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WHO OWNS THE LAND?

GENDER AND LAND TITLING PROGRAMS IN LATIN AMERICA

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ABSTRACT

The main focus of state intervention in Latin American agriculture in the 1990s was on land titling programs, designed to promote security of tenure and enliven land markets. A review of seven of these projects suggests that they were often designed without sufficient attention to civil codes and marital regimes which protect women's property rights. They often ignored that a household's endowment of land may consist of three forms of property: the wife's, the husband's and jointly acquired property. By assuming that the family farm is owned by the male household head, these projects trampled upon women's ownership rights. Nonetheless, the share of female beneficiaries of land titling projects has been much higher than the share of women adjudicated land under the agrarian reforms of previous decades. This is partly because the primary way that women acquire land is through inheritance, and inheritance appears to be more gender equitable than other manners of acquiring land. It is also due to the impact of the more gender-equitable agrarian legislation of the current period, itself a product of the impact of the women's movement on the state.

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Carmen Diana Deere and Magdalena León¹

One of the pillars of neo-liberal thinking about the future of the agricultural sector is the need to provide security of tenure to producers. This has been addressed through the formal end to agrarian reform efforts involving the expropriation of land, and by land titling projects and efforts to modernize cadastral systems and land registries. Almost every single Latin American country was undertaking land titling programs of some sort in the 1990s, with most of these projects partly financed by the World Bank and the Inter-American Development Bank (IDB) (Echeverría 1998: 5-8). The focus on land titling activities stems, in part, from the large number of smallholders in Latin America who do not hold formal titles to their land, particularly the agrarian reform beneficiaries of previous decades. In most countries land titling and registration procedures have been costly, bureaucratic and time-consuming, discouraging land transactions from being officially recorded. Also, the lack of cadastral surveys has often led to multiple and/or over-lapping land claims, exacerbating conflicts over land.

Foremost, however, in the adoption of land titling projects throughout the region has been the neo-liberal economic rationale, which is three-fold (Feder and Feeny 1991; Binswanger, et.al., 1995: 2719-20; Melmed-Sanjak 1998: 30). First, it is hoped that security of tenure will stimulate investment and thus improve agricultural productivity, increasing agricultural production. A secure title is expected to lead to greater investment since it increases the probability that the

farmer will reap the future benefits of capital accumulation. Moreover, in order to obtain credit from commercial banking institutions farmers must have clear titles to their properties in order to use these as collateral against loans. It is the combination of increased ability to secure capital and farmers' greater incentive to do so that is expected to increase their long-term capital investments and use of variable inputs, leading to productivity and production gains (Dorner 1992: 77). In addition, one of the factors that has made land titling such a pressing issue in the neo-liberal period is that the state has largely withdrawn from the provision of subsidized credit to farmers, making the agricultural sector dependent upon the private banking system for credit.

Second, it is expected that land titling programs will fuel a more 'effective' land market making it easier for land to be bought and sold as well as rented. Land titling and registration enhances the transparency of transactions and improves the process of transferring and marketing land since it reduces uncertainty or the risk of challenges to land rights. Third, a precondition for unused land to be offered for sale is an effective system of land taxation for otherwise there is no incentive for landowners to offer land for sale, particularly in countries prone to high rates of inflation. The ability to design an effective and equitable system of land taxation depends, in turn, on the existence of a rural cadastre and modern registry system and on the majority of land being titled and registered.

According to its advocates, an effective land market should result in the transfer of land from less to more efficient farmers and should favor small farmers. Skeptics, on the other hand, worry whether land titling and the fueling of the land market will lead to accelerated depeasantization and further land concentration (Carter and Mesbah 1990; 1993; Carter and Zegarra 1997). This outcome might result from increased peasant indebtedness as a result of greater reliance on markets; or, if long-term credit at reasonable terms is unavailable, the resource-poor are unable to compete in the land market with other buyers. There is also concern that for the land market strategy to be a potentially effective means of reducing rural poverty *all* of its elements must be in place: not just land titles, but also the rural cadastre and land registry system, an effective taxation system, and the availability of long-term credit at reasonable terms. Otherwise, governments will

be diverting scarce resources (and increasing their external indebtedness) for programs which, if implemented only partially, will not have the expected pay-offs.²

While we are also concerned with whether land titling programs are an effective means of reducing rural poverty--or a politically designed strategy to deflect attention from the need for the state to continue expropriating and redistributing land--our primary interest in this paper is with the gendered implications of land titling. In many ways, the land titling programs of the 1990/2000s represent the defining moment in terms of property rights, for in a number of countries these programs are being carried out on a massive scale. Once properties are measured and mapped, and titles registered, land ownership will be more difficult to contest. Hence the urgency of our main question: To what extent are women's property rights being taken into account as ownership of land is formally demarcated and registered?

This question is motivated by two other developments of the 1990s: the strengthening of women's property rights in Latin American civil codes, and the promulgation of new agrarian codes in many countries which are more gender progressive³ than the agrarian reform legislation of past decades. One of the major achievements of the second wave of feminism in the region has been the elimination of the provision in most civil codes whereby the husband is the legal head of household and its replacement by the dual-headed household^Bwhere both husband and wife jointly represent the household and manage its common property.⁴ Civil code reform was usually motivated by the ratification of the 1979 UN Convention on the Elimination of all Forms of Discrimination against Women, and facilitated by the efforts of the national women's offices which were established in the 1970s and 1980s. Further, most countries also extended legal recognition to couples in consensual unions, guaranteeing these the same property rights as married couples.⁵

The consolidation of neo-liberal governments throughout Latin America in the 1990s often resulted in the adoption of new agrarian codes which minimized restrictions on private property and vested land rights on "natural and juridic persons."⁶ As a result of the pressure of the national women's movements, the most gender-progressive codes explicitly establish that men and women

have equal land rights and include specific mechanisms of inclusion of women in state programs. Among the most important of these have been provisions for the joint adjudication and titling of land to couples and/or priority to female household heads in state land distribution and/or titling programs. Hence, one of our main concerns as we embarked on this study was whether these gender-progressive norms were being implemented in land titling projects. Is land which has been jointly acquired by a husband and wife being jointly titled in the name of the couple? Are titling procedures respecting individual inheritance of land by wives or husbands or only ceding one title per household and issuing it in the name of the household head? Are widows receiving preferential rights to family lands? In this paper we examine seven of the major land titling projects--in Chile, Colombia, Ecuador, Honduras, Mexico, Nicaragua, and Peru--and their gendered outcomes, these cases having been chosen because of the availability of gender-disaggregated data.

As Table 1 shows, the target group of the land titling efforts vary by country. In Ecuador, Mexico, Nicaragua and Peru these have primarily focused on previous agrarian reform beneficiaries. In the Mexican case the titling initiative is tied to the formal parcelization of the ejido sector (where lands previously had been collectively owned although generally held and worked in individual usufruct) made possible by the 1992 changes in Article 27 of Mexico's constitution. In Ecuador, Nicaragua and Peru land titling efforts are also in response to neo-liberal initiatives which have encouraged the parcelization of former agrarian reform production cooperatives; but they also encompass the many agrarian reform beneficiaries who received individual land plots in usufruct but who were never formally titled their land. The effort in Ecuador also includes the titling of squatters on national lands, and the latter is the focus of land titling efforts in Honduras and Colombia. Chile's land titling project focuses on its large smallholding sector, irrespective of how land was acquired.

As Table 1 also shows, these countries differ as to whether they have adopted gender progressive norms in their new agrarian codes or other legislation. Of the countries examined here, those with the most favorable norms in support of gender equity are Colombia, Nicaragua and Honduras, which in addition to establishing that men and women have equal land rights, also provide for the

joint adjudication and/or titling of land to couples. However, whereas joint titling is mandatory in state programs in Colombia and Nicaragua, it is only an option in Honduras. Joint titling of land to couples is crucial for the empowerment of women for it reinforces the provision of civil codes that husband and wife are jointly responsible for the administration of household assets; moreover, it adds legal muscle to the requirement that they must be in agreement to sell, mortgage or otherwise dispose of their property. Joint titling also safeguards women's ownership rights in case of separation, divorce or widowhood. To the extent that it improves a woman's fall-back position, it can also improve her bargaining position within marriage, enhancing her role in household and farm decision-making (Agarwal 1994; Deere and León 2001a).

