

A Study on the Protection of Rural Women's Land Rights towards Land Circulation in Western China

Zhu Xusen^{1,2} and Hu Yang³

¹Southwest University, Chongqing, China 400715

²Chongqing Normal University, Chongqing, China 401331

³Chongqing City Management College, Chongqing, China 401331

E-mail: zhuxusenxs@163.com

KEYWORDS Rural Women. Land Circulation. Land Rights. Western China

ABSTRACT Land rights of rural women serve as an important embodiment of those women's status and right. How well the land rights are protected represents an important symbol to measure the degree of civilization. However, in the practice of land circulation, land rights of rural women have been violated to varying degrees. Through the method of documentation, fieldwork and interviews, this paper discusses the problems about women's rights in land circulation in western China. The research showed that rural women's land contract authority, decision-making authority, and right of inheritance have all been damaged and violated in land circulation in this area. To further secure women's rights in the circulation of rural land, various measures should be taken, such as laws and regulations be improved, membership qualification of rural collective economic organizations be clearly defined, villager autonomy mechanism be upgraded, and education and training for women be strengthened.

INTRODUCTION

The protection of rural women's rights in land circulation is of great significance (Geng 2016), and also is one of the hot topics in contemporary China (Hong 2016). Land is the basic means of production and life insurance for farmers, whose biggest interest lies in land and whose basic land right is land contract management. Since 1978 China's land contract management system has been developed and evolved (Mao and Kong 2012; Xiang 2014; Miao 2015; Zang et al. 2015). Until now, a land contract management system with collective ownership of land, farmer's contract management, secular stability of contract right, and legal circulation of contract right as its key contents have been formed (Wen et al. 2014; Wu 2014). The experience shows that, a country's development is usually closely related to women's development and a large number of Chinese rural women contributed significantly to agricultural and rural development. Land rights of rural women are an important embodiment of rural women's status and right. Land rights guarantee extent is also an important symbol to measure the degree of social civilization.

Many researchers have indicated that rural women's land rights have been violated to varying degrees in the practice of land circulation in

China (Shi et al. 2016). For example, Tian et al. (2011) argued that economic, legal and self-related factors are the important reasons for the violation of rural women's land rights. When the land circulation happens, the rural women will lose their decision rights to some extent. Besides, the rural women could not be guaranteed to attain the right when the parents transfer their own land use rights to the children (Di and Zhong 2012). Wang and Li (2014) claimed that China's current rural land policy emphasizes equality between men and women, while women's land rights and interests that conflict with policy laws are violated emerge endlessly. Song et al. (2014) indicated that losing land upon marriage becomes one of the most important issues in rural women's development, whereby landless women are more vulnerable in the family nexus and even more exposed to domestic violence.

Fan et al. (2015) discussed the causes of the damaged farmer land rights and interests, from the aspects of the urban-rural dual land system, land ownership stability, local government behavior supervision, land income distribution, and so on. Xie and Wu (2015) explored the forms, causes and countermeasures of the violation of rural women's rights and interests in the land circulation process. Hong and Zhou (2015) argued that, the rural women's land property rights

are mainly manifested in the poverty of agricultural land use rights, the poverty of the right to decentralization and the poverty of farmland income. Zhang and Ni (2016) summarized the practice of protecting women's rights and interests in land, pointed out real problems such as weak gender awareness of rural cadres, absence of operation policies, disharmony in operations, and lack of standardization.

Since the first round of rural land contract and allocation, problems have been continuously emerging, including neglect or discrimination against women, violation of land rights of married women, divorced women and widowed women, and so on. Some village collectives violate women's land rights through making village regulations (Shang and Zhang 2010). For example, the village regulations in Qiaoqian Village, Xiangyang Town, Yueqing City, Zhejiang province, rules "Unmarried females above the age of 20 cannot contract the land", "Married woman without changing her residence registration cannot continue to contract the land", and "Women who move their residence registration back to their villages due to divorce cannot enjoy any benefit here."

