and their wives. On the other hand, some lawyers, scholars and officials argue that since women's land rights have been guaranteed by a series of laws that grant them rights to be allocated land either in their natal villages or in their husbands' villages, it is unnecessary to conduct further research into their situation. To counter those opinions, we describe and analyse the nature of the land rights problems encountered by married women in traditional farming areas.

The data in this paper were collected in August 2002 in Shaanxi and Hunan provinces during a field survey we conducted for the Research Center for Rural Economy, in the Ministry of Agriculture. The surveyed villages are all located in traditional farming areas. They included villages on both plains and hills and, compared to the national averages, the villages produced a higher proportion of grain crops, had lower per-capita land holdings, lower total net income and lower per capita income from immigrants' remittances. We interviewed 426 households. Interviewees included married rural women, other farmers and village cadres. We received answers on land rights from 486 of the 530 married women interviewed.

The following section of the paper discusses recent policies and legislation that stipulate that married women's rights to land are retained in their natal households. We then draw on our interview transcripts to analyse what happens in practice as a consequence of married women retaining their share of contract land with their natal households rather than being allocated land rights in their husbands' households. In the third section, we examine the impact of marriage customs and traditional notions on women's legal rights to land by ascertaining villagers' perception of, and attitudes toward, the retention of land in their natal villages. The next section reviews past

1. See He Xuefeng, *Xin Xiangtu zhongguo* [New Rural China] (Guilin: Guangxi shifan daxue chubanshe, 2003), pp. 102–105.

2. See Zhang Peiguo, *Diqun fenpei nongjia jingji cunluo shequ* [Land Allocation, Household Economy and Rural Community] (Jingnan: Qilu shushe, 2000), pp. 177–180.

practices and experiences in solving women's land rights problems. The paper concludes by arguing that restricted, specific land readjustments may be a realistic, valid way to address women's land rights problems under current political, legal and cultural conditions.

### **Why married women's land rights are retained in their natal households**

Women's land rights problems emerged alongside evolution of the Household Responsibility System, which was based on contracting rural land to village households. Although most land contracts are signed by the male head of the household, they bestow rights jointly on all members of the household. Shares in the contract land generally cannot be partitioned. In the early stage of rural reforms, land generally was allocated to households based on their size, though other forms of land allocation, such as parcelling according to number of labourers, were also used in a few areas. However, household size regularly changes. Marriage is one of the most common causes of fluctuations in rural household size and, as Davin and Bossen demonstrate in Part 1 of this colloquium, rural women form the great majority of marriage migrants. Following their marriage and removal to their husbands' place of residence, women are regarded as no longer having membership of their natal families, village communities, and their villages' collective economy. Consequently, married rural women frequently encounter specific problems realizing their land rights. In contrast, husbands rarely change residence upon marriage. Nor does their marriage affect their access to land.

In order to solve land problems generated by changes in household membership, in the first cycle of land contracting most villages allowed small reallocations of contract land<sup>3</sup> according to a practice known as readjustment, or 'supplementing land when family size enlarges; reducing land when family size shrinks'. A household was deemed to have lost a member when a daughter married out, and a share of its contract land would be returned to the village or group for reallocation. Conversely, a household was deemed to have added a member if a woman married in. A supplementary portion of land would be allocated to the household's contract land for her use. Generally, land readjustment occurred at regular periods every few years and was discussed in advance by village members. So although women rarely received land immediately after their marriage in to their husbands' villages, they could expect to be allocated land at the next readjustment. This practice of periodic land redistribution eased the land rights problems of rural women who had married in an 'orthodox' manner.

Since 1994, rural land contracts that have expired have been extended for another 30 years. The primary aim of policies and legislation introduced in the second half of the 1990s is to endow farmers with long term, secure land use rights by contract. For example, land readjustments were strongly discouraged by Document No. 16 of the Central Committee of the Communist Party in 1997 and again in the 1999 Land Management Law. Article 20 of the 2003 Rural Land Contract Law stipulates that the

3. Liao Hongle and Xi Yinsheng, *Zhongguo nongcun tudi chengbao zhidu yanjiu* [Researching the Land Contract System in Rural China] (Zhongguo caizheng jingji chubanshe, 2003), pp. 27–28.

land contract term is for 30 years. In response, governments duly directed that there should be ‘no land reallocation according to demographic change’. This policy obviously made it more difficult for married women to be allocated land in their husbands’ villages.