The least favorable legislation for gender equity is that which purports to be gender neutral, making no specific reference to women's land rights. Such is the case in Mexico, Peru, and Ecuador, countries where the neo-liberal legislation of the 1990s recognizes the land rights of "natural and juridic persons." Nonetheless, in Ecuador joint titling of land to couples was adopted as a policy at the project level in the National Program for Rural Development (PRONADER), a rural development project in twelve zones of the country. Chile has not adopted a new agrarian code since its counter-reform began in the mid-1970s (having been the pioneer in the region in adopting the neo-liberal model in agriculture). However, as a result of the efforts of its national women's office, SERNAM (Servicio Nacional de la Mujer), priority attention in its national land titling project was given to female household heads. As Table 1 shows, Colombia and Nicaragua also give priority to female household heads in the adjudication and/or titling of land, an important pro-active measure, for it attempts to redress the discrimination to which women have been subject in state land distributions efforts of the past.

We argue that, notwithstanding the increased attention to gender concerns, most land titling projects have given insufficient attention to the bundle of property rights embodied in the household. They often ignore that a household's endowment of land might consist of three forms of property: the wife's, the husband's and jointly owned property. By assuming that the family farm belongs to the male household head, these programs have often trampled upon women's

ownership rights. Nonetheless, the share of female beneficiaries of land titling programs has been much higher than the share of women adjudicated land under the agrarian reforms of past decades, partly because inheritance of land is the main way that women in Latin America acquire land and this practice appears to be more gender equitable than other manners of acquiring land. In addition, the comparison of outcomes of land titling programs in countries with and without gender-progressive legislation suggests that the former is making a difference in favor of gender equity.

In the next section we discuss the obstacles to women property owners being titled land, focusing on the projects in Honduras, Mexico and Peru. Subsequently, we consider the experience of Colombia and Nicaragua--countries where legislation favors women's land rights-- and then of Ecuador and Chile--countries where gender considerations were taken into account at the project level. In the conclusion we review the quantitative evidence which suggests that gender specific mechanisms of inclusion are necessary to increase women's ownership of property and summarize the lessons garnered from these experiences..

OBSTACLES TO WOMEN BEING TITLED LAND: HONDURAS, PERU AND MEXICO

The Honduran land titling project of public lands in the 1980s served as a precursor for broader-scale efforts throughout the region in the 1990s, thus we consider this experiment first. During the 1960s and 1970s the main form of access to land for the landless or land-poor in Honduras was not through the agrarian reform, but rather by squatting on national or municipal land. This was facilitated by a 1973 decree which validated previous land occupations, allowing individuals to possess and use national lands for agricultural purposes without formally applying to the state for permission. A subsequent 1975 decree transferred the right of municipalities to allocate lands within their domain (known as **ejidal** land) to the National Agrarian Institute (INA). Thereafter, INA was charged with the administration of national and ejidal lands and given responsibility for assigning private ownership rights to individuals. Nonetheless, formal titling of these lands was a

low priority during the agrarian reform period; it was estimated that by the early 1980s over 60 percent of the agricultural land in Honduras was being worked without formal title (Stanfield, et.al. 1990).

In 1982 a pilot project, the Land Titling Project for Small Farmers, PTT (Proyecto de Titulación de Tierra para los Pequeños Productores), was launched with support from the United States Agency for International Development to title 40,000 farmers in seven departments of the country. The rationale behind this project closely mirrors current land titling initiatives. Insecurity of tenure was considered to be a major constraint on agricultural development and it was hoped that the issuance of formal land titles would improve access to credit, increase investment and productivity, and enhance the operations of the land market (Ibid.). The project targeted squatters whose parcels were between five and fifty hectares in size, although smaller parcels planted with coffee were also eligible. Government titling and cadastral services were provided free of charge. Project beneficiaries, however, were required to purchase their parcel from INA, but at a price usually below the going market rate;⁷ they automatically received a twenty-year, interest free mortgage to do so (Ibid.).

Between 1982 and 1989 some 32,029 titles were issued, representing around 22 percent of the parcels delineated on national and ejidal land in six departments (Ibid.: Table 2). Up through the late 1980s data on the sex of the beneficiaries was not collected. A preliminary study of the gender implications of the titling project in the two departments where the project had been initiated (Santa Bárbara and Comayagua) attempted to enumerate the sex of the beneficiaries from the names listed in the property registry. This analysis revealed that only 16.7 percent of the titles issued corresponded to women (León, Prieto and Salazar 1987: 38-9).

Honduras's 1992 Law for Modernization of Agriculture provided for those who could prove that they had illegally occupied national or ejidal land for at least three years to be able to claim these parcels, purchasing them from INA. This law also established that public lands were to be adjudicated in a nondiscriminatory manner to either men or women. In addition, as noted earlier,

such lands may be jointly titled to a couple, but only if a couple so requests it.⁸ A new titling program was subsequently launched, known as the PTMT (Programa de Titulación Masiva de Tierras). Under the new initiative beneficiaries also receive an interest-free mortgage to purchase their land from the state. The main change in the regulations is that land titling beneficiaries may now sell these mortgages to third parties or use their titles to secure a loan; that is, beneficiaries are no longer under the tutelage of INA until they fully pay for their land (Melmed-Sanjak 1998: 42).

Most studies informed by a gender analysis stress the difficulties which women face in participating in the titling program on the same terms as men and in being titled land either in their own names or jointly with their spouses or partners. Given the predominant gender division of labor, women are not taken seriously as agriculturalists. Their capacity to combine productive and reproductive work is questioned, as is their ability to manage wage workers and be efficient producers. Women's low level of independent income is another problem, for INA functionaries question whether they will be able to pay for the land or meet mortgage payments (León, et.al., 1987; Rosales 1994: 51-2; 56-7). A 1996 INA report noted that one of the main constraints in women being granted land titles under the titling program was that women were rarely aware of their rights to be titled land either jointly with their spouses, when they had acquired the land together, or in their own names, when they themselves had inherited the parcel or had claimed and worked a parcel directly. There has been little publicity regarding the rights of women under the Law of Modernization, partly because of the lack of agreement within civil society on whether women should even have land rights (Acosta and Moreno 1996: 4).

The available data indicate that the joint titling of land to couples is an extremely limited practice. Between September 1995 and May 1997 only twenty-six titles (covering 689 hectares) were registered as jointly titled property in the whole country.⁹ Besides the fact that joint titling is voluntary, other obstacles make this practice unlikely, such as the fact that the application form for titling services does not even provide space for the applicant to list his marital status nor the name of his wife or partner. Moreover, if a couple lives in a consensual union, this relationship

must be officially registered to apply for a joint title, a process that is both costly and time consuming. The data suggest, nonetheless, that women have been an increasing share of the beneficiaries of the titling program. According to a World Bank (1996, Annex B: 2) report, women represented 20 percent of the 60,000 beneficiaries of the project between 1982 and 1995.¹⁰ Of those who registered their land titles to former public or ejido lands between 1995 and 1997, women represented 25 percent (see Table 2).¹¹

The above data indicate that women have fared significantly better under the titling program than under the agrarian reform of previous decades where they represented less than four percent of the beneficiaries (Deere and León 2001a: Table 3.4). This rather impressive difference in the share of female beneficiaries under these two state initiatives reflects a combination of the following factors: i) an increase in the number of female household heads in rural areas; ii) a slow, but growing acceptance over time that women are agriculturalists and perhaps less social opposition to recognizing women as individual farmers than accepting them as cooperative members (**asentamientos** having been the primary form of land distribution in the 1970s); and iii) the fact that rural women have increasingly shown that they need and want land, both by squatting on national lands and subsequently demanding that such land be titled in their names.

Nonetheless, the fact that such a relatively high share of women have been beneficiaries of the land titling program may be a statistical artifact, a result of the arbitrary manner in which the project has been implemented at the local level. Evidence for this hypothesis is provided by a detailed study of the titling project in the department of Santa Bárbara. Kees Jansen and Esther Roquas (1998) show how arbitrary rules and practices sometimes have unintended consequences.