The All-China Women's Federation once conducted a sampling survey on 1,212 villages and found that among people without land, the percentage of women is 70.8 percent. Among those women, 26.3 percent have never gotten any land through distribution, 43.8 percent lose their land upon getting married and 0.7 percent lose their land after divorce (Hong and Zhou 2015).

When adjusting land contracts, some places calculate the marriageable age of young men and women. If they firmly believe that a young woman is close to a marriageable age and will marry a man in another place, then this woman usually cannot contract land in land allocation. Thus, unmarried women of the right age are deprived of land contract rights. However, on the contrary, an unmarried man can get the land contract right of his future wife and even future children in advance.

In the vast rural area of China, women's place of residence usually changes upon marriage. However, in order to avoid frequent changes of cultivated land and prevent the scale of cultivated land running from becoming small, the government promotes policies of "population increase without land increase and population

reduction without land reduction" and "great stabilization and small adjustment". Through researches, some scholars found that, among all the visited peasant households, almost fifty-nine percent said that their daughters-in-law have to wait for the next land allocation to get land, objectively making women in the marriage flow unable to obtain new land contract right in their husbands' villages in time (Xiang 2014; Ma and Liu 2014; Wang and Li 2013; Qian and Mao 2005). At the same time, they have to lose their own land contract right in the original place of residence.

Divorced women's original contract right of land cannot be relocated with their registered residence and the land cannot be separated from their ex-husband's family. If their registered residence is transferred back to their parents' home, their parents' village will not distribute the land either. On the other hand, the ex-husband will contract the land again, making divorced women have no land to plant. In fact, divorced women's land contract right has already been deprived (Zheng and Yang 2014).

In China's rural area, the head of a household is usually the male parent. When the head of a household gets old or due to other reasons he does not want to continue cultivating contract land, then the land will be given to his son. Although daughters and sons have the same right of succession legally, daughters usually cannot inherit property or obtain benefit in actual life. Parents' land use right is monopolized by the son, and so is the land revenue.

If women's land rights and interests are neglected, it will exert a negative influence on women themselves, the family and even the whole society's welfare. It can even influence a country's economic growth, environmental protection, social governance and so on (Li and Aruna 2015). Women's land rights are getting increasing attention (Xiang 2014). At present, in Asian and African developing countries, including China (Di and Zhong 2012), agricultural femininity is prominent and female agricultural labor force comprises beyond fifty percent of the aggregate agricultural labor force. According to China's 2015 Peasant-Worker Monitoring Survey Report (Chen and Zhang 2014), the total number of peasant workers nationwide was 277.47 million with women accounting for 33.6 percent and men 66.4 percent. It means that large quantities of male peasants go out to work and

large quantities of rural women stay at home to engage in agricultural activities. The western area of China is an export area of traditional labor force as well as economically less-developed region, where agricultural femininity trend is also prominent. The women there are closely connected to the land and they are the important group in local agricultural activities. Hence, it is of great significance to research on problems relevant to rural women's land rights in the process of land circulation in western China.

Numerous studies from the factors, such as land system arrangement, policies and regulations, government management, social customs, family environments, and so on, discussed the forms, causes and countermeasures of the infringement of women's rights and interests towards land circulation in China. However, to our knowledge, some were macro level or superficial studies, there was few research from the perspective of women's own perceives. Consequently, this study uses the methods of face-to-face meetings, semi-structured individual interviews, to understand the women's real situation and characteristic of land rights, and women's truth self-awareness, in order to find effective strategies, fully protect women's rights and interests towards land circulation.