Nevertheless, women’s land rights are not ignored in the land contract legislation. On the contrary, in order to preclude women’s loss of land in both their original and new places of residence, Article 30 of the land contract law states that within the 30 year contract term, the woman’s natal village or group, as the contract provider, should not take back women’s portion of originally contracted land when they move upon marriage unless the women are allocated contract land in their new place of residence. Hence, married women will retain land rights in their parental households and natal villages. The same Article stipulates that the contracting party may not take back the land of a woman who is divorced or widowed unless she receives contract land in a new place of residence. In fact, Article 30 is designed to counteract the potential of Article 20 to negatively impact women’s land rights. This means that along with ensuring farmer’s secure, long-term land contract rights, the Rural Land Contract Law aims to preserve married women’s legal entitlements to land.

Our field survey demonstrates the trend toward married women retaining land rights in their natal households. As shown in Table 1, only 2.3% of married women have land in neither their natal households nor their husbands’ households. On the other hand, 1.4% have land in both their new and old places of residence. These two anomalies have occurred because of differences in the scheduling of land reallocation in the women’s natal villages and their husbands’ villages prior to promulgation of the land contract legislation. In the first case, a woman loses land in both villages after her marriage because her husband’s village does not reallocate land while her natal village reallocates land to compensate for demographic changes. In the second case, a woman possesses land rights in both villages because her husband’s village reallocates land after her marriage, while her natal village does not. Although instances of women holding land rights in two villages have been cited as evidence that rural married women do not experience land rights problems, it is clear that such cases are relatively uncommon. The majority of women, accounting for nearly 90% of our interviewees, have a share of contract land in their husbands’ households and villages. To a large extent, this is because married women aged over 30 received land from periodic small readjustments.

Our focus, however, is on the situation of women married in recent years whose land rights will be subject to the influence of the new policies and land contract law. Although these women, whose average age is 26, only account for 6.4% in our total

**Table 1.** Land situation of married women

Have no land in either natal or husbands’ households	Have land in both natal and husbands’ households	Have land only in husbands’ household	Have land only in natal household	Total
2.3% (11)	1.4% (7)	89.9% (437)	6.4% (31)	100% (486)

sample, there is no doubt that they provide a valuable indicator of future trends.<sup>4</sup> Their experience shows that it has become increasingly difficult for married women to get land in their husbands' villages and so they retain legal rights to contract land in their original places of residence. How does this affect married women's rights and interests? This topic is discussed in the following section.

### **Married women's land rights and interests in their natal villages**

Current laws and policies clearly state that a woman without land rights in her husband's village should retain rights to contract land in her natal village. To understand what actually happens in practice, however, we need to listen to the experiences of recently married women. We describe and analyse five such cases.

#### *Case 1*

Mrs Huang married in 1996 and moved to live in a nuclear household with her husband in group 9, Sanhe village, Guanyintan town, Qiyang county, Hunan. However, she did not get a share of contract land in her new place of residence because the 30-year-prolonged contract policy had already been implemented in Sanhe village. Her daughter was born a year later, so her three-member family only had access to the 0.7 mu<sup>5</sup> of land contracted by her husband. Under pressure to secure their livelihood, her husband migrated to Guangdong to search for a job, leaving her alone to cultivate the land, raise their infant and do all the housework.

She has never sold grain because their shortage of arable land means she is unable to produce a surplus. She said, 'I have only these lands for grain production. Last year it happened fortunately that I didn't buy grain. However, I have to buy grain this year because my rice was flooded and output will definitely decrease'.

Mrs Huang's parental home is about five kilometres from Sanhe. She has a share of land there, which is cultivated by her older brother. 'My land did not belong to me after I got married. They will never give me grain from it, and I will never go back to cultivate it.' She thought it was useless to retain land rights in her natal household: 'I've got married, how can I go back for land?' She continued, 'Daughters eventually marry out, only males will stay. What I need is to gain land rights here, not in my mother's household'. She also complained about the hardship caused by having no contract land in her husband's village: 'It's almost impossible for a woman of 30 or older to seek jobs outside. I will not be hired. So it would be better if I could get contract land here in the future. Land means food and no land means no food'. She added, 'People without land here are regarded as "the illegals". They don't call me that face to face, but I hear about it and it makes me feel uncomfortable'. Mrs Huang said that queuing to be allocated land through small readjustments could solve her problem, but as there is no such policy guidance from the central government, there is no point in asking for land from the village and town authorities.

