

# Ensuring Poor Rural Women Benefit from Forestland Reform in China: Summary of Field Research and Policy Recommendations

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## 1. Introduction

China has surpassed other emerging economies in creating a gender sensitive legal framework for land rights.<sup>2</sup> While China's constitution grants broad equal rights to women in all spheres of life, the Law on the Protection of Rights and Interests of Women,<sup>3</sup> the Land Contracting Law<sup>4</sup> and the Land Management Law<sup>5</sup> provide specific protections for women's contracted land rights.

China has engaged in forestland tenure reform since the 1980s, focusing primarily on decentralizing forestland tenure rights<sup>6</sup> from the collective to households.<sup>7</sup> These reforms, which cover an area of nearly 120 Mha<sup>8</sup> and aim to reduce poverty while protecting forest resources and biodiversity, have led to improved livelihoods for approximately 400 million farmers.<sup>9</sup> In 2008, the central government initiated a new policy, which, *inter alia*, extended household use rights to a term of 70 years.<sup>10</sup> This policy aims to clarify and secure farmer households' rights to access, manage and benefit from, collective forestland,<sup>11</sup> but does not account for gender differences or contain specific provisions for the rights of women. To better understand the problems that women continue to face on the ground, and to formulate tailor-made recommendations for the Chinese government, Landesa conducted research on the gendered impact of China's recent forestland reform.

A desk study was complemented by field research conducted from July to September 2011 in three of China's most heavily forested provinces: Hunan, Fujian and Yunnan. In each province, 10 randomly selected villages were visited. Focus group discussions and key informant interviews were conducted with 72 local people, including female and male villagers, village committee leaders, local officials of the forestry department, and forestry company staff, to understand the status of forestland reforms at the local level and their impacts on women.

## 2. Findings

At first glance, the reforms seem to be making great strides towards achieving poverty reduction and improving livelihoods, and, indeed, they generally succeed in protecting farmers' land rights. However, the findings of Landesa's field research show that women's forestland rights are still in a vulnerable position. Our research suggests that the main factors restricting women's rights are due to forestland decentralization, which leaves much discretion to village committees to allocate forestland benefits.

Often traditional gender practices, norms, and roles influence those decisions in such a way that renders women's forestland tenure insecure. The following list outlines the study's key findings:

**a. Some women are not allocated forestland and therefore cannot realize the benefits, including income generated from forestland.**

Under China's forest tenure reform, the nationwide forestland allocation grants farmers' households 70-year use rights of the allocated forestland, yet specific allocations vary from collective to collective. Generally the distribution of forestland use rights is based on the number of family members in the household. Only members of the collective<sup>12</sup> are eligible to be allocated shares of the forestland and the benefit generated from the forestland. Each collective can define its own collective membership through the villagers' assembly or villagers' representative meetings. Therefore, different collectives may vary in defining their collective's membership.

Furthermore, women in rural China follow the tradition of patrilocal residence, moving to their husbands' collective upon marriage. Consequently, a woman's membership of a collective or a household will change with her marital status. This crucial issue has direct bearing on whether women can enjoy the same rights and benefits as men. Whether women marry in or marry out, they seem to face vulnerability, which worsens when they divorce.

Nearly all the collectives visited in the study deprived some women's rights to the allocation of forestland and related benefits by setting up special rules for women who married-in or married-out around the time of this new round of forestland allocation in that collective.

Take village A as example. The new round of forestland allocation for 70-year use rights in this village was carried out at the beginning of the year 2010. One article of the village rules states that those women who married-out before Dec. 31, 2009, do not have the right to receive their share of forestland and benefits in their birth collective in this new round of forestland allocation while those women who married-out after this specific date have the right. Similarly, another village rule targeted to married-in women states that those women who married-in after Dec. 31, 2009 do not have the right to receive their share of forestland and benefits in this collective in this new round of forestland allocation while those women who married-in before this specific date have the right. Moreover, each collective may define the starting point of marriage differently, thus, causing more problems for women. For example, a village may require a marriage certificate, registered residence migration card, and birth control approval certificate, or a combination thereof. The application process is often onerous. For many rural women, acquiring these documents is difficult and predicated on factors beyond their control.