In this region the PTT worked with the rule that each person could only be issued one title, and that one title could not contain more than two or three parcels. Official INA policy was supposedly that one title could contain up to ten parcels, but since INA brigade members implementing the project were paid according to the number of titles they issued per day, it was in their interest to combine only a few parcels per title. This caused problems since land in this region is highly fragmented. The brigade members attempted to solve this by "advising people to

title remaining parcels in the names of other household or family members, for example, a wife, son, brother or **compadre**" (Ibid: 95). This practice undoubtedly increased the number of women reported as beneficiaries of the land titling program, and thus could have inflated their numbers.

On the other hand, Jansen and Roquas also report that some women lost legal claim to their own parcel when it was titled, for purposes of convenience, under the name of the husband.

Moreover, in this region INA functionaries did not accept joint owners, forcing couples or siblings owning land together to title it in only one name. Land conflicts reportedly increased when the titled owner decided to sell the land without the consent of the other owner, which he/she was now legally entitled to do. In some cases this process worked in favor of women's ownership and control of land. According to Jansen and Roquas (1998: 96): "After receiving the INA title, some women considered these parcels to be their own property, and took control of decisions (such as renting, selling or refusing to sell, transferring to children, and so on) which went against the wishes of the original holder."

The Honduras case illustrates several points, common to other land titling projects. First, there was little attention to the fact that the family farm is not only made up by a number of plots, but also that these may have been acquired by different family members through varying means (for example, by squatting, inheritance and/or purchase). Project planners ignored the fact that the household may embody a bundle of property rights and gave little heed to the fact that a household's endowment of land might consist of at least three different kinds of property: the wife's, the husband's and jointly owned property. Moreover, the property rights pertaining to assets acquired before or after marriage are defined by the marital regime options in the civil code. In most Latin American countries assets purchased by a couple during marriage always belong to both husband and wife (Deere and León 2001a: chpt. 2).

Second, the Honduras project shows how, to be effective, joint titling to couples must be a mandatory practice and not just an option. This practice is particularly critical to assuring women's land rights in Honduras because the default marital regime (that which applies if no other

option is specified) in this country is that of separation of property. If a land parcel acquired by a couple is titled only in the husband's name, that parcel is then considered to be his individual property and it is his to dispose of as he sees fit. His wife's signature is not required to sell the land and he may will the land to whomever he pleases since this country is also one of the few with full testamentary freedom. Third, the Honduran case raises the problem of the property rights of consensual unions. While in most Latin American countries these have gradually acquired the same rights as formal marriages, to exert these rights, couples must prove the existence of their union, a process which is cumbersome and costly. The share of consensual unions among couples in Honduras, 54 percent, is among the highest reported in Latin America (Valdés and Gomáriz 1995: 54), making this a particularly large obstacle to the joint titling of land.

A bill that would make joint titling to couples of national or ejido lands mandatory has been pending in the Honduras congress for a number of years and this provision is one of the proposed changes included in Honduras' draft Plan for Gender Equity in Agriculture (1999-2002) (PRO-EGEDAGRO 1999). As of mid-2000, however, the legislation making joint titling of public lands mandatory had still not been approved.¹²

Turning to Peru, the aim of its "Special Project for Titling" (PETT, Proyecto Especial de Titulación y Catastro Rural), initiated in 1992, was to provide titles to the thousands of agrarian reform beneficiaries who never completely legalized their situation. In 1996, with a \$21 million IDB loan, the project was extended to include the four million or so land parcels lacking titles for whatever reason; the aim is to "sanatize" one million land titles by the year 2000 (del Castillo 1997: 69). According to the Vice-Minister of Agriculture, this project is gender neutral and "there is no discrimination against women;" thus, no further measures are necessary to pursue gender equity.¹³ National-level data by sex of the beneficiaries is not even being collected.

According to lawyer Ivonne Macassi León (1996: 38), women landowners are at a disadvantage when it comes to land titling, given their monolingualism, low levels of literacy, and lack of legal

documentation. She argues that the PETT program recognizes women's land rights when they are the principal farmer, "but only after asking a woman, where is your husband? where is your son?"¹⁴ Even though land is being titled by parcels and not the farm unit, there is concern that women who are not household heads will lose their ownership rights to parcels which they have inherited. According to an official of the Ministry of Agriculture in the department of Cajamarca: "Among the peasantry it is the man that assumes all responsibility with regards to land tenancy except for exceptional cases, where the woman, be they single, widowed, a single mother, or due to the incapacity of the man, assumes responsibility..."(Millones 1996). However, this observation may only reflect the biases of government functionaries. Field work undertaken in this region in the mid-1970s revealed that women were very much involved in the administration of their own land parcels (Deere 1990).

Another concern is that, until recently, no attention had been given to the joint titling of land to couples. Until 1996 applicants for land titling services were not even asked their marital status.¹⁵ PETT officials then realized that in order for these titles to be registered in the public registry, and, thus, to be in conformity with Peru's civil code-- it was necessary to report this information. As a result, the application form for land titling services was revised and new instructions issued so that if the applicant was married, the wife's name be included, or if he lived in a consensual union, without any impediment to marriage, the partner's name be included on the form. Beginning in 1997 land titles were also to include the name of the applicant and his wife or partner.

At the 1997 Seminar on Gender and Property of Land,¹⁶ there was agreement that in the case of marriages, the names of both spouses began appearing on the titles issued that year; that is, joint titling was becoming the norm in most regions. But there was considerable disagreement over whether titles were being issued to couples in consensual unions. Some participants argued that the problem is that people in consensual unions report that they are single, since that is the marital status listed on their identity document. In such cases, the name of the companion would not even be asked when the application form was filled out. Others argued that the problem was that

those living in consensual unions must show proof that they have lived together for two years and do not have impediments to marriage (such as already being married to someone else). Few couples in consensual unions have such documentation and (as in Honduras) it is expensive and time consuming to obtain. In order to get around this problem, in the titling program in the department of Lima:

We opted to declare people who lived together as co-property owners...that is, we got around the problem of proving that you were in a consensual union by not declaring it and writing down that they were single..and the documentation supported this marital status. We then declared them to be co-property owners.¹⁷

The participants at the seminar concluded that co-ownership (a category of commercial law) might be the easiest way of obtaining joint titling of land for unmarried couples. Meanwhile, it is apparent that very different practices are being followed in different parts of the country. The Director of the PETT in Cajamarca, for example, was convinced that only married couples could be jointly titled land: "If an unmarried couple is living together, that is a complication. I advise them to get married. That way, both of their names appear on the land title and one partner can not sell the land without the other's permission."¹⁸ Cajamarca is also one of the few departments which is keeping disaggregated data on land titling beneficiaries by sex. According to the PETT director, they started collecting such data only after being pressured to do so by a local network of NGOs. This effort revealed that between 1993 and 1996 women made up 20 percent of the 18,242 beneficiaries of the titling effort. However, data is not being collected on the joint titling of couples. When asked why not, the director replied "No one has ever asked me for it until now."¹⁹

Since 1988 the Red Nacional de la Mujer Rural, organized by the Centro de la Mujer Peruana 'Flora Tristán', has been coordinating the activities of organized rural women, their associations and the NGOs who work with them; departmental-level networks are active in six departments. At a 1996 forum co-sponsored by the Red in Cajamarca, one of the main demands of the 130

peasant women leaders in attendance was that land titles be given in the name of both spouses whether they were married or in a consensual union (de Jong 1997). Other demands were that receipts for the purchase of land which were made out to a woman be legally recognized as proof of ownership, and that inheritance be based on the equality of all children, male and female, as required by Peruvian law. According to Rosa Guillen, a member of the Flora's Rural Women's Team:

It was at meetings of women, in that space, where women demand their recognition as producers. They demand the right to land, it is a clear demand...we saw it at the meeting in Arequipa and in Cuzco. The topic of land rights and land titling was also very much in evidence in Piura and Junín. This is why the Information Network of Arequipa decided to center their campaign for the recognition of women producers on the theme of peasant women's land rights. They, along with the NGOs, are negotiating with the PETT in Arequipa in order to obtain joint titling of couples...The recognition of women as producers leads clearly to the problem of access to resources and control over them.²⁰