4. For details, see Xi Yinsheng and Yang Li, 'Nongcun Funu Tudi Chengbaoquan Zhuangkuang jiqi Chansheng de Yingxiang' ['Women's land rights in rural in China'], *Zhongguo Nongcun Yanjiu Baogao, 2003* [Reports of Rural China, 2003] (Beijing: Zhongguo caizheng jingji chubanshe, 2004), pp. 502–525.

5. One mu equals 1/15 hectare.

In Mrs Huang's opinion, a woman upon marriage is neither a member of her parent's family, nor a member of her natal village. However, her case raises the question of whether the different village administrations and five kilometre distance between her natal and current places of residence prevent her from enjoying her right to use and benefit from her share of land in her natal village. The following cases suggest that administration and distance are not the primary obstacles to married women realizing their rights to land.

### *Case 2*

Mrs Wen married in 1996 and moved to live in a nuclear household with her husband, in Sujia group, Qiguan village, Liushahe township, Ningxiang county, Hunan. She was not allocated land because Qiguan village did not implement a land readjustment policy. Her husband had once contracted land but the land had been resumed and reallocated in 1989, after his residential registration status changed to non-agricultural (*feinong hukou*). Now the couple and their son have no land use rights. She told us that as a solution to their grain requirements, they transferred in three mu land and opened a buffet in their village, but what they could project from the buffet was so little that it could only pay for their son's sock.

Mrs Wen has a share of her natal household's contract land, but unlike Mrs Huang her natal home is only 500 metres away in another group in Qiguan village. However, land is allocated by group instead of village in Qiguan. 'The distance between my share of land and my current home is almost the same as the distance between the land and my mother's home', she said. 'But the land is cultivated by my mother's family and they never mention it to me. I got married out of my mother's family, so it's impossible for me to take the land with me. I'll never ask for the rights to use it.'

Marrying into a neighbouring group in the same village creates one of the most favourable conditions under which a married woman might realize practical rights to her share of contract land in her natal household. Yet Mrs Wen failed to attain those rights. This suggests that administrative and geographic factors are not the main barriers preventing women from utilizing their share of land in their natal household. Rather, problems stem from married women's natal families ignoring their rights to share the land contracted by the household, and from the women themselves who share the traditional view that after marrying out, daughters are no longer members of their natal families.

### *Case 3*

Mrs Zou, who has senior high school education, lives in group 5, Qingtai village, Wenfushi town, Qiyang county, Hunan. She married in 2000, and lives with her husband, parents-in-law and brother-in-law. She and her child have no shares in land due to the implementation of the policy of not reallocating land for 30 years. Like Mrs Wen's husband, her husband, father-in-law and brother-in-law also have no contract land because they are registered as non-agricultural residents. Consequently the six-member family has only 1.3 mu of land, of which 0.7 mu of land is contracted by her mother-in-law and the other 0.6 mu was inherited from her husband's grandmother.

The lack of land is not a problem for Mrs Zou, however. She is well-off compared with her neighbours, as her father-in-law receives a pension, her husband earns money as a migrant worker and she herself works as a hairdresser. Instead, she considers land a burden, complaining: 'We have to pay 73 yuan for fees and taxes per capita, which rose to 90 yuan per capita last year. People who contract land have to cover the grain quota as well as pay cash'.

Mrs Zou still has a share of land in her mother's family. She said: 'My brother does not wish to cultivate land and transferred it out, yet he has to deliver taxes and fees. So he sometimes mentions it to me, meaning that I should pay the fees and taxes on my share of land. He said that I should deal with the matters of my own land, whether I want to use it or not. I guess I will be expected to pay for my land if he does not pay for it'.

In contrast to the women in the first two cases, Mrs Zou does not rely on income from land. Indeed, she regards her land rights as a potential burden. However, her case also offers a valuable and unique perspective on problems relating to married women's land rights. When interest in land is positive and farming contributes a significant proportion of total household incomes or provides guaranteed subsistence, as in the first two cases, women cannot realize their land rights and interests in land in their natal households. On the other hand, when land income contributes a tiny proportion of total income, or actually imposes a net loss, a woman may suffer from holding nominal land rights in her natal household because the burden or negative interest may be shifted to her.

