

12 Law of the land or land law? Notions of inequality and inequity in rural Anhui

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Much commentary on the unequal treatment of rural residents in China has focused on the role of local government in land requisitioning. The dependence of city, county and township governments on off-budget revenue acquired by the expropriation and sale of rural land gives rise to collusion between government and property developers, with farmers receiving paltry compensation (Y. Wu 2004; Gong 2006; F. Zhou 2007; R. Wu 2008). The Finance Ministry reported that in 2009, more than 1.4 trillion *yuan* was raised in land conveyancing fees (*tudi churang shouru*) (see Z. Liu 2010; Ministry of Finance 2010b). In some localities these fees accounted for more than 60 per cent of off-budget revenue. To put the magnitude of this revenue windfall in perspective, in 2009 total national revenue collected was 5.96 trillion *yuan* (Ministry of Finance 2010a). Little is directed towards agriculture or rural areas, with a large portion (27.1 per cent) allocated to urban construction projects.¹

However widespread this land enclosure movement is, most farmland and farmers are located far from urban centres, and thus are unlikely to experience large-scale land requisitioning. This chapter examines how notions of inequality and inequity play out in a highly contested process that nearly all Chinese farmers have experienced, and will encounter in the future: land reallocation. In the face of more than two decades of government efforts to proscribe the practice, why does land reallocation persist, given that it appears to afford farmers less secure land use rights? At the heart of this question are notions of equality and fairness, and a broader notion of egalitarianism in rural China. Few studies have addressed this question, as it falls outside the quantitative mindset of most studies of land use.²

Yet land reallocation among farmers is one of the few examples we can point to of Chinese exceptionalism in the debate on the social costs of inequality. We can point to no other nations where demands for equality among households led to large-scale periodic reallocations of land, against the wishes of the central state, and often against the active opposition of the local state. Moreover, even in regions where the practice is rare, the

debate about whether and why (or why not) to adjust landholdings occurs in the lead-up to each Spring Festival period, and thus shapes the discourse among the majority of Chinese citizens about which matters more: land equality or legal equity? These voices are seldom heard, and the outcome of this long-running debate is far from settled.

This chapter draws upon fieldwork conducted by the author in Anhui province between 2004 and 2008 and upon a survey conducted in 2008 and 2009 with the cooperation of researchers from the Department of Economics and Trade of Anhui Agricultural University.³ The author worked within the county government, and spent extensive amounts of time living and working in the townships and villages of ‘Benghai’ County.⁴ The survey involved undergraduate students returning to their home villages during the summer break of 2008 and the Spring Festival of 2009 to compile information on the land reallocation practices of villager small groups (*cunmin xiaozu*). In keeping with the qualitative emphasis of this volume, only a limited amount of quantitative data will be presented. Rather, emphasis will be placed upon perceptions of equality and inequality.

In order to explore the distinct discourses on equality and equity that have emerged around land reallocation, this chapter examines the opinions and practices of individuals who are uniquely positioned between the Party-state and ordinary farmers: villager small group leaders (*cunmin xiaozu zuzhang*), or, as they are more commonly referred to, production team leaders, or *duizhang* (three decades after decollectivization, most farmers still use the collective era form of address). This chapter will simply refer to them as group leaders. Group leaders are charged with facilitating land reallocations, and (in theory) preventing them from taking place. During the collective era, such a position came with considerable power, but the rewards for holding this office now are meagre. The office holder is an ordinary farmer, and many group leaders in Benghai joked that the office holder was determined by all experienced farmers drawing lots (*zhua jiuzi*) to determine a loser, rather than a winner. The position in some groups is, quite literally, the short straw.

With the amalgamation of villages in 2004, the distance between the group leaders and the village cadres has increased. Whereas previously a village might have between 10 and 20 villager small groups, after the village amalgamations of 2004, there are commonly more than 30 villager small groups. One administrative ‘village’ in Benghai had 144 villager small groups, and a population in excess of ten thousand inhabitants. Nonetheless, the group leaders’ role as mediators between the Party-state and rural residents remains: they are still answerable to the local state, and report regularly to village leaders.

A considerable body of literature has debated the economic effects of land reallocation practices among farm households. It is widely argued that insecurity of land tenure leads to underinvestment in land (Deininger and Jin 2002). Some of this literature conflates periodic land reallocation with

land requisition, and presents land reallocation as a process driven by village cadres for personal benefit, rather than also being a process driven by the demands of farm households (Brandt *et al.* 2002). However, most studies do agree that a majority of farm households are in favour of periodic land reallocations (Kung and Liu 1997; Vermeer 2004). Outlying studies (Yang *et al.* 2001) seem to reflect how the question is framed. Farmers can favour government policy restricting the reallocation of land, as it suggests proscribing large-scale land reallocations, but at the same time support small-scale periodic readjustments.