For many rural women, especially the poorest, acquiring marriage certificates, or other required documents, is not a simple exercise. In rural China, the poorer a man is, the more likely he will marry a woman from remote, poor areas. Because the woman's birth village could be far from his, the preparation of these documents would require traveling great distances at considerable expense. Some villages resolve this by recognizing married-in women from distant villages as members once they give birth to their first child. Under these circumstances, whether a woman receives forestland rights or benefits in her married-in village is predicated on factors beyond her residence in a village, and in many cases beyond her control. As such, some women may be deprived of forestland rights simply because they are married. This clearly runs counter to the goals of the forestland reform policy.

Broadly speaking, collectives do not automatically accept newly married-in women as members. Also, the application process is often onerous. Collectives may require different documents, including marriage certificates, registered residence migration cards, and birth control approval certificates. For many rural women, acquiring these documents is difficult and predicated on factors beyond their control.

Collectives also vary in their treatment of divorced women. Some collectives do not regard married-in women who divorce within five years as full members, and therefore do not allocate them forestland rights. Usually, but not always, birth collectives will accept them as members if they reregister residence there. Other collectives claim that the divorce was a sham orchestrated by members of the woman's home collective to unlawfully to benefit from the marriage. In these cases, a woman could lose *de facto* membership of both her ex-husband's and her birth collective upon divorce.

**b. Even if allocated forestland rights, some women cannot use the forestland.**

In addition to the collective's rules outlining who may be a member of a collective, each household may have its own informal rules. A daughter to whom forestland rights are allocated will likely leave her share behind for her parents and brothers when she marries-out. Since she is not regarded as a member of her parents' household after marriage, she will no longer collect benefits from her share of forestland.

Moreover, although inheritance law calls for equal inheritance rights for men and women, the pervading patrilineal norms generally dictate that only sons will inherit forestland rights of the household from their parents. Also, if a woman is counted as a member of her married-in household when forestland rights are allocated but she then divorces, she must leave her share to her ex-husband and children.

**c. Women's names are not included on forestland certificates.**

The issuance of forestland certificates to farmers' households is one of the most important achievements of the most recent forestland reforms. These certificates legally recognize households' 70-year use rights to the forestland allocated to them. But only the name of the household head, usually male, is included on the certificate standardized by the State Forestry Administration (SFA). Without their names on the certificates, women are adversely affected in a number of ways: the household head can transfer forestland without his spouse's consent; women cannot apply for the cutting trees quota; married-out or divorced women cannot claim their share of forestland when needed; and when forestland is expropriated by local governments, women have no basis to claim compensation.

**d. Women do not participate in decision-making processes.**

In most collectives within the sample, the representative meetings discussed and voted on which forestland reform plans to adopt. Although the law requires that female representatives account for at least one third of all members of the villagers' representatives' assembly,<sup>13</sup> women are commonly insufficiently represented in the decision-making process. In about four-fifths of the collectives, there were only one or two women representatives out of 20-30 members. The other one-fifth had more women representatives, but still accounted for less than 20 percent.

**e. Women have insufficient access to information on forestland reform.**

Field findings suggest a clear pattern of unbalanced distribution of forestland information. Village committee members, party members and group leaders, all of whom are predominantly men, have the most information about forestland tenure reform in the collective. Also, male villagers usually have relatively more access information than women. Most women interviewed were ignorant of the relevant laws and policies, plans for reform implementation in their own collectives, and the nature, extent, and duration of their forestland rights.

### **3. Policy Recommendations**

Our study shows that women, despite the laws aiming to protect their rights, are still in a vulnerable position when it comes to forestland tenure. We suggest the following policy recommendations intended to help China strengthen forestland rights for women:

**a. Define the forestland rights of each household member.**

The current legal framework does not currently define the forestland rights of each family member within a household. Forestland is contracted to each household for 70 years,<sup>14</sup> but during that period the household composition will invariably change. It is therefore necessary to clearly define and document the rights of each household member and to issue titles both in the name of husband and wife, in the case of marriage.