#### *Case 4*

Mrs Zhang married in 1999 and lives in a nuclear household in group 3, Mengjia village, Nianqiao township, Dali county, Shaanxi. Her three-member family has only 1.5 mu of arable land contracted by her husband. She and her child have no land as the last readjustment of land in group 3 in Mengjia occurred before her marriage. Both husband and wife have only three years of primary school education. They do local farm work to supplement the income earned from planting their contracted land with cotton so they can purchase grain. She said: 'We don't plant any grain, so as soon as we have any money we have to buy grain'. In order to increase their income, her husband bought a tricycle to deal with transportation, however, he could not afford to register the vehicle and was fined 1,000 yuan. She said: 'We acquired a debt from it, instead of earning money'.

She has not moved her residential registration to Mengjia because her husband said that unless the group was going to readjust the land it was not worth the effort. Her family living ran into hardship because of shortage of land. Her husband often quarrelled with her, complaining that she had no land and depended on his land for her food. When asked about why they did not transfer in some land, she answered: 'I have not enough money to pay rent for either other villager's land or the reserve land (*jidongdi*) of the group, because medium land is expensive and it's only worthwhile renting lower quality land which cannot be irrigated'. Then our investigator asked: 'Do you know if you have your share of land in your maiden family?' She answered: 'I don't know, I never asked about it, and my parents never mentioned it'. She thinks that a daughter is no longer a member of her maiden family after marriage, so she

wants to obtain a share of land in her husband's village. She said: 'No land reallocation for 30 years will result in the rich getting richer, and the poor poorer. People without land will have not enough food'.

#### *Case 5*

Mrs Zheng is a cadre with the title of woman director in Qingtai village, Wenfushi town, Qiyang county, Hunan. She graduated from senior high school. She was married in 1995 and has a child. Neither she nor her child have land in Qingtai, but she retains a share of land in her maiden family. Her husband has a temporary job in Anhui province. When our investigator asked: 'Do you have a share of land in your mother's village?' she answered: 'Yes, but it is useless to me'. She told us: 'My natal village is in this town, not far from here. As I have no land here, I sometimes go back to my mother's to help my family farm'. 'Do you cultivate your own land?' asked the investigator. 'I have a brother, but he hasn't enough labourers to cultivate the land so I go back home to help him. His income increases consequently. I just help him'. The investigator asked in succession: 'Does he give you grain?' 'No', she answered, 'I can buy grain now. If I wasn't able to afford my food, I would ask for some grain'. 'Would he give it to you then?' 'Of course! He would give it to me considering I help him. But now I'm not in such a bad situation. If I don't ask for grain, he certainly would not send it to me. If I ask, he would agree.' Mrs Zheng's words underscore the point that she would be entitled to request produce from the land in the event of hardship not because of her lawful rights to share in the profits of the land, but rather because of norms of reciprocity.

It is possible that in Case 4, Mrs Zhang's inability to exercise her land rights might be attributed to her lack of education and ignorance about whether she has a share of land in her natal village. That interpretation appears incorrect, however, in light of the fact that Mrs Zheng, the educated cadre in Case 5 who is aware of her entitlements, also fails to exercise her rights to use and benefit from her share of contract land. She has a high diathesis in local community in terms of whether her education or her social position, her ability and consciousness of rights and interests, commonly, is better than other women's. However, as a woman cadre, she cannot gain more rights and interests than other women. Even though her maiden family is also in the same town and not far from her husband's village, she came back to cultivate her land in her maiden family, but only for the purpose of helping her maiden family, instead of claiming her own rights and interest. Moreover, as she said, she would never ask for any grain from her parents and brothers, except in case of emergency. Returning to Case 4 of Mrs Zhang, we therefore suggest that she understands that there is little point caring about land rights that cannot be used in her cultural and customary institutional environment.