Due to the diversity of land reallocation practices, attempts to model land reallocation practices have frustrated researchers. In one sense, the debate is academic, as land reallocation will persist, albeit at a reduced rate, regardless of what edicts are issued from Beijing. For village and township cadres, the primary performance criteria are enforcing family planning regulations, attracting investment and ensuring social stability is maintained (Edin 2003; Smith 2010). If allowing farmers to reallocate land reduces tensions between farm households, cadres will look the other way over the harvest period or Spring Festival (the times when most land reallocations occur, because many migrant workers return to their village).

Land reallocations occur either with the encouragement or tacit approval of local representatives of the Party-state, or in secret. While some authors characterize all such readjustments as ‘administrative land reallocations’ foisted upon rural residents by rural cadres (Jin and Deininger 2009), our surveys indicate that the majority of recent land reallocations are driven by farmers, and a high degree of consensus must be reached before land reallocation can occur. Far from being passive actors whose tenure security needs to be ‘protected’ (Jin and Deininger 2009: 632) from local officials by World Bank economists, it would seem that farmers need to be persuaded to abandon their own predilection for keeping landholdings within a village small group roughly equal.

Scott Rozelle’s study addressed the question of how farm households and village leaders interpret notions of equality, equity and land reallocation, finding that village ‘leaders shuffle resources between different types of farm household in order to produce an outcome that maximizes the village’s welfare. Application of these policies is usually *not* [italics in original] for reasons of equity or relief’ (Rozelle 1994: 122). Eduard Vermeer makes almost the same observation, and reaches precisely the opposite conclusion, noting that ‘Contracts for land and other income-generating assets and activities; provision of jobs in collectively-run enterprises; and relief payments from the collective accumulation fund have been used in varying degrees to achieve greater equality between villagers’ (Vermeer 2004: 112).

Regardless of which interpretation is correct – and it is entirely possible that both are correct, depending on which village leaders we are discussing – since the late 1980s, the rural political economy in China has

changed dramatically. Farmers now, with the exception of state farms and some tobacco- and cotton-growing regions, are free to plant whatever crop they choose, and the majority of villages in the survey (71 per cent) did not have a village enterprise.⁵ Village cadres no longer collect compulsory grain quotas or agricultural taxes. Instead, farmers receive various agricultural subsidies. They no longer face village leaders whose ‘duties touch every aspect of village social, cultural, political and economic life’ (Rozelle 1994: 113). The most commonly heard sentiment about village leaders from Anhui farmers is, ‘They do their thing, and we do ours.’

Although land reallocation is supported by a majority of rural residents, the process is far from uncontested, as it produces clear winners and losers each time it takes place (or does not take place). Different villagers are drawing on two quite different sets of norms when they appeal to ‘equality’ or ‘equity’, with quite different outcomes in terms of the distribution of land. Equity is distinguished from equality as being concerned with the ideal of fair and impartial treatment of citizens (particularly before the law), rather than the goal of economic equality, which in this chapter is contiguous with the equal distribution of landholdings within a community. This is not to say that equal distribution of landholdings means that households have equivalent incomes, as might have been the case during the Maoist era when off-farm income was negligible, but it is consistent with the ideal of egalitarianism.

One stream of thought, which is broadly supportive of periodic land reallocation and which could be termed ‘equality in land’, lies in the Maoist tradition of intra-village equity in arable land resources. The redistribution of land over the period 1946–56 brought the Communist regime immense legitimacy in the eyes of the peasantry, serving both to overthrow the rural elite and (at least partially) to satisfy the needs of landless and land-poor farmers (Friedman *et al.* 1991). The ‘right to subsistence’ inherent in periodic redistribution of land (a comprehensive social security system for rural China is still far from being realized) draws on a social contract of equity between the peasantry and the state which has been in place for more than four decades. This chapter posits that Maoist era traditions of political activism and mobilization, with an emphasis on radical equality and class struggle, did not disappear quietly with the emergence of a more regulatory central government during the reform era. Rather, this ‘mobilization’ tradition might be expected to mesh with the ‘rights activism’ (*weiquan*) that is increasing in rural areas. This presents a counter example to the tendency of ‘rights activism’ to draw upon formal law; instead, it draws upon traditional norms and value systems arising from the collective era (Lee 2002).