MATERIAL AND METHODS

This paper combined methods of literature research and investigation (Chen and Zhang 2014; Wen et al. 2014; Fan et al. 2015; Zang et al. 2015). The data came from semi-structured individual interviews with respondents. Semi-structured interview has been conducted according to previously listed interview outlines. The interview was open-minded and questions closely related to the research topic have been asked. This kind of method can ensure direct contact and positive interactions with respondents as a way to collect materials. Through this method, one can get direct answers to the problems needed. By using this method, it is not easy to make mistakes and the research cannot be easily influenced by external environment. Thus, it is regarded as an important research method to carry out related researches.

In August 2015, the researchers arrived at Wulong County, Chongqing municipality in western China and looked into respondents by the method of stratified random sampling (Wang

et al. 2014). They had face-to-face semi-structural individual interviews with 43 rural women in 5 villages, namely, Chepan, Tiefo, Banqiao, Baoyan and Shatai, all in Baima town. Seen from respondents' age structure, average age of these 43 respondents was 48.9. Among them, 2 women were between the age of 20 and 30, 8 were between the age of 31 and 41, 13 were between the age of 41 and 50, 11 were between the age of 51 and 60 and 9 were above the age of 60. Given their education degrees, 7 women were illiterate, 21 had studied until the primary school education level, 9 had junior middle school education level, and 6 were of or above senior high school education level. Given their marital status, 2 women were unmarried, 33 were married, 5 were divorced and 3 were widowed. Among them, there were 26 married women's husbands who went to other places to work, 12 women have lived in this village all the time before marriage and 29 women moved to this village due to marriage. In addition, there was 1 woman whose family member hosted the post of village cadre.

RESULTS

During the interview, the research tested the respondents' knowledge on land laws. When the researchers asked them about the ownership of the rural land, 3 choices were given to them, which were national ownership, village collective ownership and private ownership. More than half of the women held the opinion that the rural land belongs to the country ($n=28$), 7 of them thought it belongs to the village collective, 5 of them thought it belongs to individuals, while there were still 3 of them who did not know the answer.

W13 answered without hesitation, "*All the land over the country belongs to our nation, and so does the rural land. It neither belongs to village collective nor the private individual. It is certainly owned by our country!*"

When asked what exactly is being circulated during the land circulation process, the research gave two choices of contract right and right of use. There were 11 of them who believed the answer was contract right, while 8 of them believed it was right of use, and also, more than half of them could not tell the definition of right ($n=24$).

"*There are so many types of rights and we can't tell any differences between them at all.*"

And no one has ever taught us about this kind of knowledge, let alone the rights related to the land circulation.”(W27)

“You are telling me, it is definitely the right of use that is being circulated! The country gives us land to use and we circulate it to someone else.”(W32)

When the respondents were asked about laws related to land contract and land circulation such as Land Management Law and Rural Contract Law, 4 of them thought they knew these laws very well, 13 of them thought they had a basic understanding of the laws, 15 of them said that they knew little about these laws and 11 of them said they did not know these laws at all.

“We are rural men, we haven’t received much education. We don’t know these laws at all and neither do we care. What we can do is only to follow the requirements given by the government. Our life won’t change much without these laws.” (W2)

“We heard about these laws indeed but we just only know that there exist such kinds of laws instead of seeing them in real life. No one has ever made these laws public to us, so we don’t know the details of these laws such as the rules of land circulation.” (W25)

When respondents were asked whether the women own the land contract right or not, 17 of them thought women do own the land contract right while on the contrary, more than half of them believed women do not own land contract right. Also, 5 of them were not clear about the answer.

Among the respondents, there were 31 women whose family has experienced land circulation. They circulated the land to others or circulated into others’ land in order to get more food.

“My husband is an outside worker, my child and I stay at home. But we can’t do so much farm work so we circulated the lands out which are barren or far away from our house so that we can get every bit possible as we can get. It’s a pity if we leave the land there and don’t circulate it to others. Besides, we can get the land back anytime we want and as soon as we get it back, we can farm on it without weeding.” (W9)

“The village didn’t distribute any land to my family when I married over. At that time, our child was very young, we all needed food to eat and to feed the pigs. So we had to ask relatives and neighbors for their extra land near our house since we didn’t have enough land.”(W18)

However, when they were asked whether they had signed the contract during the process of land circulation, most of them told that they did not sign any paper (n=25). Instead, they only made a verbal agreement, some even without notifying each other (n=2). During land circulation, it is common that they do not have any assurance (n=29), and only few of them choose assurance (n=2).

