



Food and Agriculture Organization
of the United Nations

GENDER AND LAND RIGHTS DATABASE AND LAND PORTAL

HELD FROM 2-13 DECEMBER, 2013

ONLINE DISCUSSION | SUMMARY

Land titling in Peru: What Future for Women's Tenure Security?



INTRODUCTION

Launched in 2010, the [Gender and Land Rights Database \(GLRD\)](#) was developed by FAO based on the information produced by civil society organisations, national statistics authorities, academics and other sources to highlight the major political, legal and cultural factors that influence the realisation of women's land rights throughout the world. The GLRD is a practical tool to support policy makers and advocates of women's land rights working towards gender-equitable land tenure.

In June 2013, in collaboration with the Land Portal, the GLRD tested a new method for collecting information designed to improve the quality and the availability of the information provided to users. The Land Portal is a well-established online platform aimed at aggregating information on land from multiple sources and building a specialized community of land experts through online dialogue and information exchange.

Building on the results of this first online discussion, the GLRD organised a second online discussion on the Land Portal, in close collaboration with the Peruvian Centre for Social Studies (CEPES), and the International Land Coalition (ILC). Reflecting on the major challenge of bringing in stakeholders with limited access to information and technology, the Land Portal team, with the support of the CEPES, organised a face-to-face brainstorming exercise in Lima, between members of civil society organisations and rural leaders concerned with gender and land governance issues (CSOs).

1. BACKGROUND

In 1992, Decree-law No. 667 on the Rural Property Registry created a Special Land Titling and Cadastre Project (PETT) that was established as a specialised institution of Peru's Ministry of Agriculture (MINAG).

The Project was intended to formalise private property rights through titling, to encourage the development of an efficient and transparent rural land market and to promote investment in agriculture. These objectives were to be implemented through two main strategies:

1. The development of standards and guidelines for cadastral surveys and;
2. The monitoring, evaluation and proposition of standards to organise the registration of rural lands

The targeted beneficiaries were "farmers who could prove possession and economic exploitation in a direct, continuous, peaceful and public manner for a period longer than 1 year for state land or 5 years for individual land" (MINAG, 2013). PETT was run over two phases: Phase 1 (PETT 1) ran from 1993-2000 and Phase 2 (PETT 2) ran from 2000-2006.

A third phase started in 2007 when PETT was merged with the Commission on Formalization of Informal Property (*Organismo de Formalización de la Propiedad Informal*, COFOPRI), adding to the latter the responsibility of dealing with rural in addition to urban land. The discussion shed some light on the current situation of titling and identified a number of key steps for future developments.

PETT 1 did not have a gender policy and was not guided by any legal provisions supporting gender equality. Land allotment was based on patriarchal values that tended to exclude women. Registration was normally carried out in the name of the household head (usually a man) and those who could demonstrate possession and economic exploitation of land.

In addition, land plots were allotted based on the legal status of the claimant, meaning that someone without identification papers could not be considered. Rural women, with higher

levels of illiteracy and fewer identification papers than men were therefore less likely to formalise their right. This triggered the efforts of civil society to push for a more gender-sensitive implementation of the Project in PETT 2 (Glavin, 2011).

PETT 2 brought positive results. More than 1.5 million of plots were titled in less than a decade (Peruvian Ministry of Finance and Inter-American Development Bank, 2005) and the programme helped increase investment opportunities for the beneficiaries while reducing transaction costs at the regional level (Fort, 2008). In terms of gender outcomes, the project had a considerable empowerment effect (Wiig, 2013) and women with land titles had a higher chance of obtaining credit. However, the outcomes of joint-titling on women's economic empowerment, as well as their increased bargaining power, are more difficult to trace.

In this discussion, participants were asked to provide their insight on the current situation of titling in Peru, on the added value of a land title for female producers and to reflect on options for securing women's access to land in the country.