While current national laws do not support the periodic redistribution of land, it is inherent in many villages, or, more accurately, in the villager small groups that make up each village. There is huge variation in land reallocation practices in China, not just between each province, each county, each township or each village, but even *within* villages, a point

missed by most researchers – even those who recognize the diversity of land practices between regions. In part, this accounts for the differing accounts of land rights formation offered by researchers (Rozelle and Li 1998; Brandt *et al.* 2002). In the past, land reallocations were agreed upon by the whole villager small group, with the implicit understanding that while some families stood to lose land as a result of demographic change (due to a death in the family, or a daughter marrying outside the village),⁶ they would gain land in future reallocations when their household population increased (due to the birth of a child, or a daughter-in-law marrying into their household). Thus, ‘freezing’ the ownership of land use rights at an arbitrary point in time goes against the implicit contract that all households within a villager small group entered into during the previous round of land reallocation.

A different stream of thought, which is generally opposed to the periodic redistribution of farmland, could be termed ‘equity in law’. This arose from the more recent withdrawal of the Chinese state from rural society following the abandonment of collective farming, and the subsequent promotion of ‘the rule of law’, or, more accurately, ‘rule by law’. This ‘regulatory’ approach is opposed to the periodic redistribution of land by farmers, and aims to provide individual farm households with greater security of land tenure by guaranteeing land use rights for a 30-year period. It is thought that this approach will make individual farmers more likely to undertake long-term investments in ‘their’ land. Although the land is ultimately owned by the collective, it is expected that farmers will gradually gain more extensive property rights, eventually leading to the full privatization of rural land. This line of thought is supported by the current leadership of the CCP, and has been promoted by successive waves of legislation since the early 1990s with support from many international institutions, such as the World Bank and the Rural Development Institute (Sargeson 2004b).⁷

In 1994, expired rural land contracts were extended for a further 30 years, and the policy became known as ‘no change for 30 years’ (*sanshi nian bu bian*). Land reallocation was also discouraged in Document no. 16, issued by the CCP’s Central Committee in 1997. This was reasserted in the 1998 Land Management Law (*tudi guanli fa*). The Rural Land Contract Law (*tudi chengbao fa*) of 2003 envisions a paradox: rural land is to remain collectively owned, but at the same time it is to be impartially regulated by the agents of the local state. In theory, rural land should not be subject to arbitrary adjustment by either the Party-state or by the farmers themselves. On the latter point, the Rural Land Contract Law is quite clear, with reallocation permitted only in the event of natural disasters or other ‘special circumstances’ that cause serious damage to the contracted land of individuals. In this event, two-thirds of the members of the ‘collective economic organization’ or the ‘villagers’ representatives’ must agree before the reallocation can take place, and the plan for reallocation must be sent up to the township and county government administrative departments for approval.

This is repeated in the Property Law (*wuquan fa*) of 2007, where Article 130 states, ‘Land cannot be reallocated during the contract period.’

While these laws make no distinction between the type of land reallocation undertaken, one should distinguish between different types of readjustments, specifically ‘small readjustments’ (*xiao tiaozheng*) and more radically egalitarian ‘large readjustments’ (*da dong*) (Kung 2000). While James Kung found that a propensity to undertake large readjustments would lead to short-term land use practices (specifically, the application of less organic fertilizer), small readjustments are more common, and may involve just a few households in one villager small group exchanging small, marginal plots of farmland (Kung and Cai 2000). Households whose populations have increased are given the land of households whose populations have decreased in order to maintain rough equality of land assets between households. A large readjustment involves pooling all the land in the villager small group, and dividing it up according to the quality of the land (typically there are at least three different grades of land). Certain geographies favour certain types of land reallocation practices. Villages with hilly terrain, where land parcels are small and there is considerable variety in the quality of land, experience fewer rounds of land reallocation, and rarely if ever experience large-scale land reallocation. It is possible that smaller-scale land reallocation may occur, but all forms of land reallocation are more likely in regions where field plots are large and uniform, and land reallocation is more straightforward (Kung and Bai 2011).

