

Qinghai Province and the Question of Chinese Rural Women's Land Ownership Rights

Daniel Loebell, Department of Asian Studies, University at Buffalo

Advisors: Dr. Kristin Stapleton, Dr. Anya Bernstein

INTRODUCTION

My thesis examines the increasing number of property right violations in rural Qinghai Province. I chose this location in China for two reasons. First, the province embodies cultural diversity as a crossroads between Han, Hui, Tibetan, and other minority cultures. Second, many of the legal clients of Women's Watch-China, where I served as an intern, who have been disputing property rights violations are from this province.

THE CASE FOR RURAL WOMEN'S PROPERTY RIGHTS

Development economist Bina Agarwal raises three arguments for why women need independent rights to land:

(1) Welfare

- Property rights allow women to independently manage their household's economic resources and avoid destitution.

(2) Efficiency

- Women's secure rights to land encourages better decisions over investment and husbandry of land resources.

(3) Empowerment

- Women sharing equal rights to land as men is not only one measure of a just society, but also a means to empower individual women economically, politically, and socially within their homes and communities.

COUNTY & PREFECTURAL DIVISIONS OF QINGHAI PROVINCE



TYPES OF LAND RIGHTS VIOLATIONS FACED BY WOMEN

The following study was conducted in March 2013 by Women's Watch-China. It is a Probability-Proportional-to-Size sampling of 16 out of the total 362 villages in Qinghai's Hualong Hui Autonomous County. Questionnaires were devised for 25 randomly-selected women in each of these villages.

The women surveyed were on average 34 years old. 49.7% were illiterate and 32.1% had achieved a primary school level of education. Only 4.7% completed high school. 27.2% never married, and 66.5% were currently married.

	Yes (%)	No (%)	Uncertain (%)
Never owned land	12.6	75.8	11.6
Distributed less land when land shares were adjusted	5.4	82.6	12.1
Land was adjusted during the contract period.	4.2	83.3	12.5
Unwilling land transfer or hindrance of transfer	2.8	83.2	14.0
Interception or withholding of land transfer profits	2.8	84.5	12.7
Interference with production and management autonomy	4.2	83.3	12.5
Never distributed a homestead	7.1	82.3	10.6
Homestead was withdrawn	2.2	85.5	12.3
Land occupied with low or no compensation	2.9	84.8	12.3
Received low or no land compensation	2.9	84.7	12.4
Other	4.5	78.8	16.7

CAUSES OF VIOLATIONS

(1) Household Responsibility System

- 3 party contract between state, collective, and household
- Collective villages but individual household management of land resources
- Land contract does not require joint ownership under marriage - can leave women without land following divorce or husband's death
- Collective land redistribution following marriage, divorce, etc. – woman's natal village or family re-appropriates her former share of land

(2) "Intentional Institutional Ambiguity" (Phrase coined by Professor Peter Ho)

- Government purposefully refrains from defining provisions in regard to complex issues in order to prevent onslaught of legal disputes

(3) Unawareness

- 11.6% of women in study expressed uncertainty over land ownership
- 10.6% uncertain whether distributed homestead or not
- Around 12% uncertain about land appropriation

(4) Patriarchal Family Structure

- Autonomous minority counties have patriarchal family organization

RECENT NATIONAL LAWS

(1) 1998 Land Administration Law

- Guaranteed farmers 30-year land contract to discourage readjustment of land

(2) 2003 Rural Land Contract Law:

- Protected women's share of land from readjustment in natal and marital village
- Assumed that cadres were solely responsible for land adjustment

(3) 2005 Law on the Protection of Women's Rights:

- Acknowledged women have equal rights to property as men

(4) 2007 Property Law

- Allowed farmers to renew 30-year contracts

CONCLUSION

Hualong County is just one of many autonomous counties in the province of Qinghai. The Women's Watch-China survey illustrates that the problems exacerbating women's land ownership rights are multi-faceted as they intersect not only with the Household Responsibility System, but also the government's ambiguous interpretation of the law. It is essential to observe these issues so that women have the right to manage land.