In 1998 the Red Nacional de la Mujer Rural decided to launch a major national campaign in support of women's land rights under the PETT. They began to lobby PETT officials for a clarification of the land rights of women in consensual unions, arguing that such women should be recognized as co-property owners, and drafted a set of administrative guidelines with a gender perspective which was widely circulated.²¹ Subsequently, campaigns in favor of women's land rights were launched by three of the departmental networks affiliated with the Red, in Cajamarca, Cuzco and Tacna (Fernández, et. al. 2000). These included, among other actions, discussions with departmental PETT officials regarding the draft administrative guidelines and, in some cases, gender training sessions with their personnel, and a diagnostic of the implementation of the titling program from a gender perspective. These studies revealed a number of impediments to recognizing women's land rights. First, the titling program was primarily directed to men and only their associations (such as irrigation commissions) were targeted by publicity efforts, making

it difficult for women to learn of the existence of the titling program. Second, they found a general lack of compliance by local PETT technicians with the instructions regarding the marital status data to be furnished on the application form for titling services. If an applicant's identity document listed him as single, the technicians rarely checked to see if in fact he was married or living in a consensual union. Such expediency was encouraged by the fact that the technicians are paid according to the number of cases concluded per day. Third, women are rarely aware of their rights under Peru's default marital regime of **gananciales**²² and "don't see that they are being dispossessed" when their husbands or partners register jointly acquired land as their own property (Ibid.: 37).²³ Moreover, in regions such as Cajamarca, over 60 percent of rural couples live in consensual unions and not only the women, but also PETT functionaries, do not consider women in this situation to have any property rights at all. Fourth, women are sometimes unable to get their property titled either because they lack official documents or because if married and separated from their spouse, they need his signature to complete the paper work and he cannot be found (Ibid.: 55). The departmental level studies also found that PETT data-keeping was most deficient and that it was difficult to estimate the number of women or couple beneficiaries with any degree of accuracy. While, as a result of the departmental level campaigns, there have been some advances in recognizing women's land rights, the lack of a national policy in support of theseBeither by the Ministry of Agriculture or the National PETT office-- has greatly hampered efforts. As of mid-2000 the PETT still had not clarified the situation of couples living in consensual unions.

The Mexican land titling process stands out for its scale (involving approximately half of Mexico's land surface) and the rapidity with which it has been carried out. The great majority of Mexican ejidos have opted to join the process of individual land titling, participating in the Ejido Rights Certification Program (PROCEDE, Programa de Certificación de Derechos Ejidales y Titulación de Solares). As of January 1999, 18,031 ejidos (66 percent of the total) had completed the certification process and 2.2 million ejidatarios and other individuals had received titles to individual land parcels, communal lands and/or urban plots within the ejidos, encompassing 40 million hectares (Robles, et. al.2000: 19).

Privatization of the ejido actually involves two steps. The first step, requiring a majority vote of the ejido members, involves certification by PROCEDE which then allows an ejidatario to rent or mortgage his land or to sell it to another ejido member. Such land remains part of the ejido regime and is subject to its regulations. The second step in the process, to pass to full private property (**dominio pleno**), requires a two-thirds majority vote of the ejido membership and the registration of the ejido plan with the National Agrarian Registry. This process involves a number of costs whereas the certification process is free. These costs may explain why few ejidos have converted to full private property (where land can be freely sold to third parties); another impediment is that once former ejido land passes to the private regime it is subject to taxation. However, without **dominio pleno** the landowner cannot seek credit from the private banking system.²⁴

Among the criticisms which have been raised of the Mexican counter-reform is that it is particularly prejudicial to rural women since it erodes their land rights (Encuentros 1992: 222-7; Stephen 1993: 2-3; Zapata 1995: 382; Esparza, Suárez and Bonfil 1996: 32; Bonfil 1996: 70-1; Botey 1997). First, all major decisions regarding the future of the ejido (whether to parcelize and/or dissolve the ejido) are being made only by the recognized ejido members; according to the rules governing these there can only be one member per household, the household head (Article 28, in *Tribunales Agrarios* 1994). This means that spouses and partners of ejido members are excluded from decision-making and, in effect, excludes most women from participating directly in determining the future of their communities. Second, and what constitutes the most dramatic change, is that what was a family resource—the **patrimonio familiar** is becoming the individual private property of the ejidatario (Lara Flores 1994: 86; Stephen 1996: 289; Esparza, et. al. 1996: 8, 25, 35; Botey 1997: 170). It is the individuals, not families, who previously held usufruct rights who are acquiring title to this land and who then may dispose of it as they see fit, renting or selling the land.²⁵

Third, in a major change with previous practice, inheritance provisions longer assure that access

to ejido land remain within the immediate family. Now ejidatarios may freely choose their legal heir which may be the spouse or companion, one of the children, a parent or *any other person* (Article 17 in *Tribunales Agrarios* 1994; our highlighting). This change in inheritance procedures places rural women in a much more precarious position than ever before regarding land rights (Zapata, Mercado and López 1994: 188; Ochoa Pérez 1998).²⁶ Carlota Botey (1997: 180) argues, further, that the new agrarian legislation violates the Mexican civil code by allowing the ejidatario to designate non-family members as heirs to the ejido parcel. She argues that the new regulations do not take into account that, under the civil code, if a couple was married under the default marital regime (**sociedad conyugal**) half of the common property of the couple belongs to the spouse.

Whether the provisions of the civil code are violated through this process of individualization of land rights largely depends on how the usufruct parcel was initially acquired.²⁷ What we want to stress is how the Mexican case again illustrates how land titling programs have rarely been designed with property rights as specified in civil codes, in mind, particularly women's rights. It is worth noting that in the whole Mexican process no serious discussion arose on whether, in this defining moment in terms of private property rights, land should be jointly titled in the name of couples. That this is the case largely reflects the previous terms of ejido membership: although land was considered to be family patrimony, only one member of the family could be the official ejido member, with effective land rights. Thus the individualization of land rights has proceeded with this practice largely unchallenged.²⁸

The certification process has generated reliable data for the first time on the composition by sex of ejido members and others with land rights on the ejidos. Data for 1.5 million individuals who had completed the certification process as of early 1998 revealed that women made up 21 percent of the beneficiaries (see Table 2). Women, nonetheless, represented a lower share of those titled land as ejidatarias (17.6 percent)--those who have voice and vote in the ejido--as compared to those titled land plots who are not ejido members, the **posesionarios**²⁹ (22.4 percent) or those titled urban housing plots, the **avencidados** (29.8 percent) (Deere and León 2001a: Table 9.3).

In absolute terms, the majority of the 401,134 women who received titles were ejidatarias (53 percent), followed by *avecindadas* (37 percent), and *posesionarias* (10 percent).

It seems that the majority of women who have benefitted by having their land rights recognized in these three programs are female household heads; at least the figures correspond loosely to their reported share among rural households.³⁰ This reflects the fact that women are most likely to be recognized as property owners when no adult male resides in the household, and that, for diverse reasons, the share of rural female household heads appears to be on the rise. In the case of Mexico, the fact that women now represent 17.6% of ejidatarios is largely a result of the default inheritance regime on the ejidos, which favors widows. In Honduras and Cajamarca, Peru, where the share of female beneficiaries of land titling efforts considerably exceed the share of women benefitted during the period of agrarian reform, this figure may reflect not only high shares of female household heads, but also that inheritance among children by gender is relatively equitable compared to other forms of acquiring land (Deere and León 2001a: chpt. 9).

IMPLEMENTING GENDER-PROGRESSIVE CODES: COLOMBIA AND NICARAGUA

Colombia in 1988 was among the first countries to recognize women's land rights explicitly, establishing joint adjudication and titling to couples, irrespective of marital status, under the agrarian reform. In addition, special provisions were made for female household heads, including priority access to unutilized national lands and/or their inclusion in the communal enterprises still then being created under the agrarian reform. Also, peasant women's groups were given equal participation with those of men's in regional and national beneficiary selection committees of the agrarian reform agency, INCORA (Instituto Colombiano de Reforma Agraria). These gender-progressive changes in Colombia's agrarian law were the product of the Policy toward Rural Women adopted by the Ministry of Agriculture in 1984 (itself a reflection of the presence of a number of feminists within the state) as well as of the role of the first national association of rural women, ANMUCIC (Asociación Colombiana de Mujeres Campesinas e Indígenas), whose organization was facilitated by the state.