A common point illustrated by these five cases is that irrespective of their location, economic situation, education and official status, married women in China's traditional farming areas have weak practical rights to land in their natal households and villages. Those who do not have land shares in their husbands' villages consistently state that their possession of legal rights to shares of land in their natal villages is meaningless. The notion that a married woman is no longer a member of

**Table 2.** Villagers' perspectives on whether married women can obtain the benefit of contract land in their natal villages

	Can obtain all of the benefit	Can obtain most of the benefit	Can obtain fraction of the benefit	Can obtain none of the benefit	Do not know	Total
Can a woman obtain the benefit of her contract land in her natal village?	5.4% (23)	4.0% (17)	3.8% (16)	76.6% (324)	10.2% (43)	100% (423)

her natal family is so deeply rooted in both women's consciousness and in local custom that a married woman cannot claim her share in the land rights contracted by her natal family despite the promulgation of national legislation to the contrary. The sad twist is that not only does custom prevent her from having rights of possession, cultivation, profit and disposition in her lawful share of land, but it also may mean she must bear any burden attached to that share. As some scholars have argued, policies and laws intended to ensure married women's land rights in their natal villages only result in the creation of nominal rights.<sup>6</sup> In fact, in China's traditional farming areas most women are doomed to lose their land rights upon marriage.

### Villagers' perspectives on married women's land rights: embodying custom

Given that married women themselves do not believe that they retain real land rights in their natal villages, we need to ascertain other villagers' perspectives on this issue. Our survey revealed that where 30-year land contracts had been implemented, all of the relevant local authorities stated that they would not take back married women's share of land rights in their natal households and villages. The survey also included questions about villagers' attitudes toward married women's land rights in their natal villages. The results in Table 2 show that a majority of our surveyed households (76.6%) consider that a married woman can obtain none of the benefits from her share of her natal household's contract land. Some 10.2% of our surveyed households did not know, and vaguely answered that a woman could only obtain revenue from the land if she was able to go back to her family to cultivate her share of the land.

Villagers' answers were consistent with the five narratives about women's land rights given above. The dominant point of view that it is difficult for women to obtain the benefit from their contract land in their natal village is rooted in traditional community and family beliefs about the identity of women. These beliefs are expressed in such well-known proverbs as 'A daughter who marries is like spilled water that cannot be drawn back'. Parents think of their married daughter as a member of another family, not their own. Similarly, local villagers consider that she is no longer a member of their village, community and collective economic

6. Wang Jingxin, 'Zhongguo Funu Tudi Quanli' ['Women's land rights in rural China'], *Zhongguo Nongcun Jingji* no. 6, (July 2003).

**Table 3.** Villager’s perspectives on where married women should hold contract land

	Husband’s village	Natal village	Equally in husband’s village and natal village	Do not know	Total
Where is it preferable for a woman to obtain her contract land after marriage?	97.6% (413)	0.0% (0)	1.2% (5)	1.2% (5)	100% (423)

organization. Given the prevalence of these beliefs, a woman also would rather identify herself as a member of her husband’s family and village instead of her natal village. So it’s not difficult to understand why a woman cannot obtain the benefits from land in her natal village, despite her legal land rights. In one of the surveyed villages when we asked whether a married woman can go back to her natal household to cultivate her land, almost all the interviewees shook their heads in disbelief, scoffing, ‘How can a woman cultivate land in her maiden village?’. Some women even scraped their faces, displaying abashment about our question. Traditional custom is so powerful that the great majority of women obey it. When conflict occurs between a customary law and a formal law, it is usually the former that prevails.

Consistent with villagers’ perspectives on women’s lack of membership and rights in their natal villages, is that almost all of our surveyed villagers (97.6%) considered it preferable for married women to get contract land in their husbands’ villages. None thought it best for a woman to get contract lands in her natal village (Table 3). Indeed, as shown in Table 4, more than half the surveyed villagers (52.4%) said that a married woman should not retain her share of land in her natal village even if she could not get land in her husband’s village. A slightly larger percentage (58.3%) considered that a woman should have a share of land in her husband’s village even though she retains land rights in her natal village. These attitudes further explain the anomalies shown in Table 1 of some married women holding land in neither or both their natal villages and husbands’ families.

Our research found that an overwhelming majority of villagers believe that married women should have a share of contract land in their husbands’ villages. As one

**Table 4.** Villagers’ perspectives on where women should obtain land rights upon marriage

	Yes	No	Do not know	Total
Should a woman obtain land rights in her husband’s village if she retains contract land in her natal village?	58.3% (238)	38% (155)	3.7% (15)	100% (408)
Should a woman retain land rights in her natal village if she doesn’t obtain land rights in her husband’s village?	44.4% (182)	52.4% (215)	3.2% (13)	100% (410)

interviewee put it, 'She lives and consumes grain in her husband's village, so of course she should have land there'. The same attitude was consistently voiced by recently married women who, for all practical purposes, had lost their land rights. Even some village cadres shared women's concerns about their landlessness, but admitted that they were unable to resolve their problems: 'We can only consider women's situation within the scope of our village. Whether she has land or not in her natal village is beyond our reach'.

