Land titling in Peru: what future for women’s tenure security?

Introduction:

After its first phase, Peru’s Special Land Titling and Cadastre Project (PETT) changed to address policy and implementation issues that weakened women’s land rights. The change was a result of a successful civil society mobilization that pushed the programme officials to address gender issues. PETT’s renewed top-down approach to titling during its second phase was very successful in achieving high rates of male-female joint ownership with 57% of land titled in this modality. Also, titling resulted in a series of social benefits, including a better position for women within the household and an increased bargaining power in matters relating to the household. This shift occurred without any changes to the legislation.

Over the last ten years, Peru’s agricultural sector has grown 4 percent annually, benefitting from better agricultural health and increased international demand for fruits, vegetables and other non-traditional agricultural commodities (IDB, 2010). Peruvian women’s participation in the sector is also relevant. Peru’s Country Profile in the Gender and Land Rights Database indicates that women’s employment in agriculture reached 33.4 percent in 2006; however, the new agricultural census, CENAGRO IV, will provide a more accurate picture of women’s role in the sector.

Before PETT … a snapshot of Peru’s Agrarian Reform

Up until the 1960s, the distribution of agricultural land in Peru was characterised by a strong concentration of land in the hands of very few owners, with 5 percent holding about 90 percent of the agricultural land. The inequalities in the sector, coupled with a critical social situation in the country triggered the reform. The adoption of Decree Law No. 17716 in June 1969, known as the “Law of Agrarian Reform”, effectively established a collectivist system of agrarian property that affected not only large estates but also medium and small properties. The Decree-law ruled out the agricultural land market by preventing land transfers, eliminated investment in for-profit enterprises in agriculture and promoted instead the creation of associative enterprises under collective ownership. Few women benefitted from this initial stage of the land reform as land was normally granted to household heads.

Liberalisation of land ownership started in the 90’s, following the deep recession in 1989.
New legal instruments allowed the transfer of property and encouraged private investments, while at the same time promoting the development of the land market through regulation of the adjudication and titling procedures. In July 1991 the Decree-Law No. 653 on the promotion of investments in the agricultural sector repealed the Decree Law No. 17716 and removed the constraints on property rights that had been established during agrarian reform. In September 1991, the Decree-law No. 667 on the Rural Property Registry was issued to regulate the procedure to formalize both state-owned properties (reformed areas) and individual property (unreformed areas). This Decree, as well as the Laws No. 26838 and No. 27161 Act gave birth to the Special Land Titling and Cadastre Project (PETT).

**The Special Land Titling and Cadastre Project - PETT**

PETT was established in 1992 as a specialised institution of the Ministry of Agriculture (MINAG), which exercised its responsibilities within the functions of the former Department of Land Tenure and Structure, the National Cadastre Program (PROCNAC) and joined the Special Project for Cooperative and Community Development (PRODACC).

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 programme’s 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 has run over three phases: The first phase ran between 1993-2000 and the second phase between 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.

PETT 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 effort of civil society to push for a more gender-sensitive implementation of the Project (Glavin, 2011).

**Main challenges in the issuance of land titles to women during phase 1**

During phase 1 of the project, approximately 50 percent of all rural women lacked identification documents. Besides, the absence of legal presumption of joint ownership for couples living in consensual unions left many women out of the titling programme as in the couple, men were more likely to formalise their right than women. In addition, the “machismo” mindset in several rural communities de facto prevented women from accessing land. Language and illiteracy among rural women, particularly among indigenous groups, disproportionately limited their knowledge of the law.
and their understanding of the implications of registering or not registering their land in their own name.

Other implementation problems limited women’s possibilities of being issued a land title in their name. For example, the haste in which the program was implemented as well as the limited capacity development – including on gender issues – provided to PETT technicians who were hired on short contracts and paid by the number of titles issued, was a major pitfall in securing women’s land rights. In addition, the fact that the program had no piloting phase and started operating nationally right from the beginning, missed the opportunity of identifying potential gender issues that could have been addressed at an early stage.

Civil Society Mobilization

Peru is one of the countries in Latin America with the strongest traditions for civil society engagement as a way of solving political issues. Civil society groups engaged in a major media campaign that advocated for a more gender-sensitive implementation of PETT, that both respected and promoted women’s land rights. The campaign was successful. PETT’s officials engaged in a collaboration strategy with Centro de la Mujer Peruana Flora Tristan to find solutions to a number of gender-related issues in the project. In addition, CSOs gave out information to rural women on their rights, encouraging them to get their ID papers and explaining the benefits of securing their land rights. The strategy was to strengthen women’s bargaining power through an increased awareness of their land rights: a title provides direct ownership on land that confers a bundle of rights, including the right of possession, the right of control, the right of exclusion, the right of enjoyment and the right of disposition.

As a result of the PETT and CSO collaboration, phase 2 was more beneficial to women. One simple change made an important difference: The form that was used to fill out information on the beneficiaries was changed in 2000 to a new format that gave PETT technicians more possibilities to record the civil status of the beneficiaries. It changed from single/married to include cohabitant as well. PETT technicians then had to ask about wives as well as cohabitants. If the ID papers indicated “married” then both the husband and the wife were required to sign before the couple could receive the joint title.

Phase 2 of PETT 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.

More recent developments of PETT and current challenges

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. Registration programmes now recognize dual-headship of households in a more systematic way.
However, men and women with titles continue to face several challenges. Most Peruvians are unaware or fail to take advantage of the legal recognition of the title deed to access benefit from formal loans. Also, title itself does not grant them access to longer-term credit, particularly among women living in rural areas (for women living in urban areas, having a title in their name has been beneficial to access credit).

On the other hand, the number of female-headed households has increased as a result of migration and urbanisation and there has been a trend towards feminisation of agriculture. More women manage farms and work the land in regions outside those where rice cultivation and other profitable agricultural activities, such as poultry breeding, take place.

**Questions for the forum:**

1. What is the current situation of titling in Peru?
   - Persisting challenges in securing women’s land rights?
   - Public institutions and competences in individual land titling: are there any gaps and overlaps?
     What are the possible strategies, mechanisms for a better articulation between competences over titling?
   - How gender-sensitive is the current implementation of the titling procedures/programmes?
     How can this be improved? What is the role of civil society? What are the lessons learnt from PETT and how are they influencing the current situation?

2. What is the added value of a land title for female producers? Does it lead to a general or specific improvement of their situation? (Within the household, in relation to agricultural investments, income etc)

3. Options for securing women’s access to land in Peru?
   - What other complementary services or synergies with other programs should be enhanced to ensure that titling and land ownership foster women’s empowerment?
   - Joint-titling is an option given in several registration programmes around the world; however, it does not always have the same impact towards increasing titles in women’s names. What other features, besides raising awareness, are needed to promote joint-titling?
     What should be done in contexts where joint-titling cannot be applied, or is prohibited by custom?
Main sources


Glavin, Guro. 2011. The impact of women's mobilization: A study of the impact of civil society organizations on the implementation of the Special Land Titling and Cadastre Project (PETT) in Peru, Reprosentralen, University of Oslo


World Bank. 2007. An Opportunity for a Different Peru, Washington D.C, USA

Website
Perú Ministerio de Agricultura y Riego