“In our neighborhood, we are all very kind to others, contract is unnecessary. We usually pick one and farm on it when we have a preferred land only with a verbal promise and acceptable rent. We don’t need contract and we also don’t know how to sign a contract because we never did so, let alone the assurance. We all act like this basically.”(W41)

Sometimes, when the land is circulated, the head of the household is actually unwilling to do so.

“As is required by the village, everyone is circulating the land, and you won’t have any other choice but to transfer your land just like others do. I’m not much willing to, though.”

It is inevitable to have land disputes during land circulation. Sometimes some villagers would occupy their neighbors’ lands. In rare cases, the one who has used the circulated land for a long time is not willing to return it back to the original owner.

The research found that the land contract right of the village which was investigated will be adjusted slightly every five years. When adjusting, the land contract right of the women who marry to a man in another village will be taken back by the village collective. However, the women who marry into the village will not obtain the land contract right immediately, instead, they have to wait until next adjustment. Divorced women cannot get corresponding land contract right while widowed women can remain their land contract right if they still live in the village (Makondelele 2015), but their husbands’ land contract right will be taken back. If the head of the household, usually the male, is elderly or feeble, his son will inherit his land contract right during the adjustment while his daughter does not have the right of inheritance.

DISCUSSION

Even though land circulation has been implemented in rural areas in western China, the

land rights of western rural women have been violated to a certain degree due to the multiple interferences of national, collective, domestic and individual factors, including macro influence of laws and regulations, rural land system, relevant policies and the impact of some micro factors such as the arrangement of the village collective land system, woman personal marriage and family condition. In other words, the causes of violations of women's land rights are multifaceted and complex.

Existing policies and regulations, such as the Rural Land Contract Law, have ensured land rights of rural women on the system, all stress that women shall enjoy the equal right with men in terms of land contract and the distribution of collective income, and some specific rules are also made on the land rights of married, divorced and widowed women. However, there are still some drawbacks and limitations.

Firstly, the legal systemization is still at a poor level. Different legislatures have different laws about land rights and their regulations about one same problem are not always the same. In other words, it lacks systemization, which makes it hard to coordinate complicated problems in practice.

Secondly, laws and regulations do not take gender into account. Existing laws and regulations about rural land circulation lack adequate gender sensitivity at the legislative level, and consequently, neglect the different treatments brought by gender difference. The fact that people, influenced by the adjustment of laws and regulations, are regarded as asexual or neutral people tends to cause continuing adverse consequences and real gender discrimination against one gender, especially women.

Thirdly, the qualification of the subject of land contract right is not unified. The present laws in China do not have a clear definition of the qualification of membership in rural collective organizations. In reality, it mostly relies on the system of villager autonomy, solving related issues according to village regulations proposed by villagers themselves or following the village council. Driven by the interests, villages are likely to violate the land contract right of women who are marry outside, remarried, widowed or get married with an urban man. The research found similar cases during the interview.

Fourthly, the unsound system of land contract and land registration is not conducive to

the protection of women's land contract right. The contractor is based on household as a unit, of which the file is registered with the name of the head of household and men tend to be the head of household. This offers an easy access to violating land rights of women in some ways. This exact case happened in the village where this research was conducted, a divorced woman could not enjoy her right of land contract, and also in her original family, her land contract right was also violated by her male relatives.