Thus geography, to an extent, determines how radical commitment to equality in land reallocation will be. Villager small groups with terrain that favours large-scale readjustments will continue with the practice. Our findings confirm that the methods of reallocation within villager small groups have changed since the collectives were disbanded in the late 1970s and early 1980s, with fewer than one-quarter of group leaders indicating that there had been a change in land reallocation practices since that time. Meitan County in Guizhou, the site chosen by the State Council to demonstrate that proscribing land reallocation among farm households would benefit agricultural investment without significant impacts on equity, was an area whose hilly geography dictated that there should never be strong demand for periodic land reallocations – nor had there been such demand in the past. Thus, the county chosen to demonstrate that the ‘no change for 30 years’ policy was suitable for the whole of China delivered the correct result for the State Council.

Although land reallocation is now illegal, except under ‘special circumstances’, the practice is still widespread. Our province-wide survey indicated that 41.3 per cent of villager small groups practised reallocation on the basis of fixed terms, usually every five to seven years, and the majority of recent land reallocations were initiated by ‘a group of villagers’. A high level of consensus is required within the villager small groups, with nearly all villages requiring more than a straightforward majority.⁸

For villager small groups that practise land reallocation, the average percentage required was 73.9 per cent.

Group leaders play a key role in mediating this process. One villager small group in Shucheng County (western Anhui), undertook land reallocation in 2008 after more than 80 per cent of villagers at the annual meeting voted in favour, and their group leader explained, 'If people oppose reallocation, the group head has to go door-to-door persuading them to comply. If they still refuse, then the matter has to be handled with discretion.' A group leader from Shouxian County (western Anhui) elaborated that bargaining continues even after agreement has been reached: Land reallocation is carried out on the basis of majority opinion, but if there are some farmers who are aggrieved because they have received fields that are too remote, or susceptible to natural disasters, then they will usually be allotted a share of 'floating land' [*jidong tian*] to appease them.

Appeasement can extend something akin to welfare, but only with the consensus of the group. According to a group leader who organized a reallocation in 2003,

Land is allocated on the basis of household population, but sometimes there are special circumstances. Some villagers might not have any other employment, and depend completely upon farming for their livelihood, so they might be allocated more land, but the vast majority of villagers have to agree.

The arguments in support of regular land reallocation largely draw upon traditional Maoist notions of equality. In many cases, the rationale for reallocation drew upon pre-revolutionary notions of the essential identities of farmers and officials, which caution against the social instability that arises when farmers are left without land. One group leader in Tianchang City, eastern Anhui, justified regular reallocation on the grounds that 'The officials come from the people; the people come from the land; a farmer without land has no way to survive.' With the possibility of off-farm work, this is no longer the case, but concern that landless farmers were a threat to social stability was pervasive. In keeping with this saying, government workers are not entitled to land.

Nor are Maoist traditions the only source villagers draw upon to support their claims for land reallocation. When enquiring into the process of land reallocations, it became clear that villagers' experiences with elections were influential, with many villages conducting a secret ballot rather than simply having a show of hands. Experiences with village democracy also seemed to reinforce the concept of 'obeying the will of the majority' (*xiao shu fucong da shu*), providing a case where democratic principles of equity conflict with the individual rights that the Rural Land Contract Law is meant to protect. When questioned as to which social groups were

most active in lobbying for land reallocations, group leaders identified older farmers as the main protagonists, with one noting, 'Older farmers love the new grain subsidies.' An odd picture emerges of a fusion of Maoist mobilization techniques, buttressed by egalitarian ideals, and supported by the principles of village democracy.

The instinct of older group leaders to reallocate land in part derives from their collective era role of attaining the maximum yield from the fields under their auspices, even though they no longer have any influence over farmers' cropping decisions. A persistent concern is the imbalance between the 'labour force' (*laodong li*) and land availability. As one group leader in Juchao District in central Anhui explained, 'One should undertake rational redistribution of land on a regular basis. You can't allow the situation to arise where households have a large workforce, but little land to till.'

This is contrary to the reformist approach, which is to allow the land use rights of unwanted land to be rented out to other villagers – a practice which was widespread well before it was made legal (Deininger and Jin 2005; Rozelle *et al.* 2005). Land rental is an effective mechanism in addressing unequal land holdings in areas which have a high degree of outmigration and a well-developed cash economy, with migrants deriving income from their land, and having the option to return to the land when they are too old for factory or construction work. However, in villages where agriculture is the main source of livelihood, land reallocation by what other authors have derogatively termed 'administrative channels' (Deininger and Jin 2005: 242) is likely to persist.