Notwithstanding the provisions favoring the incorporation of women as beneficiaries of the agrarian reform, the share of women beneficiaries in land adjudications in subsequent years remained approximately the same as in the previous period, 11 percent (Deere and León 1997). The data reflect the degree of opposition which was found both among INCORA functionaries and organized peasant men--to adjudicating land jointly to couples and prioritizing female household heads. That these gender progressive policies were finally implemented in the mid-1990s reflects i) the tenacity of ANMUCIC, which maintained constant pressure on agrarian reform officials; ii) a systematic program of gender training within INCORA; iii) a growing awareness that the share of female headed households was increasing rapidly as a result of the escalating violence in the country; and iv) the passage of a new agrarian law in 1994 which strengthened previous provisions for gender equity, including priority in land distribution efforts to women who were in a state of "lack of protection" due to the situation of violence. This latter measure was innovative since for the first time it included among the potential beneficiaries single women who were not necessarily mothers.

Since the initiation of Colombia's agrarian reform process in the early 1960s the agrarian reform agency, INCORA, has been more successful in titling land on the agricultural frontier--lands settled both spontaneously and through government-sponsored colonization projects--than in land redistribution. INCORA has titled 12 million hectares of national land (known as **baldíos**) to date, but acquired only 1.3 million hectares through expropriation and purchase for redistribution (Fajardo and Mondragón 1997: 52). As part of its efforts to modernize its agrarian programs, the government launched a new land titling program in 1995, known as "Titular."³¹ The idea is to streamline and better coordinate the activities of the different agencies involved in the regularization of property rights, including the modernization of the cadastre and property registry systems. In addition, many of the activities involved in these systems are to be privatized and/or decentralized in hopes of improving their efficiency. Supported by a \$38.5 m. loan from the IDB, the aim of this program is to provide security of tenure by massifying land titling activities, titling 100,000 rural properties by 2001.³²

It was not until 1996 that data on the sex of the beneficiaries and on the individual versus joint titling of land to couples began to be collected in the land titling program. For the three years for which complete data is available, couples accounted for 28 percent of the land titles issued, and individual women for 29 percent; overall, women constituted 44 percent of the beneficiaries of land titling efforts (Table 2). Comparing this data with that of beneficiaries in the agrarian reform program, women were a relatively larger share of those individually titled national lands compared with those adjudicated land, the share of women in the latter program being only 13 percent. This might reflect a much higher incidence of unprotected single women or female household heads in the zones of recent settlement than in the rest of the country, and, thus, compliance by INCORA with this relatively new provision of the agrarian code. On the other hand, joint titling to couples is a much less frequent phenomenon in the titling than in the agrarian reform program (28 vs. 57 percent). It is difficult to provide a completely satisfactory explanation of these different patterns, which may also only be the result of incomplete reporting. Nonetheless, the data do indicate considerable headway in Colombia in implementing gender-progressive change.

Turning to Nicaragua, joint adjudication and titling of land had been a demand of the Women's Division of Nicaragua's main peasant organization, UNAG (Unión Nacional de Agricultores y Ganaderos) since the late 1980s, but it was not until after the election of President Violeta Barrios de Chamorro in 1990--and the consolidation of the feminist and women's movement in Nicaragua-- that the conditions were in place for more equitable practices to be adopted in land distribution and titling. According to UNAG leader Marta Valle:

In 1990 the Women's Movement gained momentum and it was realized that land had not been distributed equally, that we women were at a disadvantage when it came to property. 'The floor shook beneath us' with the problem of women's property. We realized that we didn't own anything, that we don't have access to or control over resources...It is the work of the women's movement that joint titling or titling of women is now being considered.³³

The women's movement worked closely with INIM (Instituto Nicaraguense de la Mujer) to promote gender issues among the women in the UNO (Unión Nacional de Opposición) leadership. President Chamorro took gender issues seriously enough that she held a two day retreat with all of her ministers and their spouses to discuss the incorporation of gender into state policy. Such an unusual step reflects the strength and unity reached by the women's movement in Nicaragua after 1990.³⁴ Subsequently, an Inter-institutional Commission on Women and Rural Development (CMYDR) headed by INIM, with representatives from INRA (Instituto Nicaraguense de Reforma Agraria), the Ministry of Agriculture and Livestock, plus other ministries, was created to promote rural women's integration to development and access to productive resources (INIM 1996: 3, 5).

At the same time, a priority of the Chamorro government had become that of fortifying the legal framework of the agrarian reform through a massive land titling effort. It was estimated that approximately 60 percent of the property in the reformed sector was characterized by titling problems, and this was judged to be a major source of instability in the countryside (INIM 1993: 6). Thus, with World Bank funding, in 1993 the land titling and land distribution program known as PNCTR (Programa Nacional de Catastro, Titulación y Regularización de la Propiedad) was initiated. This program was to carry out a rural cadastre, modernize the system of national land registry, and regularize the situation of Sandinista agrarian reform beneficiaries and of ex-combatants ceded land (INRA-INIM 1996: 16).

In October 1993 CMYDR convened the first national conference on women and land tenancy with the explicit goal of sensitizing INRA officials on the importance of including women among the beneficiaries in the land titling program. It was argued that joint titling would promote the stability of the rural family and that men were more likely to sell the land than women, so that joint titling "would in a sense tie him down, and put women in a better position if it came down to discussing sale of the land."³⁵ Also noted was the relatively high proportion of female household heads in rural areas, 18.8 percent in 1992 (Valdés and Gomáriz 1997: 33). At the conference,

President Chamorro instructed INRA to begin giving preference to the joint titling of land (**mancomunada**) and promoting the titling of female heads of households (INIM 1996: 5). The UNAG Women's Division was aware that legal changes by themselves would be insufficient to guarantee women's land rights. At its fourth congress in 1993, it adopted the following resolution: "Women need to initiate a belligerent process of persuasion with men in order to make sure that titling efforts allow her to be a co-property owner" (UNAG 1993: 22). Joint titling of land to couples (whether married or in consensual unions) was made official by Law No. 209 of December 1995 and made retroactive to cover all those adjudicated land under the agrarian reform. That same year the PNCTR program, with external funding, began giving gender sensitivity training not only to its functionaries, but also to peasants demanding access to land or the legalization of their parcels (INRA-INIM 1996: 17).

In terms of results, during the 1992-1996 period, 25 percent of the titles were issued to individuals; 60 percent were joint titles; and 16 percent were collective titles issued to production cooperatives. Women were 40 percent of the 8,745 recipients of individual titles but only 17 percent of the 5,666 cooperatives members issued collective titles. In terms of joint titling, it appears that this mode tended to favor the joint titling of pairs of men, such as fathers and sons or brothers, rather than couples, for women represented only 21 percent of the 21,134 beneficiaries of joint titling (Ibid.). Although joint titling of couples had been discussed with INRA functionaries at the local level, the notion of mancomunado was not understood very well:

At the central level, people assumed that it meant a man and a woman, but mancomunado can refer to a couple or to two people, mancomunado means that 'the two of us are tied together,' thus the two can be two men, or two women, or a couple...thus, mancomunado titling does not necessarily include a woman. In the Women's Unit of INRA it was assumed that everyone would understand that mancomunado meant a couple, but the technicians who are out there in the field... they understood mancomunado as two persons.³⁶

That the 1995 law requiring joint titling of couples was not being taken into account was rectified by 1997, as a result of the efforts of the Women's Unit in INRA and local level efforts by UNAG activists. In that year 45 percent of the 3,372 titles issued were to couples consisting of a man and woman; only 4 percent were issued to other pairs, such as fathers and sons or brothers; 45 percent were issued to individuals; and cooperative members accounted for 6 percent of the titles.³⁷ All told, between 1994-98, 52 percent of the titles were issued jointly, 41 percent individually; and 7 percent to cooperatives; women made up 31 percent of the total beneficiaries of this titling effort (see Table 2). When compared with the data on agrarian reform beneficiaries of the 1980s-- where women represented 10 percent of the beneficiaries (INRA-INIM 1996:10)-- significant changes in favor of gender equity characterize the 1990s.