2. CURRENT SITUATION AND ISSUES AT STAKE

a) Factors influencing gender inequalities in land rights

The discussion highlighted a number of fundamental barriers that prevent women from securing their rights to land.

The **machismo mindset** is a cultural issue that is at the root of the problem. The fact that women are de facto in the shadow of men means that fewer efforts are deployed for their education, and it contributes to building this feeling that they are less capable than their male counterparts.

In many instances, their existence is not officialised by an **identification document**. Phase 1 of PETT failed to bring women more tenure security, largely because they could not provide a valid ID for the land title to be issued.

Cohabitation is a major issue in Peru. The 1984 civil code recognised cohabitation and extended the presumption of joint ownership of property every time the couple can establish a cohabitating period of at least two years¹. However, it is extremely difficult to determine when the time starts running as there are no official document to prove the exact date.

1 Civil Code, 1984, Article 326

Besides, the **lack of sex disaggregated data** makes it difficult to visualise the effect PETT had on women's tenure security. The majority of the titling activities carried out under PETT were carried out over the period running from 1992 to 2005. It has been nearly ten years now and there has been no update of cadastre on the changes of owners resulting from death or transfer of the land title.

b) Institutional framework for land titling and registration

Aside from these underlying challenges, the participants noted that the changes in responsibility over the competence of land titling created uncertainty and brought land titling activities to a standstill:

With the adoption of the Supreme Decree No. 005-2007-VIVIENDA on 22 February 2007, PETT was merged with the Commission on Formalisation of Informal Property (COFOPRI) and placed under the responsibility of the Ministry of Housing, Construction and Sanitation (VIVIENDA). At the moment, the Ministry of Agriculture (MINAG) is the overall responsible authority for titling but it does not have the institutional capacity to operate.

Local governments are tasked with the responsibility of implementing titling and registration but they lack the human and the financial resources to do so. Local officials also have a limited interest in titling activities. As a result, the country has failed to capitalise on PETT's good results to bring both male and female producers more tenure security.

c) Discrepancies between statutory law and common titling practices

The participants discussed another persisting challenge which is the lack of gender sensitivity in the legislation and its implementation. Although the legislation is gender-neutral in nature, the

cultural prevalence of men over women has meant that the implementation has so far largely favoured men. The civil code of 1984 suppressed the notion of head of household to establish that husband and wife manage the household equally². Despite this landmark change in the legislation, the participants noted that titling officials still perpetuate this cultural concept of the husband being the person with the authority to take decisions. 2 *Ibid*, Article 234

In rural and remote areas, the lack of information about the legislation further limits women's ability to claim their rights. New legislation is published in the *Peruano* – Peru's official journal – and is available on the internet but few producers have access to these sources.

d) Dual system of land tenure: individual property vs communal property

The participants explained that recognised communities have a legal personality from which members derive their right to use land. Decisions regarding the allocation of land and water rights are made in the community's general assembly where, based on the community's rules. In recent years, there has been a growing pressure from the state to transform these user rights into ownership rights, thus promoting individual property over communal property. This push has resulted in problems of duplication of land titles.

Las decisiones relativas a la asignación de derechos a la tierra y el agua se hacen en la asamblea general de la comunidad basadas en las normas de la comunidad.

3. Added value of a land title for female producers

After PETT 1, civil society groups advocated for a more gender-sensitive implementation of the programme, through joint titling in particular. The discussion emphasised the empowering effect that a land title has on female producers:

- When women have the legal certainty that they can use, manage and dispose of their land it boosts their self-esteem and gives them a higher status within the household and within the community.
- Empowered women tend to devote more income to the family welfare and towards the development of the children.

- Tenure security and food security are closely linked. A female producer with a secure land title can rely on her plot to feed herself and her dependants even in the event of separation or death of her partner.
- Secure land rights open the door to other rights such as water rights, access to credit, investment, among others.