To test these propositions, we asked the heads of villager small groups whether villagers whose main livelihood came from off-farm income would rent out their land for income. Surprisingly, although farmers are now encouraged to rent out their land use rights, and Anhui province is known for high levels of outmigration, only 35 per cent agreed that villagers would choose to rent out their land. To explore the question further, we asked, 'If villagers wouldn't rent out their land, what was the main reason?' The results are shown in Table 12.1.

Encouragingly for those who favour equity before the law, only a small percentage of villager small groups still have restrictions on land rental. It does seem, however, that villagers are employing risk-reduction strategies to maintain full control of their land holdings, rather than completely embracing market mechanisms by renting out their land. The marginal nature of subsistence farming in Anhui province may contribute to risk aversion, as well as the limited cash economy. The conditions in Anhui are in contrast to wealthier provinces, such as Zhejiang, where more than one-third of rural land was being rented out in 2002 (Rozelle *et al.* 2002: 350). One group leader from Sanshan District gave his opinion as to why land rental was at best a partial solution to a complex problem: During the 1990s, everyone's income came from agriculture; so letting farmers own their land increased their enthusiasm. But it's now impossible to support a

Table 12.1 Reasons for not renting out land, and percentages of farmers citing those reasons

<i>Reasons cited</i>		<i>%</i>
To reduce the risk involved in off-farm employment	<i>yufang fei nongye jiuye fengxian</i>	36.2
They are able to do both	<i>you nengli jianye jingying</i>	23.0
Too much bother, it can easily lead to disputes	<i>tai mafan, rongyi chansheng maodun</i>	17.5
The income from land rental is too low	<i>youchang zhuanrang shouyi tai di</i>	13.8
Other reasons	<i>qita</i>	4.9
Village or village small group restrictions	<i>cun huo xiaozu de xianzhi</i>	4.6

Source: Author's survey. N=526

family with an agricultural income, so farmers have left for the cities, leaving behind women, children and old men. Now untended fields are common, and productivity has nosedived. Although they're now encouraging farmers to rent out their land, rural infrastructure isn't up to scratch, and government investment in agriculture is limited. Farmers just rely on their traditional knowledge, there's no technology to speak of. Farmers' low level of education is also a barrier to the development of rental markets, so reallocating land on the basis of household population is rational, and suits current conditions. Rural social security isn't established yet, so while the young and healthy can find work in the cities, when they get too old and return home, they'll still only have 1.3 *mu* [less than 0.1 hectares] to keep them alive. When there's no barrier to land rental, and agricultural production can be raised, that will be a happy day.

Many group leaders used the language of 'scientific development', commonly used to persuade farmers *not* to reallocate land, to justify their decision to approve land reallocation. Aware that official discourse viewed promoting equality among farm households as unscientific and irrational, some group leaders adopted the approach of using pseudo-scientific rhetoric to defend their approach. They claimed the practice increased 'agricultural productivity', promoted 'social stability' and encouraged 'the enthusiasm of farmers for production' and the 'rational use' of cropland. One group leader in Feidong County in central Anhui, where cadres in one township take it upon themselves to organize regular land reallocations, explained the anomaly of local officials disregarding central government policy: '[We reallocate land on a regular basis] in order to make scientific, rational use of our land resources, drive the farmers' enthusiasm, increase their incomes, and improve their lives.'

There are grounds to be concerned about the fairness of land reallocations when they are initiated and organized by a township government. Other researchers have found that villages with fair and open village elections tend to have land reallocations that meet the needs of farmers, while those villages where township governments interfere in the electoral process experience less fair land reallocation (Kennedy *et al.* 2004). However, our research indicates that the majority of land reallocations are not initiated by higher levels of government (Table 12.2).

Group leaders were asked, ‘In the case of the last reallocation, who decided to implement land reallocation?’ Higher officials have played a role in recent land reallocations, but it is more common for the initiative to come from within the team.

Interviews with group leaders in Benghai revealed that while decollectivization during the early 1980s was a passive, centrally mandated process where the collective production team was only concerned with managing its own demise,⁹ over time many former production teams began to actively organize land reallocations themselves, without consulting with township government officials.