After almost two decades, the progressive disposition of the 1981 Sandinista agrarian reform law--which established that neither sex nor kinship position should be a limitation on being a beneficiary of the agrarian reform--is finally being applied in Nicaragua, partly because of the relatively high share of rural female household heads, and partly because joint titling was made retroactive to cover previous land distributions. However, the difficulty of overcoming patriarchal attitudes and the invisibility of women in agriculture is quite evident in Nicaragua's initial experience with joint titling, where such was automatically assumed by local functionaries to correspond to two men rather than a couple. As in Colombia, it took the concerted efforts of both organized rural women and the state--and intense gender consciousness-raising training at all levels--to rectify this situation and increase the share of female beneficiaries in the land titling program.

PROJECT LEVEL INITIATIVES

Women's land rights were totally absent in Ecuador's 1994 neo-liberal agrarian code which intended to benefit "natural or juridic persons." Nonetheless, one of this country's major rural initiatives since 1988, PRONADER, an integrated rural development program in twelve zones of the sierra and coast, did have a gender as well as a land titling component (Camacho and Prieto

1995: 69). During 1994-95 a major effort was initiated to bring PRONADER's land titling practices in line with the recent changes in Ecuador's civil code.³⁸ Project personnel attempted to convince the agrarian reform and colonization institute, IERAC (Instituto Ecuatoriano de Reforma Agraria y Colonización), that rather than titling land to household heads, land titles be issued in the name of couples. It was argued that although the sale of any real estate theoretically requires the signature of the spouse, this regulation is often ignored, resulting in women losing access to land without their consent or knowledge. If a land title includes the name of the co-owners, then both would have to be in agreement to conclude any official land transaction, giving wives much more security.

PRONADER's effort included the consultancy of an expert on gender and land rights and training seminars with IERAC-PRONADER functionaries. Although IERAC never adopted an explicit policy favoring joint titling to couples, it did change the application form for land titling services so that the marital status of the beneficiary was clearly designated and a space was provided to include the name of the wife or companion. PRONADER functionaries were instructed, after validating this information and other requirements (such as having worked the land parcel for the five preceding years), to issue land titles in the name of couples. Couples were issued 70 percent of the land titles given under the PRONADER program. Among those titled individually, men exceeded women, but by a relatively small margin (17 versus 13 percent of total titles); overall women constituted 49 percent of the beneficiaries of the titling program (see Table 2).

The attempt to promote gender equity through joint titling did have unforeseen consequences and illustrates the kind of opposition which can be generated to gender-progressive change:

One of the unexpected consequences of joint titling, and that limited its institutionalization, was that the PRONADER functionaries who had gone through the gender sensibilization program always attempted to speak with the women to learn of their needs in terms of titling--many times because of the absence of their partner due to migration. It was noted that this practice later caused problems for

the couple, sometimes leading to domestic violence, because the women had initiated the titling process. PRONADER was not in anyway prepared to deal with this situation and give assistance to the battered woman.³⁹

What the PRONADER experience also demonstrates is that much can be done at the level of individual projects but that gender training and awareness does not necessarily get institutionalized; moreover, the pursuit of gender equity requires political will. As noted by the consultant to this project, "...there was institutional inertia...we never got joint titling accepted as the norm. What we accomplished was always a result of good faith. In addition, when INDA (Instituto Nacional de Desarrollo Agrario) is created, the team left, and no standardized procedure was left."⁴⁰ And data at the national level is still not collected according to the sex of the individual titled land or on whether land was jointly titled.⁴¹

During 1997 the national women's office was given much higher status within the government, including a larger budget, and renamed as CONAMO (Consejo Nacional de la Mujer). With more resources and a stronger team, this institution took on a much higher profile in public debates, including over constitutional reform. One major accomplishment was that in the 1998 Constitution gender equality in access to resources became a goal (Ecuador 1998: Article 34). As a result of CONAMO's persistent lobbying, in 1999 INDA revised its administrative procedures for the adjudication and titling of land to make these compatible with Ecuador's civil code and constitution.⁴² Joint titling will now be the norm for married couples and those in consensual unions. For couples who live together but who do not meet the official requirements of consensual unions (such as having no impediments to marriage), the institution plans to title them land as co-property owners (as a form of business society). CONAMU plans on mounting a major gender training program with INDA functionaries and the NGOs contracted to collect data for titling purposes to make sure that these new regulations are implemented properly.

Chile also adopted a gender-progressive norm in its national land titling effort, but rather than joint titling, gave priority to female household heads in the titling of land. This norm came about

due to the efforts of the national women's office, SERNAM. Among the first activities of this office when it was founded in 1991 was the development of a program to support female heads of households of low incomes, initially focused on increasing their access to urban housing and its titling in their names (Chile 1995: 35). SERNAM subsequently signed an agreement with the Ministry of National Property to ensure that in the National Land Titling Project about to be undertaken with World Bank financing, priority attention be given to rural female household heads (Barria 1992: 19).

Up through 1996 some 26,000 land titles were issued in rural areas but data was not collected on the sex of the beneficiary (Min Bienes 1996, Vol. I). In that year the Ministry commissioned a sample survey of project beneficiaries in order to evaluate the efficacy of the program. We were given access to this data set in order to analyze its results by sex, and these were indeed surprising: 43 percent of the beneficiaries of land titling services were women (see Table 2). The survey may have over-sampled women, since female heads of household were designated a priority group in the sample frame, given the agreement between SERNAM and the Ministry to prioritize female household heads.⁴³ However, the consultant who designed and supervised the sample survey does not consider women to be grossly over-sampled. Rather, he considers the results to reflect the high demand existing among rural women to be titled land.⁴⁴ In addition, the titling program was free and involved relatively little paperwork, other factors which could explain why women property owners were eager to be titled their land.

In discussions regarding how so many women could be beneficiaries of the titling program, it was hypothesized that since the sample included both those who were titled their plots or homesteads (**sitios**, defined as being under 5000 square meters in size) as well as those titled farms or land parcels (**parcelas**), women were probably concentrated in the former category.⁴⁵ Women were better represented among those who were titled land plots, being 46 percent of the beneficiaries, as compared to 40 percent of those titled farms.⁴⁶ What stands out, nonetheless, is the relatively high share of women titled land in both categories, particularly in comparison to the data presented earlier on Mexico, which also included women titled urban plots..

The Chilean survey also provides some insight into how peasant men and women view the importance of a land title. Before this land titling project began, men were slightly more inclined than were women (87 percent versus 82 percent) to consider that having a clean title to land was important or very important. After participating in the project, the proportion of both men and women who considered it important or very important increased significantly, to 94 percent and 93 percent, respectively, with the gender gap disappearing.⁴⁷ Both men and women value the security which a title gives them and also consider that the value of their properties has increased now that they are legally titled.⁴⁸

CONCLUSIONS

The land titling projects in Latin America—including those with a gender-progressive mandate—have lacked conceptual clarity about the bundle of property rights embedded in the household. They have often ignored the property rights provisions of their own civil codes by not taking into account that a household might contain at least three different types of property: that of the wife, the husband, and common property. Moreover, they have been designed without attention to the fact that marital regimes vary according to how property acquired before marriage or through inheritance is treated. They have often not taken into account that property acquired by the couple during the union is almost always common property, a norm reinforced in most countries by the provisions for the dual-headed household. As we have argued, joint titling of land is not a redundant measure, but rather, a necessary measure to guarantee married women and those in consensual unions effective ownership rights to land which has been jointly acquired.

The titling projects in Honduras, Mexico, Peru and Chile were all based on the premise that their charge was to promote the individualization of land rights, titling only one person per household, the household head and usually the principal farmer. While in the Chilean case, this worked in favor of women—since female household heads were prioritized (so that their land claims were favored over those of their children, for example), the individualization of land rights trampled

upon the land rights of married women and those in consensual unions. This problem has probably been most severe in Mexico, where the land titling process was built around the previous terms of ejido membership--which vested land and voting rights on only one person per household, the household head.