**b. Legislate a gender-sensitive definition of collective membership.**

As decisions about membership and allocation are decided locally, following local cultural and social norms, women's status varies accordingly, and their rights are not guaranteed. To avoid normative discrimination that contravenes Chinese law, the Judicial Committee of the Supreme People's Court issued suggestions on defining collective membership to the National People's Council, contending that this is fundamentally a civil rights issue for residents.<sup>15</sup> Thus, Article 42, Section 1 of the Legislation Law and the legislators of the National People's Council should propose a legal definition. However, this is still an unsettled issue in the implementation of the law and still needs to be addressed.

**c. Committee decisions on forestland rights should be subject to review.**

The Organic Law of the Villagers' Committees permits broad self-governance for collectives.<sup>16</sup> Collectives are granted the authority to make forestland rights allocation plans, which includes allocating forestland and benefits based on the collective's definition for membership.<sup>17</sup> Currently there is no mechanism to review or appeal the legitimacy of collective rules.

The Organic Law of the Villagers' Committees clearly states that decisions made by the villagers' assembly or the villagers' representatives assembly cannot conflict with the laws, regulations and state policies, and may not infringe upon the personal rights, democratic rights, and lawful property rights of villagers. This provision can only be enforced if a review and appeal mechanism is incorporated into the self-governance committees.

**d. Inform women and build local support capacity.**

Women's participation in decision-making is low and in most cases this is due to a lack of information and knowledge about their rights. Despite male outmigration, women are underrepresented at representative meetings and do not actively participate; consequently, governance decisions rarely reflect women's interests. It is therefore important for the local government, village committee, especially local women's organization, such as the Women's Federation at the county or township level to build women's awareness, encourage them to participate actively in decision-making processes, and provide them with the skills necessary to do so in a meaningful way.

More targeted and effective measures should be taken to ensure that women have a complete understanding of forestland reforms, decisions on forestland use and management, and relevant laws and policies. Moreover, considering the impact of forestry policy on farmers' forestland management, the frequent changes in local forestry policies, and increasing male labor out-migration, it is critical that women have information about up-to-date forestry policies, so they are not prevented from receiving maximum benefit from their farming efforts. Targeted measures to increase women's access to information could include face to face training, special informative TV and radio programs for women, setting up agricultural information and consultancy centers by Women's Federations at the township level, regular legal education and consultancy activities at the village level, and delivering information to women through printed media such as posters and brochures.

**e. Identify and train local support and information services for forestland rights, policies, and gender issues.**

Comparative experience suggests that one way to effectively implement natural resource policy in a gender-sensitive way is to provide access to a person or office who can give information, advice on forestland tenure and policies. Training and awareness campaigns are effective in terms of providing basic knowledge, but for knowledge to be an effective tool for change for women, women must access information when they need it. Such support might also assist women in participating more deeply in collective level decision making which impact them.

**f. Implement a policy for gender mainstreaming and hold implementation agencies accountable by monitoring progress.**

Learning from the experience of other similar jurisdictions, China could consider developing and implementing a gender mainstreaming policy on all forestland tenure and management reforms and programs. However, a policy alone is not sufficient, and should be accompanied by mechanisms which make the implementation agencies accountable for gender sensitive policies and programs, in both their design and implementation. This accountability must be founded on gender disaggregated monitoring and evaluation systems, which can also be used to track progress towards reaching gender mainstreaming objectives.

## **4. Conclusion**

This research clearly shows that although women play very important roles in the management of forestland in rural China, rural women have not benefitted from the forestland tenure reform to the same extent as men, and women's rights to forestland are far from secure under the present legal and policy framework. Insecure forestland rights for rural women, especially those women whose livelihoods depend on forest resources, can adversely impact their overall role in the household economy including intra-household decision-making, income pooling, in household food security and

their children's education level. The risk of complete loss of forestland due to the change of marital status may anchor some poor women even deeper in poverty. Meanwhile, given their status as key agricultural laborers in rural China with a continuing increase of male urban labor migration, insecure forestland rights for rural women will inevitably have a negative impact on the sustainable development of the forestry sector in China.

This research deepens the understanding of rural Chinese women's current access to forest resources, the challenges they face reaping the benefits from those resources, and their unique needs. Appropriate, gender sensitive laws, policies and supporting systems are needed in China to strengthen rural women's forest land rights to promote the well-being of rural households and ensure the effectiveness and success of forestland reform in China. Based on the knowledge, insights and solutions recommendations generated from this research, Landesa seeks to build awareness among government officials and civil society members on women's forestland rights issues and advocate policy change with targeted and practical solutions to address the gender issues within China's forestland reform. This information can serve as a valuable tool to guide the design of a gender-sensitive forestland tenure regime. Ultimately, a forest tenure policy which considers both women's and men's interests will be more effective at reaching its goals of reducing poverty and improving the livelihoods of rural Chinese people.