One rationale for increasing restrictions on land reallocations which does influence the actions of county and township cadres is the effect of land reallocations on the enforcement of family planning regulations, an area where ‘equity in law’ and ‘equality in land’ come into conflict. If land is allocated on the basis of household population, then the practice of land reallocation provides an incentive to increase household population (Johnson 1994). However, increases in household populations in violation of family planning laws can have significant impacts on the career prospects of local cadres, as it is one area of government policy that is subject to the ‘one-strike veto’ (*yi piao foujue*) throughout China. Under this policy, if inspection teams from higher levels discover above-quota births, any achievements of the responsible county and township leaders will be disregarded (Smith 2010). This is one area where national law is enforced at

Table 12.2 Percentages of various decision-making processes adopted for reallocating land

<i>Who makes the decision</i>		%
The village small group convenes a meeting	<i>quan cunmin xiaozu kaihui</i>	52.5
Officials (village level or higher)	<i>ganbu chumian zuzhi</i>	27.9
The village small group leader	<i>xiaozu zuzhang</i>	8.2
The households reallocate among themselves	<i>tiaochu tudi hu yu tiaoru tudi hu ziji xieshang</i>	2.9

Source: Author’s survey, 2009. N=524

the local level.¹⁰ Yet in many villages, the pressure from families with excess children was cited as a reason for reallocating land. As a group leader in Zongyang County in southwest Anhui admitted, ‘Some villagers had large families, because they had violated family planning laws. On top of that, they had to pay fines and their land only gave low yields. Basic subsistence had become impossible, so we had to reallocate land.’

While the only study to test the link between fertility behaviour and land reallocations found *no* conclusive evidence (rather, a strong preference for sons led to family planning violations; Kung 2006), it is widely perceived by group leaders that the principle of ‘equality in land’ is abused by family planning violators. One straightforward solution to this problem, and that adopted by a majority of villager small groups, is to simply not allocate land to children who are born in violation of family planning regulations. As can be seen from Table 12.3, nearly two-thirds of villager small groups excluded these children from any entitlement to land. Thus, the ‘hard’ family planning regulations can be obeyed, while the ‘soft’ laws on land reallocation are ignored. In those villager small groups where the letter of the law on land reallocation is followed, a paradox emerges. Rather than sons bringing wealth, as one group leader explained, ‘Over time, those households with daughters see their daughters marry out and become land rich, while households with sons become land-poor.’ This does not mean that the daughters who marry out will become rich, as Table 12.3 demonstrates.

Table 12.3 reveals that equality in land, while it sounds like a bucolic ideal, and has a certain irrefutable logic (one villager small group leader observed, ‘There are living people who have no land, and dead people who have plenty’), such equality involves implicit traditional norms that harm women.¹¹ By law, women retain the right to farmland in their original villager small group, but this is universally ignored (Sargeson and Song 2010). As other researchers note,

Table 12.3 Excluded categories in different villager small groups

<i>Person excluded</i>		<i>%</i>
Children in excess of family planning regulations	<i>chao jihua shengyu de zinu</i>	64.5
A woman who marries outside the village	<i>jia chu waicun de nu'er</i>	62.0
A woman who marries within the village but outside the villager small group	<i>bencun nei tonghun dan fei tong yige xiaozu de nu'er</i>	37.9
Those who haven't engaged in farming for a period of time	<i>you x nian mei zhong di de nonghu</i>	21.5
Unmarried young women	<i>daijia nuzi</i>	12.7

Source: Author's survey, 2009. N=524

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.

(Li and Xi 2006: 630)

The custom generally followed in Anhui is that women marrying into a village should be entitled to subsistence land, but our survey found that there was little urgency in providing women with land. Only 10.6 per cent of respondents claimed that women will 'immediately' be allocated land when they marry into the villager small group, while 16.7 per cent will be able to obtain land if it is available ('mobile land', or *jidong tian*, is held aside in one-third of the villager small groups surveyed).¹² In a majority of villager small groups (57.8 per cent), women who marry in have to wait until the next reallocation, while 14.8 per cent of women marrying in will not be allocated land under any circumstances. The case of divorced women underlined the misogynistic nature of 'equality in land', with many group leaders declaring that divorced women who returned to their home villages would 'never' be allocated land. Divorced women were never treated more generously than migrant workers.

In villager small groups where 'equity in law' is strictly enforced, the outcomes for women in terms of gender equity in access to land are also negatively affected. Women who marry (or remarry) into the group are denied access to land use rights (Judd 2007). Thus, echoing Sargeson's findings on women and property rights in rural China (also in this volume), I find that while the entitlements of rural women to land were enhanced after 1949, their social position is now being eroded as an unintended consequence of the gender blindness inherent in the Land Contract Management Law and other legislation, reinforced by local customs which are, as Sargeson notes in the previous chapter, primarily determined by male village leaders. Paradoxically, this has coincided with a period when rural women shoulder a much greater share of the burden of agricultural labour. The feminization and aging (Pang *et al.* 2004) of the agricultural workforce was often cited as a reason why it was no longer worth carrying out land reallocations.