The individualization of land rights was supported by the assumption that women are not agriculturalists and thus not interested in owning land. Among other barriers to titling women was the requirement of having an identity document such as a voting card to be titled land, which women--given their higher rates of illiteracy and monolingualism--are less likely to have than are men. Given the assumption that men are the agriculturalists and those responsible for land tenure questions, another problem has been that the land titling projects have generally only targeted men and their associations. Women have been less likely to learn of such projects or to be aware of the benefits which titling may offer them. This is related to the general problem of the lack of legal literacy among rural women, both regarding land rights as well as the property rights embedded in different marital regimes. The case studies above, nonetheless, attest to the interest of rural women in being titled land once they become aware of their rights and of the existence of land titling programs.

The cases reviewed also illustrate the special problems of women in consensual unions being jointly titled land with their partners. Even when these have the same full legal rights as marriages, the existence of these is difficult to establish legally, being costly and time consuming. Colombia seems to be the only case among the ones examined here where the existence of a consensual union was taken at face value, without cumbersome requirements put in the way of establishing joint ownership rights over land. A relatively easy administrative solution to this problem is to title land to two single people who co-habit and own land together as a society of co-ownership or co-propiedad.

Countries with gender-progressive provisions with regard to women's land rights have made a difference in terms of increasing women's ownership of land. As Table 2 shows, in countries with

mandatory joint titling to couples and/or pro-active measures, such as priority to female household heads, women have been a much higher share of the beneficiaries than in the countries without these provisions. These results are partly related to the active role of organized rural women in Colombia and Nicaragua, countries where their organizations played a crucial role in both lobbying for gender-progressive legislation and then in making sure it was implemented. In contrast, in Mexico and Honduras the lack of a national rural women's organization and unified movement, combined with the lack of a strong national women's office, has hampered efforts for women's land rights to be taken seriously. Neither Chile nor Ecuador has strong rural women's organizations; the impetus for gender-progressive norms at the project level in these countries was largely the result of the efforts of the national women's offices and the urban women's movement. The strengthening of rural women's organizations and of their attention to property rights issues is one of the pressing tasks throughout the region, particularly; since the land titling programs continue into the 2000s.

Finally, the data on the share of women beneficiaries in these land titling programs suggest that these recent programs have been much more gender equitable than the state interventions of the past. This is partly because i) land titling programs are, in theory, designed to recognize existing landowners; ii) the primary way in which women acquire land is through inheritance; and iii) inheritance of land appears to be more gender-equitable than was generally thought to be the case.⁴⁹ Notwithstanding, that these programs have been able to partially overcome the gender bias of the previous agrarian reforms is also due to the more gender-equitable agrarian codes and policies of the neo-liberal period, itself a product of the impact of the women's movement on the state.

Endnotes

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1. This paper is based on Deere and León (2001a), a study of the agrarian reforms and counter-reforms in twelve Latin American countries.
 2. We are grateful to Billie R. Dewalt for stressing this point; e-mail communication to the authors, University of Pittsburgh, 9 April 2000.
 3. Following Agarwal (1994: 9) we define gender-progressive as "those laws, practices, policies, etc. which reduce or eliminate the inequities (economic, social or political) that women face in relation to men."
 4. As of early 2000, the only Latin American countries which had not adopted the dual-headed household as the legal standard were Argentina, Chile, Honduras and Nicaragua. Under the default marital regime in these countries communal property is still managed by the husband. See Deere and León (2001a: Table 2.1) for the year in which joint administration was adopted.
 5. The only Latin American country which does not recognize consensual unions is Chile. See Deere and León (2001a: Table 2.4) for the year in which consensual unions were recognized.
 6. On the full set of measures encompassed by institutional reform of the agricultural sector under neoliberalism and on how these were engendered, see Deere and León (2001a and 2001b).
 7. The requirement that landholders pay for this land proved a major source of resistance to the titling project since many of the targeted beneficiaries were second and third generation "owners," having purchased the rights to these usufruct parcels from third-parties (Jansen and Roquas 1998).
 8. A 1991 law had made joint adjudication and titling of land provided by the state mandatory. However, in the formulation of the 1992 agrarian code this requirement was dropped. See Deere and León (2001a: chpt. 6) on this process.
 9. Data provided to the authors by INA, Division de Titulación de Tierras, Base de Datos, January 1998.
 10. We were unable to verify how these figures were obtained. INA only started systematically collecting data on the sex of beneficiaries in the land titling program in 1995. Interview with Rosario García, head of the Department of Women and Youth, INA, 15 January 1998, Tegucigalpa.
 11. Beneficiaries have six months after being issued their title to register these in the public registry; only then are these considered legal titles (of **dominio pleno**).
 12. One of the problems in Honduras is that, until recently, there has been a proliferation of rural women's organizations with little coordination between them on how to influence state policy. This was beginning to change with the 1997 organization of REDNAMURH, the Red Nacional de

Mujeres Rurales de Honduras. While their lobbying efforts have been successful in garnering attention to rural women's issues at the executive level, the contentious nature of women's property rights has blocked further action at the legislative level.

13. Interview with Dr. Josefina Takahashi, Vice Minister of Agriculture, 9 July 1997, Lima.

14. Interview with Ivonne Macassi León, Director of the Centro para la Mujer Peruana 'Flora Tristán', 7 July 1997, Lima.

15. Interview with Ing. Miguel Suarez, Director de Procesamiento y Estadística, PETT, 9 July 1997, Lima.

16. This seminar was organized for the authors by the Red Nacional Mujer Rural of the Centro para la Mujer Peruana 'Flora Tristán,' 8 July 1997, Lima. The participants included researchers, government functionaries and feminist activists.

17. Intervention by a lawyer with PETT in the Seminar on Gender and Property of Land, *op. cit.*

18. Interview with Manuel Cerna, Director PETT, Dirección Sub-Regional Agraria Cajamarca, 4 July 1997, Cajamarca. That couples in consensual unions are not being jointly titled land is also reported in de Jong (1997: 5).

19. Interview with Manuel Cerna, *op. cit.*

20. Intervention at the Seminar on Gender and Property of Land, *op. cit.*

21. "Normas para el Proceso de Titulación y Saneamiento de la Propiedad Rural;" the final version of the guidelines are in Fernández, et. al. (2000: 19-22).

22. The comunidad de gananciales or participation in profits regime is based on the separate recognition of the individual private property brought into or acquired during marriage, including in the latter, any inheritances, donations, or concessions received by each spouse. However, any profits, rents or other income derived from such property during marriage is considered to be common property. In addition, any property acquired during the marriage from wages, salaries, or other income also forms part of the couple's common property. In case of separation or divorce, half of the common property thus generated is retained by each of the spouses; similarly, in case of death of one spouse, his/her estate is made up of half of the common property plus any individual private property. This regime is currently the most common default regime in Latin America (Deere and León 2001: chpt. 3).

23. To overcome the problem that people are usually characterized in their identity documents as being single when they live in a consensual union, the Red recommends that the spouse or partner be required to be present when cadastral information is collected and that marital status

information be verified with local justices of the peace.

24. Discussion at the Seminar on Women and Land Rights, organized for the authors by the Colegio de México, 16 January 1997, Mexico City; and interview with agrarian lawyer Juan Carlos Pérez, Mexico City, 17 January 1997. As of September 1998 of the 16,561 ejidos which had been certified, only 3.2 percent had opted to convert either fully or partly to dominio pleno (Rodriguez 1998).

25. If an ejidatario decides to sell his parcel, his spouse/partner and children have what is called the "right of first buyer," (**derecho de tanto**); however, they have only thirty days to make arrangements to purchase the land (Article 84, in *Tribunales Agrarios* 1994). Given the low wages and incomes of rural women it is doubtful that many will be able to exercise this right should their husbands decide to sell the family plot (Esparza, et. al. 1996: 38).

26. Only in the case in which the ejidatarios has not made out a will does the traditional preference ordering rule: the spouse or companion, or in her absence, one of his children, a parent, or finally, any other person who depended economically on the ejidatario (Article 18 in *Tribunales Agrarios* 1994).

27. If the parcel was acquired by the couple by purchase during the marriage, it should constitute common property. However, if the parcel was inherited by the ejidatario then it probably forms part of his individual property, which he is free to dispose of as he sees fit. E-mail communication to the authors from lawyer Martha Torres Blancas, El Colegio de Mexico, 11 April 2000.