Overall, it is clear that despite their legal land rights, traditional beliefs and customary practices prevent married women from benefiting from their shares in land contracted in their natal households and villages. Particularly in traditional farming areas which suffer from population pressure and where land is the primary source of subsistence and income, villagers argue that women should have land in their husbands' households and villages.

### **Practice and experience in the past**

Our research shows that recently married women retain only nominal land rights in their places of origin. This poses the question as to whether married women's demand for their land rights can be met. Practices in the past may to some extent have influenced married women and other villagers to express a preference for women to be allocated rights to a share of land in their husbands' villages. We now turn to examine five cases that help illustrate both the impacts of women's loss of land rights and the methods that have been used to allocate land rights to married women.

#### *Case 6*

Mrs Yang married in 1996 and moved into a nuclear household with her husband in Dahutang group, Xihu village, Huaminglou township, Ningxiang county, Hunan. Her husband's group had just completed one of the small readjustments of land that it scheduled every three years when she moved her residential registration into the village, so she did not immediately receive a share of land there. She waited until 1999 when the village carried out another readjustment and allocated her and her son shares of land. However, her natal village has never carried out a readjustment of land so her share of land use rights there has not been resumed. Instead, her share stayed in her natal household and was reallocated within the family to her sister-in-law and nephew.

During the three years that Mrs Yang did not have a share of land in her husband's household, the couple had only her husband's land on which to subsist because there was no transferable land available then. This negatively impacted on her family circumstances. Her husband went to Shenzhen to look for a job but failed, possibly because of his limited education. He spent all of his travelling expenses before coming back home. Yang told us that the main impact of her three year loss of land rights was a drop in family income. Once she and her son got their shares of land, her family income gradually increased and their living standards improved.

*Case 7*

Mrs Gao is a resident of group 3 in Qingtai village, Wenfushi town, Qiyang county, Hunan. She married in 1990 without receiving a share of land in her husband's village, because the village did not carry out small readjustments. Nevertheless, she had to pay the same taxes and apportions as other villagers. Although she and her husband had formed a nuclear household in 1991, she often had to borrow grain from her mother-in-law because they could not produce enough on his land. However, she and her family did not raise any opinion or suggestion to the group, because they knew that the regulation on land readjustment had been decided by the whole group. In 1994, in preparation for implementing the new policy of 30-year-prolonged contracts, the group's lands were all reallocated. She then got her share of 0.6 mu of land. She told us that the maximum benefit of gaining land was being able to produce sufficient grain for food and some surplus for sale, solving their problems of inadequate food and income.

*Case 8*

In 1990, Mrs Zhai married a villager in group 9 in Dongya village, Diaowei town, Baoji county, Shaanxi. In many respects, her experience there mirrors that of Mrs Gao in Case 7. She did not receive a share of land immediately because a readjustment had taken place before her arrival. Nor did she or her husband's family request a share of land for fear of sparking a quarrel with the group leader. She explained that the method of making a small readjustment every three years had been adopted by the whole group, so it was best to wait.

After division from her husband's parents in 1991, her family had only her husband's share of land which was insufficient to supply their grain needs. Her husband migrated out to look for a job, but had little success. She was always worried about food then, she said. Nevertheless, they could do nothing but wait for the small land readjustment promised every three years because they could not afford the quoted price of 200 yuan per mu per annum in rent that the village charged for its reserve land. Furthermore, the reserve land was far from her residence, making it difficult to cultivate whilst caring for her infant. In 1993, she got her share of land in the anticipated readjustment. The great advantage of gaining land rights, she said, was no longer having to worry about food. Moreover, she was also able to increase her household's income by planting cash crops on the land. She believed it was appropriate to reallocate land once every three years, if this was decided by the whole village or group, including ordinary villagers, village cadres and the village representative committee.