4. Essential steps to be taken

Based on these observations, the participants discussed a way forward and identified a number of key steps:

1. An **alliance** between CSOs and with lawyers and policy makers is essential to have a comprehensive understanding of what reforms are needed and present clear legislative proposals that will have the potential to bring about a positive change for women and smallholders.
2. Building on the data from **CENAGRO 2012** to provide statistical evidence of women's significant contribution to the agricultural sector. However, these figures need to be handled with caution as the surveys were carried out with no verification of the land titles.

Data from the 2012 census³ show that:

- **Female producers** make up 691,921 or 31 percent of the 2,246,702 producers in Peru. However, it is important to note that CENAGRO 2012 defines "agricultural producer" as *a natural or legal person who is responsible for the technical and economic management of an agricultural unit*. According to previous land tenure? studies, it is estimated that nearly 98 percent of holders are individuals, 75 percent are male, who are mainly located in the mountains (*la sierra*) (55%).⁴ These data need to be read with caution as a woman may feel that her husband is responsible for the agricultural unit even though she provides an important contribution to the exploitation of the land.

- Out of 2,128,087 holdings:
 - 1,455,699 are owned (including titled and registered holdings and titled but not registered holdings)
 - 249,774 are held in communal property
 - 87,174 are held in possession

3. There is a lack of state commitment towards female producers that should be addressed through a number of [urgent actions](#):

- First, there is a need for an official [recognition of women's significant contribution to the country's economy](#). A change in the language would also contribute to shifting the cultural mindset: rather than using the term "agricultural producers" which is largely understood as "male agricultural producers" the state should get in the habit of referring to "male and female agricultural producers".
- The state has a large part to play in the [dissemination and promotion of the legislation](#), in particular the Ministry of Women and Vulnerable Populations (MIMP).

As mentioned above, most people in rural areas do not have access to information sources such as the internet or an official journal. MIMP should be more involved in promoting gender equality in agriculture, not just in health and access to education. The Ministry of Development and Social Inclusion (MIDIS) could include titling in one of its programmes related to the family and promote women's land rights as well as men's.

- The [adoption of gender-sensitive legislation](#), containing temporary measures for the advancement of women would send a strong message in favour of gender equity in land tenure. These measures should provide an adequate and targeted response to the factors that contribute to women's tenure insecurity.

5. Options for securing women's access to land

The participants agreed that the best way to implement these key steps would be through the elaboration of a national gender policy which would greatly support women's inclusion in the agricultural sector.

According to the participants, the gender policy should contain the following points:

- A section on **responsibilities** should clarify the roles, functions and responsibilities of the Ministry of Women and Vulnerable Populations and The Ministry of Development and Social Inclusion (MIDIS). It should also point out the need for collaboration between all ministries to promote gender equality and ensure that gender is mainstreamed across all sectors.
- It should contain a number of **policy statements** indicating the need for:
 - Gender mainstreaming (*ie.* the integration of gender concerns into policies, plans, programmes and legislations.)
 - A socio-economic analysis in the sector to give prominence to women's quantitative and qualitative contribution to the country's economy and to the agricultural sector in particular.
 - Sex disaggregated data to support the development of gender-sensitive policies.
 - A better understanding of the population and family structure across the regions in Peru
 - The adoption gender-sensitive legislation
 - A better understanding of how land rights influence the realisation of other rights (water, seeds, credit etc)
 - Promote women's access to technical training and technical assistance to increase their level of productivity
 - A better and more homogenous protection of women's rights in all regions
 - A strong focus on family farming and women's significant role as producers
 - Campaigns to raise awareness on:
 - The existence of tenure rights for women
 - The economic and social benefits of secure land rights

- The importance of identification documents
- Specific gender programmes (for example, around obtaining IDs and titling)
- Sensitisation of titling officials and technicians on their responsibilities, especially with regards to the application of the legislation. This would make their work more proactive.
- Provide [definitions](#) and clear statements on the statuses of husband, wife, and cohabitant.