28. That the ejido parcel should be considered "the patrimony of the family" and not of the individual male ejidatario was argued by the Women's Commission of the Permanent Agrarian Council (CAP, Consejo Agrario Permanente), the umbrella grouping of eleven national peasant organizations (Lara Flores 1994: 86). They were successful in maintaining the concept of family patrimony and strengthening women's land rights in the alternative peasant agrarian law drafted by the CAP and presented to the Mexican Congress (Calva 1993: 92-3). But President Salinas was not willing to compromise and used his skill at "divide and conquer" to convince most of the CAP leadership to eventually endorse the drastic changes in Mexico's agrarian law. While women's land rights have been raised by organized women's groups in Chiapas and incorporated into the program of the Zapatista National Liberation Front, such has had no impact on Mexico's land titling program. Moreover, until recently, there were no national-level peasant women's organizations and these remain weak (Deere and León 2001a).

29. The posesionarios had usufruct rights on the ejidos although they were not official members of these. The great majority of these were family members of an ejidatario and although technically illegal, were the result of partible inheritance practices. During the PROCEDE program the ejido assemblies were encouraged to recognize their permanent land rights.

30. In Mexico the share of rural female household heads enumerated in the 1990 census was 14.3 percent (Mexico 1992: Tables 47 and 48). In Honduras, according to the last census enumerating this figure, women represented 18.7 percent of rural household heads (Honduras 1977: Table 5). On the problems of enumerating the share of female heads of household see Chant (1997).

31. The full name of this program is the "Programa Presidencial para la Formalización de la Propiedad y Modernización de la Titulación Predial."

32. Titling activities under this project are provided for a modest fee and beneficiaries do not pay for the land. They do have to pay a departmental land tax and a fee for registration of the title. Although these costs do not amount to more than 20 percent of the minimum salary in Colombia, they have been a source of grievance among potential beneficiaries who claim that they cannot afford to pay these costs. Interview with Silvia Salamanca, Titular, 31 August 1997, Bogotá.

33. Intervention in the Seminar on Gender and Property Rights, organized for the authors by the Fundación Arias, CIPRES and CONADE, 23 January 1998, Managua.

34. Interview with Malena de Montis, Director of CENZOTLE, 29 January 1997, Managua.

35. Intervention by Patricia Hernández, INRA, at the Seminar on Gender and Property Rights, op. cit.

36. Interview with researcher Sonia Agurto, FIDEG, 22 January 1998, Managua.

37. "Consolidado del Periodo Enero-Diciembre 1997," División de Titulación, INRA. We could not verify the information on the composition of couples for 1998; in that year, 928 titles, 65 percent of the total, were issued mancomunado, 32 percent were issued to individuals and 3 percent to cooperatives; "Consolidado General de Titulos Emitidos por Departamento en 1998," Intendencia de la Propiedad, Ministerio de Hacienda y Credito Público.

38. The default marital regime in Ecuador is that of participation in profits, thus any property acquired during the marriage should belong to the couple; in addition, since 1982 consensual ave the same property rights as marriages. Interview with Mercedes Prieto, former consultant on gender issues to IICA-PRONADER, 22 July 1997, Quito.

39. Interview with Mercedes Prieto, op. cit.

40. Interview with Mercedes Prieto, op. cit.

41. Interview with Wilson Sánchez, INDA (Instituto Nacional de Desarrollo Agropecuario), 23 July 1997, Quito, and confirmed by our inspection of recent lists of beneficiaries.

42. E-mail to authors from Elizabeth García, CIDES, 29 September 1999.

43. According to an official of the Ministry of National Property, women probably represent closer to 30 percent of those benefitting from the titling program. Interview with César Talavera, 30 April 1997, Santiago.

44. Interview with Jorge Echenique, AGRARIA, 16 July 1997, Santiago.

45. Discussion at the Seminar on Gender and Property of Land, organized for the authors by CEDEM, 18 July 1997, Santiago.

46. Calculations by the authors based on the data tape from the survey, "Evaluación de la Gestión y Medición de Impacto del Programa de Saneamiento y Regularización de la Pequeña Propiedad Rural," Ministry of National Property, Santiago, 1996.

47. Ibid.

48. The only other survey evaluating the impact of a land titling project of which we are aware, one carried out by the Land Tenure Center in Honduras in the 1980s, reached this same conclusion, but the survey ignored the gender of the respondents (Stanfield, et. al. 1990).

49. In Deere and León (2001a: chpt. 9) we show that men are much more likely than women to have acquired their land through the land market or by adjudication from the state. While inheritance appears to be more gender-equitable than these other practices, there is still a marked male preference in land inheritance, the degree to which varies regionally, even within a given country.

Table 1: Land Titling Projects: Target Group and Gender-Progressive Measures in Agrarian Legislation

<u>Country</u>	<u>Target Group</u>	<u>Agrarian Legislation:</u>		
		<u>Explicit Gender Equality</u>	<u>Joint Titling of Couples</u>	<u>Priority to Female Household Heads</u>
Chile	Smallholders	No	No	Yes (Project level)
Colombia	Squatters	Yes	Yes	Yes
Ecuador	Agrarian Reform beneficiaries and squatters	No	Yes (Project level)	No
Honduras	Squatters	Yes	Option	No
Mexico	Agrarian Reform beneficiaries	No	No	No
Nicaragua	Agrarian Reform beneficiaries	Yes	Yes	Yes
Peru	Agrarian Reform beneficiaries	No	No	No

Source: Deere and León (2001a), chpts. 6 and 9.

Table 2: Share of Beneficiaries by Sex and Forms of Titling in Recent Land Titling Programs in Latin America, 1990s

	<u>Beneficiaries</u>	<u>Titles</u>
COUNTRIES WITHOUT MANDATORY JOINT TITLING:		
Honduras	1995-97	1995-97
	Women 25%	Individual 100%
	Men 75%	Joint -
	Total 100%	Total 100%
	(n= 54,904)	(n= 54,904)
Mexico	1993-98	1993-98
	Women 21%	Individual 100%
	Men 79%	Joint -
	Total 100%	Total 100%
	(n= 1.9 m.)	(n= 1.9 m.)

COUNTRIES WITH MANDATORY JOINT TITLING:

Colombia	1996-97, 1999	1996-97, 1999
	Women 44%	Individual 72%
	Men 56%	Joint 28%
	<hr/> Total 100%	<hr/> Total 100%
	(n= 28,267)	(n= 22,020)
Nicaragua	1992-98	1992-98
	Women 31%	Individual 41%
	Men 69%	Joint 52%
		Other 7%
	<hr/> Total 100%	<hr/> Total 100%
	(n= 40,332)	(n= 23,305)

COUNTRIES WITH GENDER-PROGRESSIVE PRIORITIES AT PROJECT LEVEL:

Chile	1993-96	1993-96
	Women 43%	Individual 100%
	Men 57%	Joint -
	<hr/> Total 100%	<hr/> Total 100%
	(n= 1,474)*	(n= 1,474)
Ecuador	1992-96	1992-96
	Women 49%	Individual 30%
	Men 51%	Joint 70%
	<hr/> Total 100%	<hr/> Total 100%
	(n= 21,101)	(n= 12,416)

Sources: Compiled by the authors from data provided by the following: Honduras- Data base, División de Titulación de Tierras, Instituto Nacional Agrario, Tegucigalpa, January 1998; Mexico - "Estadísticas," *Estudios Agrarios, Revista de la Procuraría*, No. 10, 1998, in <http://www.pa.gob.mx/publica/pu071011.htm>; Colombia - Oficina de Planificación and Oficina Regionales, Subgerencia de Ordenamiento Social, INCORA, Bogotá, July 2000; Nicaragua - División de Titulación, INRA, and Intenendencia de la Propiedad, Ministerio de Hacienda y Credito Público, Managua, September 1999; Chile - data tape, Encuesta de Evaluación del Impacto del Programa de Saneamiento y Regularización de la Pequeña Propiedad Rural, Ministerio de Bienes Nacionales, July 1997; Ecuador - files of INDA-PRONADER as compiled by Consejo Nacional de las Mujeres.

Note: * Survey data

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