If allowing land reallocation will ease tensions between villagers, township and village officials will tolerate reallocation. As one group leader from Feidong County explained,

I'm in favour of small-scale readjustments on the basis of residency. But there are many farmers who have strong feelings against households with excess land, and they'll even go so far as petitioning higher levels of government to make their opinion known.

When such tensions combine with personal conflicts or tensions between different lineage groups (Liu and Murphy 2006), land reallocation is often

seen as a quick fix, even though the process of reallocation itself can lead to fresh conflict. The most frequently cited reason for undertaking reallocations was to ‘resolve conflict’ between farmers, particularly when population pressures became acute. Table 12.4 shows the main reasons cited by villager small group leaders for land disputes in Anhui.

Our survey indicates that some villagers are willing to assert their ‘equity in law’, even when faced by a majority of fellow villagers wishing to reassert their ‘equality in land’. As one group leader complained,

The ‘no change for 30 years’ legislation has had an impact: those households with few members but plenty of land refuse to equalize landholdings, holding up the legislation as their ‘trump card’ [*wang pai*]. Now that there are grain subsidies,¹³ it’s harder to get them to agree to readjustments.

Other group leaders referred to the legislation as a ‘shield’ (*dangjianpai*) or an ‘excuse’ (*jiekou*) for farm households to keep ‘their’ land, and worried that the ‘no change for 30 years’ policy was leading farmers to forget that the land was collectively owned, with some unexpected negative outcomes. Common complaints were that farmers would not bother to arrange for anyone to farm their fields when they migrated to urban areas, or that they would build houses on arable land. Many group leaders associated the policy with the breakdown of rural infrastructure, particularly irrigation, and felt that it eroded the egalitarian, collective ethos. As one group leader lamented,

Since the second round of land contracting, government policy on land has made villagers less public-minded and more selfish. They won’t maintain the dams or the village roads; they focus all their energies on their plots of land. So silt clogs the dams, and fields are encroaching on the roads.

Table 12.4 Main sources of dispute over land

Source of dispute		%
Land boundaries unclear	<i>dije bu qing</i>	27.1
Population in excess of the land available for distribution	<i>ren duo di shao, wu di ke fen</i>	20.5
Differences in the quality of land plots	<i>di kuai hao huai chayi</i>	17.2
Residential land	<i>zhai jidi</i>	17.0
Compensation for occupied land	<i>zhengzhan di buchang</i>	7.6
Amount of land reallocated	<i>fendi liang duoshao</i>	6.2
No disputes	<i>wu jiufen</i>	4.4

Source: Author’s survey, 2009; N=528.

Among villager small group leaders who were supportive of the ‘no change’ policy, there was recognition that the policy produced winners and losers, but this was seen as a positive force to encourage farmers to leave the land and diversify the rural economy. Moreover, becoming land-poor through demographic change was widely viewed as forcing farm households to embrace the ‘modern’, urban cash economy, as opposed to the ‘backward’ rural subsistence economy. As one explained,

[The policy] increases the enthusiasm of farmers, and protects their rights. Those households who aren’t able to immediately secure land have no choice but to find another way: poverty gives rise to a desire for change [*qiong ze si bian*], and they can then seek their fortune.

Group leaders who supported the new policy thought farmers were now more ‘relaxed’ about land issues, that ‘they can now look after their own fields, rather than endlessly haggling over who got the best land’, and that the new policy had the benefit of ‘preventing the cadres from scheming for private gain’. Nor did all group heads see it as their role to side with the farmers. As one explained,

In carrying out the CCP’s policies, in all matters the lower levels should obey their superiors. The whole Party obeys the centre. So although villagers demand an increase in their landholdings when their household grows, central government policy is clear – so we don’t dare arbitrarily reallocate land.

Group leaders felt that recent changes in government policy – the abolition of agricultural taxes and introduction of grain subsidies – as well as improved grain prices made many farmers more interested in land reallocation. Paradoxically, the sudden potential of land to contribute to household income also made land reallocation more difficult, because the stakes were higher – land meant income, not tax. As one group leader from Feidong County (central Anhui) explained, ‘Since agricultural taxes were abolished in 2006, no group leaders are willing to contemplate land reallocation, because you can’t avoid harming [*dezui*] the interests of some villagers.’