Addendum – Finalising the titling and registration process

The discussion concluded on the urgency to finalise the titling and registration process in Peru through a PETT III. To this end, an IDB funded Land Titling and Registration programme is in preparation in order to set up a "[Proyecto Especial de Registro y Titulación de Tierra \(PETT\) III](#)".⁵ The project is still pending approval but implementation could begin in 2014.

According to the project document, PETT III is built around four components:

1. Institutional strengthening and capacity building to carry out land-titling activities in rural areas.
2. Formalisation of property through the titling and registration of agricultural land as well as the updating of the cadastre in areas that were previously formalised.
3. Activities to assure the maintenance of the rural cadastre in regional offices of COFOPRI/PETT
4. Use of property rights to promote economic and social activities that encourage the sustainable use of land.

Annex 1 of the project document identifies the consolidation of women's property rights in the application of Decree Law 667 on the Rural Property Registry and the need to consider women as an integral part of the conjugal community and must be included on the land title as an expected positive outcome.

While this is a positive step forward, the current project document lacks a proper gender approach to implementation. PETT III can legitimately be expected to build upon and strengthen the good practices learnt from PETT II. Gender could have been easily mainstreamed across three of the four components with a particular focus on components 2 and 4:

- In component 1: capacity building could include an activity to raise awareness on the legislation, on women's position in the couple and the need for a gender sensitive implementation of the laws and programmes
- In component 2: incorporate and build upon the good practices developed under PETT II to reassert them and establishing them as standard practices:
 - Invite both men and women to take part in the interviews during the titling process
 - Inquire about their relationship status
 - Inform about the economic and social benefits of secure property rights for both men and women
- In component 4: secure tenure rights for women are fundamental to the sustainable economic and social development of the country. This link between women's empowerment and development could be made more evident.

CONCLUSION

Thanks to the strong mobilisation of our partners, the GLRD was able to gather first hand information to feed into Peru's country profile. The online discussion also provided an opportunity for stakeholders to get together and generate ideas on how to better influence the process.

Peru is known in Latin America for being one of the countries with the strongest traditions for civil society engagement as a way of solving political issues. This strong mobilisation needs to focus on the upcoming IDB funded PETT III to ensure that the good practices under PETT II are integrated into phase III and continues to achieve positive results for women's tenure security. CSOs need to coordinate their action to push for change at all three levels of government, disseminate information, and support women in understanding their rights, their value to society not only as members of a household but also as agricultural producers.

We would like to thank all the participants for their involvement and valuable contributions to the discussion, including:

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- Dalila Morales Quintana de la Federación de Rondas Campesinas Femeninas del Norte del Perú (Cajamarca) (FEROCAFENOP);
- Lucila Quintana Acuña, Presidenta de la Convención Nacional del Agro Peruano (CONVEAGRO);
- María Tempora Arévalo de ADIMTA de la Asociación Distrital de Mujeres de Tambogrande Piura;
- Elena Villanueva del Programa de Desarrollo Rural del Centro de la Mujer Peruana Flora Tristán;
- Lourdes Huanca, Presidenta de la Federación Nacional de Mujeres Campesinas, Artesanas, Indígenas, Nativas y Asalariadas del Perú (FEMUCARINAP).

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*To view the full content of the online discussion and videos, [click here](#).
For more information on the Gender and Land Rights Database, please visit the
website or contact Naomi.Kenney@fao.org or AnaPaula.DelaOCampos@fao.org*

In collaboration with:
LAND PORTAL
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¹ Civil Code, 1984, Article 326

² *Ibid*, Article 234

³ Censo Nacional Agropecuario 2012. Available at:
<http://proyectos.inei.gob.pe/cenagro/tabulados/?id=CensosNacionales>

⁴ CENAGRO 2012. Definiciones. Available at: <http://proyectos.inei.gob.pe/CenagroWeb/?id=DERECHA>

⁵ IDB.2007. Perfil de Proyecto PE-L1026: Land Titling & Registration Program III. Available at:
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