Aside from laws and regulations, village collective organizations also play an important role in land circulation and are often the direct cause and the operator who violate women's land rights. In rural areas of China, including western China, there are customs of making village regulations (Shang 2009; Wang and Li 2013), which are developed in accordance with relevant laws, regulations and policies combined with the village reality. These village regulations will be made by discussion of villagers and all the villagers will be asked to abide by it. It is a means to achieve villager autonomy with the nature of civil law. However, in the real rural community, whether in the period of land distribution, land contract or adjustment, collective organizations often violate farmers' land contract management right in the name of the civil law, especially to the rural women who get in or out of the villages because of marriage. Moreover, like other areas and countries, leaders of different level in rural areas of western China are predominantly males (Osma et al. 2014), so the participation rate of women in the decision-making process involving land is low. The interviewees stated that decisions about land circulation were generally made by their husbands and they were in no position to make decisions. Rural women are obviously in an inferior place in the structure of social rights and lack the capacity to make decisions. Therefore, they are incapable of changing the adverse conditions when it comes to the distribution of land rights.

Whether in tradition or in reality, in rural areas of China, the family property occupation is often unequal in gender. Women are often excluded from the allocation of land and housing. As an economic community, family often obscures the contradiction of land right for women against the backdrop of property-sharing and male-dominated family. Once the family disintegrates, the rural women, who are divorced or

widowed, are caught in a challenge of how to get the family shared property, regardless whether she stays in the village or not. The land will either be taken back by her village or continually be contracted by her ex-husband. There are rare cases that women are able to contract the land from her ex-husband's family.

In the end, women's own conditions are also one of the reasons why their land rights are being violated. China is still a male-dominated society, especially in western rural areas where women's rights have been ignored for a long time. Even women themselves do not have a right concept of gender equality. Rural women's lower education, conservative mindset, indifference of politics, little understanding of law and incapability of protecting their rights make them a still vulnerable group of society and are also the causes resulting in their land rights violation in circulation.

CONCLUSION

In conclusion, this paper analyzes the protection of women's land rights in the circulation of rural land in western China through the methods of documentation and semi-structured individual interviews. This paper elucidates the fact and causes that Chinese western rural women's contract right, inheritance right, interests right have been violated to varying degrees, which is the result of multiple factors including macro factors such as limitations and drawbacks of relevant laws and regulations about land circulation, villages taking advantage of women for the sake of their own collective interests. Micro factors include methods of property distribution within rural households and women's own condition.

As the research indicates, a series of measures should be taken to further standardize land circulation in order to protect rural women's land rights. For example, the legal system of protecting women's land rights needs to be optimized and judicial remedy means need to be strengthened. Besides, the society should set a clear definition for the qualification of membership in collective economic organizations and revise village regulations from perspectives of genders, thereby ensuring rural women's rights to know, to participate in, to make decision and to oversee civic affairs. That will encourage rural women to take part in local socioeconomic and polit-

ical activities in terms of mechanism and safeguard their own rights. Moreover, education and training should be strengthened for rural women in order to increase their self-awareness and awareness of rights and laws, and their awareness and capacity of rights protection should be enhanced. By doing so, it will boost the inner dynamics of protecting rural women's land rights.