*Case 9*

Mrs Li is a villager of group 4, Xietou village, Diaowei town, Baoji county, Shaanxi, who married in 1986 and moved her residential registration to her husband's village. She arrived after the village readjusted land, and so missed receiving a share. Her husband's village is remote with few non-farm work opportunities and very high

dependence on agricultural income. Mrs Li said their shortage of land meant inadequate food, which caused her considerable mental stress, depression and quarrels between her and her husband. The taxes and fees were distributed according to both family size and households' land, so she had to surrender some proportion of taxes and fees, which further aggravated her poverty. Mrs Li had no other means of making a living but to transfer in 0.6 mu of low-quality land and open up some wasteland for farming. In addition, she collected and sold medicinal materials from the mountains. This allowed her to scrape together a meagre livelihood.

Since those villagers who had more contract lands refused to transfer their lands and resolutely opposed a reallocation of land, there were sharp contradictions among villagers over land distribution. The county government sent a workgroup to Xietou for five days in 1992, to investigate and resolve villagers' conflicts over land. According to Mrs Li, the group took measures to suppress the opinions of the villagers hampering reallocation. Consequently, she and her two children received shares of land in the outright reallocation of all the village land in 1992. She said her family appreciated the intervention by the workgroup because having more land allowed her family to produce enough grain not only for their own consumption, but also to sell so they could repay their debts.

#### *Case 10*

Mrs Guan married her husband in 1993 and moved to group 5 of the same village in which Mrs Li lived: Xietou village in Shaanxi. Mrs Guan missed the 1992 reallocation of land in Xietou, and had to wait for the small readjustment that was scheduled to occur every three years. During the period without a share of land, she said her household could not guarantee its grain supply, so she had to borrow food. Sometimes her husband became angry and quarrelled with her when her relatives visited and dined at her home. Moreover, despite having no land she had to pay her share of taxes and fees. In the autumn of 1995 when her father-in-law, the family spokesman, happened to be out of the village, the group leaders readjusted land without advising her. She got angry and in an attempt to prevent the reallocation, grabbed the ruler used to measure the land. However, she failed to stop the land readjustment process and the results of the redistribution did not match her needs. Mrs Guan could not migrate out to look for non-farm work because she had to bring up her child, so to make ends meet she transferred in 0.8 mu land from others and her husband migrated out to find a job to earn money.

She thought that because those who held more land resources than others were unwilling to give up their extra shares and tried to hamper the readjustment of land, only an entire reallocation would provide her with an adequate share of land. Eventually, she and her two children received shares of lands in 1997 through a small readjustment, although their shares were low quality land which other households rejected. After that date, their grain output increased, family tensions eased and her husband did not complain when her relatives came for dinner.

In each of the previous five cases, married women suffered differing degrees of privation as a consequence of not having land rights. Some strove to demand land rights, though their requests do not appear to have influenced the timing or the

**Table 5.** Past approaches to granting land rights to women in their husband’s villages

Small readjustment	Entire reallocation	Circulating land	Others	Total
52.5% (31)	25.4% (15)	20.3% (12)	1.7% (1)	99.9 (59)

methods eventually used to reallocate local land. Fortunately, they all eventually gained land rights in their husbands’ villages. Some benefited from a small readjustment carried out once every three years, some from the entire reallocation of village lands once every five years, and some in the reallocation that took place prior to, and in preparation for, the implementation of the new 30-year contract policy.

In our field survey there was a total of 59 such women who, at some point before the introduction of the new land contract legislation and policies, had not had shares of land in their husbands’ villages. Two main approaches were used to grant land rights to those married women. As detailed in Table 5, the first and most common mechanism used to give newly married women a share of local land was the reallocation of land. This involved either a small readjustment, which means an exchange of tiny amounts of land between households whose size had expanded and contracted, or the reallocation of the entire land holdings of the village or villager group among all applicants for household contracts. More than 80% of the women in this category obtained their lands through reallocation. The second route by which married women had received a share of land was through the use of pre-reserved circulating land (*jidongdi*) by villages or villager groups. It was rare for women to obtain a share of land by other methods. Thus, in traditional farming areas, land reallocation and particularly small readjustments were the main approach used to solve the land rights problems of married women.