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<sup>2</sup> Shen, Yueqin, Zhang, Yaoqi, Xu, X., Zhu Z., and Jiang, C. 2009. Towards Decentralization and Privatization of China's Collective Forestlands: A Study of Nine Villages in Three Provinces. *International Forestry Review* 11 (4).

<sup>3</sup> Government of China. 2005. Law on the Protection of Women's Rights and Interest. Article 32 stipulates, "Women shall enjoy equal rights with men in the contracted management of rural land, distribution of proceeds of collective economic organizations, use of land requisition and occupation compensations and use of house sites."

<sup>4</sup> Government of China. 2002. Rural Land Contracting Law. Article 7 stipulates, "Men and women shall have the equal rights to contract the rural land."

<sup>5</sup> Government of China. 1998. Land Management Law. Article 14 stipulates, "Land collectively owned by peasant shall be contracted out to members of the collective economic organizations for use in crop farming, forestry, animal husbandry and fisheries production under a term of 30 years."

<sup>6</sup> China's collective forestland reforms include decentralization of access, withdrawal, management, exclusion and extinguishability. For a detailed analysis of these reforms, see Rights and Resources. 2012. *What Rights? A Comparative Analysis of Developing Countries' National Legislation on Community and Indigenous Peoples' Forest Tenure Rights*. Washington, DC: RRI.

<sup>7</sup> Zongmin Li and John Bruce. 2005. Gender, Landlessness and Equity in Rural China. In *Developmental Dilemmas: Land Reform and Institutional Change in China*, edited by Peter Ho, 308-315. London: Routledge.

<sup>8</sup> Rights and Resources. 2012.

<sup>9</sup> The State Forestry Administration. 2007. "China Forestry Yearbook." Beijing: China Forestry Publishing House.

<sup>10</sup> Government of China. July 2008. The Central Committee of CPC, the State Council: *The Decision on Promoting the Reform of Collective Forest Tenure Regime*.

中共中央、国务院：《关于推进集体林权制度改革的意见》

<sup>11</sup> *The Decision on Promoting the Reform of Collective Forest Tenure Regime*.

《关于推进集体林权制度改革的意见》

<sup>12</sup> The collective here refers to "the rural collective economic organization". Chinese government recognizes generally a single village (sometimes several villages) as a "collective economic organization" which is the owner of land in the area of villages and distributes it to the villagers for cultivation or residence. The village committee is elected by villagers as an autonomous institution of the collective economic organization.

<sup>13</sup> The State Forestry Administration. 2007. *China Forestry Yearbook*. Beijing: China Forestry Publishing House.

<sup>14</sup> Government of China. 2002. Rural Land Contracting Law, article 27.

<sup>15</sup> Supreme People's Court of the People's Republic of China. 29 July 2005. Interpretations of the Supreme People's Court About the Issues Concerning the Laws Applicable to the Trial of Cases of Disputes Over Rural Land Contracting. China Court. 15 June 2012. [www.old.chinacourt.org/public/detail.php?id=171297](http://www.old.chinacourt.org/public/detail.php?id=171297).

最高人民法院：《关于审理涉及农村土地承包纠纷案件适用法律问题的解释》

<sup>16</sup> Government of China. 2010. Organic Law of the Villagers' Committees (2010). Article 2 states, "A villagers' committee is a mass organization of self-government at the grassroots level, in which villagers administer their own affairs, educate themselves and serve their own needs and in which election is conducted, decision adopted, administration maintained and supervision exercised by democratic means."

<sup>17</sup> Organic Law of the Villagers' Committees. Article 24 states that the matters that involve the interests of the villagers shall be dealt with only upon the villagers' assembly's decision through discussion which include land contracting plans, and a villagers' assembly may authorize the villagers' representatives' assembly to decide on the above-mentioned matters through discussion. Article 27 states that every decision made by the villagers' assembly shall be adopted by a majority vote of the persons present at the assembly.