REFERENCES

- Chen HG, Zhang YY 2014. Impact of professional differentiation of rural women on their family's willingness to circulate land: A comparative study on female's agricultural and non-agricultural employment. *Journal of Nanjing Agricultural University (Social Sciences Edition)*, 14(4): 57-64.
- Di JH, Zhong ZB 2012. The empirical research on the land diversion rights of the feminine. *China Rural Survey*, 3: 18-25.
- Fan H, Liu WD, Wu ZB 2015. Research progress in farmer's land rights and interests. *Scientific and Technological Management of Land and Resources*, 32(1): 125-134.
- Geng Z 2016. The protection of women's land rights from family perspective. *Law Science*, 1: 115-124.
- Hong MY, Zhou H 2015. Study on land property right's poverty of rural women. *Hubei Agricultural Sciences*, 54(15): 3795-3799.
- Hong Q 2016. On land rights and interests of China's rural women: The history, current situation and alternatives. *China Legal Science*, 6: 107-132.
- Li J, Aruna S 2015. Swedish social women's rights protection and the enlightenment to China. *Theory Monthly*, 6: 179-182.
- Makondelele R 2015. Multiple losses and gains: Tshivenda-speaking widows' accounts in the context of the death of a husband. *J Sociology Soc Anth*, 6(4): 493-500.
- Mao F, Kong XZ 2012. A study on restricting factors of large-scale land circulation. *Economics of Agricultural Technology*, 4: 52-64.
- Ma XH, Liu Y 2014. Study on rural uxorial marriage and women's rights in Shaanxi province. *Journal of Shaanxi University of Technology (Social Sciences)*, 32(2): 75-78.
- Miao J 2015. The new thinking and new measure of farmer's rights and interests safeguard in the process of land circulation. *Academic Journal of Zhongzhou*, 8: 45-49.
- Osman T, Mustafa B, Demet ZG 2014. Barriers to women's leadership in Turkey. *Anthropologist*, 18(1): 135-144.
- Qian WR, Mao YC 2005. The empirical research on the problems of Chinese rural women's land rights. *Journal of Zhejiang University (Social Science Edition)*, 35(5): 21-26.
- Shang CR 2009. Security of rural women's right to land. *Collection of Women's Studies*, 95(5): 5-10.
- Shang CR, Zhang YH 2010. Research on current Chinese rural women's land rights protection mecha-

- nism. *Journal of Huazhong University (Social Science Edition)*, 86(2): 95-100.
- Shi BL, Jian XY, Liu XM 2016. A review of the influence of land circulation on rural women from the perspective of gender perspective. *Shanxi Agricultural Economy*, 9: 54.
- Song YP, Tan L, Tao Y 2014. Will losing land upon marriage married women's risk with domestic violence? Evidence from rural China. *Collection of Women's Studies*, 121(1): 12-21.
- Tian YW, Liu F, Zhang Q 2011. Research on the protection of rural women's rights and benefits regarding land contract. *Journal of Northwest A & F University (Social Science Edition)*, 11(1): 13-17.
- Wang LW, Feng CC, Xu SC 2014. Return intention of migrant workers in a traditional agricultural area and planning response. *Progress in Geography*, 33(7): 990-999.
- Wang XL, Li HY 2013. Women's rights in practice in the process of urbanization. *Collection of Women's Studies*, 120(6): 41-45.
- Wang XL, Li HY 2014. Analysis of the rural land policy and practice in China. *Scientific Socialism*, 1: 116-120.
- Wen W, Liu XH, He WF, Long YH, Zhang ZQ, Qi L, Lu YL 2014. Analysis of influential factors of agricultural land circulation from farmers' level. *Journal of Southwest China Normal University (Natural Science Edition)*, 7: 138-143.
- Wu XG 2014. A study on rights and interests protection of people who had redit circulation land use right under the framework of consulting and management of separation. *Journal of Jianghuai*, 5: 123-127.
- Xiang D 2014. The protection of the rural women's land right in the background of agricultural feminization. *Hebei Law Science*, 32(2): 84-91.
- Xie GC, Wu D 2015. The present status, reasons and countermeasures of rural women's land rights infringement. *Journal of Management*, 28(4): 43-46.
- Zang B, Zhang QY, Feng L, Wang MT 2015. Progress review on land science research in 2014 and prospects for 2015. *China Land Sciences*, 29(2): 4-11.
- Zhang XH, Ni MZ 2016. Protection of women's rights and interests in affirmation of rural land contract management right. *J Shanxi Agric Univ (Social Science Edition)*, 15(10): 700-704.
- Zheng HC, Yang R 2014. The path analysis on protection of the rights and interests of women in rural land circulation path analysis: Economic path analysis. *Economic Engineer*, 10: 56-57.

Paper received for publication on November 2016
Paper accepted for publication on May 2017