**Conclusion**

The original intention of contemporary land laws and policies is to ensure all farmers’ land rights, including the rights of married women. Yet in traditional farming areas in China, old beliefs and customary practices that have evolved over hundreds of years usually take precedence over formal, modern laws. This is particularly true in the case of married women’s land rights. It is of little use for married women to retain land rights in their natal village, even though their rights are enshrined in national legislation. Consequently, in the present as in the past, married women want to obtain tenure to land in their husbands’ villages instead of in their natal villages.

As previous practices show, women can obtain shares of land in their husbands’ villages through periodic land reallocation. It is undeniable that allowing periodic land reallocation according to demographic changes is not an ideal institutional arrangement in an increasingly commercialized agricultural economy. Nor can it resolve the problem of married women’s land rights in the longer term, because marriage is a common, iterative, social phenomenon, and it is unjust for women to be denied land rights simply because of marriage, and for their families to experience hardship for years before they obtain land rights. But as our case studies demonstrate,

to a great extent, reallocation relaxes the contradiction. The married women we interviewed tolerated the negative effects of temporary loss of land, knowing that they could obtain land in a future reallocation. Since the 30-year-prolonged policy has been implemented in most of rural China, it might seem impracticable to advocate a retreat to past methods that might undermine policies and laws that are intended to benefit farmers. We point out, however, that the new Rural Land Contract Law provides for specific land readjustment under the following conditions:

Article 27. During the contract term, the contract provider shall not reallocate contracted land except given the following special circumstances:

In specific situations where a natural disaster has seriously damaged contracted land and in other special circumstances that necessitate a readjustment of contracted arable land and pasture between isolated households, the reallocation must be agreed by no less than 2/3 of the members of the Villager Assembly or 2/3 of the representatives in the Villagers' Collective Economic Organization, and must be authorized by the township and county government branch in charge of agricultural administration. The terms of land use contract that stipulate no readjustments will be conducted must be honoured.<sup>7</sup>

The 'other special circumstances' under which land readjustment can be made include 'extreme population pressure on land'. A further explanation of 'extreme population pressure on land' is that it represents a relatively severe situation in which much of the newly added population obtain none or few land endowments and have no other means of living, which may be caused by demographic changes such as births, marriage, migration of registered permanent residence, etc. In such situations, appropriate land adjustment should be permitted between individual households.<sup>8</sup> This explanation is both vague, and relatively severe.

Fortunately, some researchers have begun to investigate precisely how this concept of 'extreme population pressure' can be refined and applied. For example, some researchers suggest that a land endowment of no more than 0.75 mu per capita should be the boundary of an 'extreme population pressure' situation.<sup>9</sup> In our own research, we have found that a land endowment of 0.8 mu per capita is a boundary which also has an important influence on women's land rights. A converse U-curve relationship exists between the probability of women achieving secure land rights and land endowment per capita. Given an arable land endowment per capita less than 0.8 mu, the probability of women's land rights security will increase along with the increase of land endowment per capita. Contrarily, the probability of women's land rights security will decrease along with the increase of land endowment per capita, given a land endowment per capita of more than 0.8 mu. Whether women can obtain land rights in their place of residence is directly related to the occurrence of local land reallocation, and land reallocation is quite closely associated with land endowment.<sup>10</sup>

7. *Zhonghua Renmin Gonghuguo Nongcun Tudi Chengbao Fa* [Rural Land Contract Law of People's Republic of China].

8. See Hu Kangsheng, *Nongcun tudi chengbaofa tongshu duben* (A Concise Reading Book of Rural Land Contract Law of People's Republic of China) (Beijing: Falv chubanshe, 2002), p. 62.

9. Jennifer Brown, *Protecting Women's Land Rights Through RLCL Implementing Regulations*, (August 2003), pp. 7–8.

10. Yao Yang, 'Jiti juece xia de youdaoxing zhidu bianqian' ['Introductory institution evolution under group decision'], *Ziyou gongzheng he zhidu bianqian* [Freedom, Equity & Institutional Evolution], (February 2002).

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Hence, defining the concept of 'extreme population pressure on land' using an arable land endowment of about 0.8 mu per capita may have important, positive, implications for women. Moreover, it is heartening that even such a vague, severe explanation of 'extreme population pressure on land' acknowledges that marriage and migration are causes of imbalance between people and land endowment. Hopefully, this acknowledgement will prompt policy-makers to define the importance of land to married women and their families and find a way, under the present legal framework, to resolve women's land rights problems in China's traditional farming areas.

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