More broadly, the debate in farming communities about land reallocation and equality is a debate about which forms of modernity will prevail within China. To what extent will the Chinese body politic internalize and enforce neoliberal prescriptions around strong individual property rights, the lack of which many economists see as the greatest institutional barrier to development (Harvey 2005)? That China has managed to grow its economy rapidly in the absence of well-defined property rights and the rule of law would seem to challenge this relationship. However, even if full privatization of rural land is some way off, the legislative trend is clear.

Our study reveals that since decollectivization, Anhui’s farmers and officials have developed a complex set of ideas for debating ‘equality in land’ and ‘equity in law’, and despite the increasing stringency of edicts on rural

land use, this debate is far from resolution. Both sides of the debate freely borrow from Maoist ideals, as well as the current official rhetoric of ‘scientific development’. They reveal that farmers and even officials have a relationship with the land that is more multifaceted, and less utilitarian, than World Bank economists would lead us to believe. ‘Secure property rights’ are not everyone’s Holy Grail. Many farmers and officials do not accept that the new laws lead to higher agricultural productivity; unexpected consequences of the new laws abound, not least for rural women. Vernacular concepts of egalitarianism and fairness persist, not in a bucolic or idyllic sense, but they do form a practical barrier to the acceptance of ‘equity in law’ by rural residents.

Notes

- 1 For a discussion of the contradictions inherent in the local state’s role as both regulator and benefactor in land sales, see Hsing (2006).
- 2 There are notable exceptions – for example, Thireau (1991); Rozelle (1994) and Vermeer (2004).
- 3 All quotes from interview subjects in this chapter are taken from interviews that were conducted in Anhui between 2004 and 2009.
- 4 Due to the need to protect sources, ‘Benghai’ is a pseudonym. The county is located in central China and GDP per capita in 2010 was slightly higher than the provincial average. Benghai ranks in the top five in the province in terms of government revenues, meaning that the county government is in a position to provide services to rural residents, if it chooses to do so. Industrial output accounted for nearly two-thirds of GDP by the year 2000. This shift to an industry-centred economy means that the recent national abolition of agricultural taxes has not affected the income of the county government as seriously as in neighbouring counties. When these taxes were abolished in 2004 they accounted for less than 10 per cent of county government revenue.
- 5 This is quite a different rural China from that described in works that deal with the rise of township and village enterprises in the 1990s (Oi 1999).
- 6 In theory, women retain the land use rights to land in their home village, but in practice, this aspect of the law is rarely observed.
- 7 Normally bloodless researchers often abandon empirical rigour when it comes to describing the effects of land reallocation on tenure secure and land degradation. One article in a reputable journal claimed that ‘the universal behavioural deviation of land use rooted in the reformed land tenant systems has doubled the damage to China’s agricultural sustainability’ (Hu 1997: 184).
- 8 According to the Rural Land Contract Law, in villages which can prove to the relevant township agencies that ‘special circumstances’ apply to them, at least two-thirds of the household representatives must agree before reallocation of land begins.
- 9 Early accounts of decollectivization mistakenly portrayed it as a spontaneous movement led by the farmers (Kelliher 1992). While there is no doubting the enthusiasm most farmers had for decollectivization, I am yet to encounter a production team where the process was spontaneous.
- 10 As always, there are exceptions. In some regions, the fines collected from villagers who violate family planning regulations are an important source of off-budget income for local governments.

- 11 The egalitarianism of the Maoist era was far from being pure egalitarianism; rather, it might be termed 'negative egalitarianism', with clear distinctions drawn along class lines by the question, 'Who is our friend, who is our enemy?' See especially Chan *et al.* (1992).
- 12 Mobile or floating land represents a two-field system, whereby the village (or, in many cases, just the villager small group), sets aside a certain area of land which farmers can rent out. Although the number of villager small groups with mobile or floating land has been declining (from 43 per cent of groups during the 1980s to 31 per cent at present), some fondness for *jidong tian* lingers among the group leaders. Our survey found that 14.1 per cent thought there should be more of it, 44.4 per cent believed that it should be encouraged, but not to excess, while 41.5 per cent saw no need for it. Despite this, there were only a handful of villager small groups in our survey that had recently introduced *jidong tian*.
- 13 The two main grain subsidies are generally paid on the basis of household landholdings. There have been studies to suggest that these cash subsidies, which are meant to encourage investment in staple crops, have had the reverse effect of encouraging households to grow less grain, and concentrate instead on more lucrative cash crops and animal husbandry (Heerink *et al.* 2006).