

Peru: Supporting Women's Participation in
Community Governance to Strengthen Women's
Rights to Community Land in the Sierra



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Leslie Hannay, Gender and Land Tenure Specialist,
Resource Equity

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I. Executive Summary	1
II. Background	2
a. Community land tenure	2
b. Women’s rights in the context of community land	3
c. Project background	3
III. Methodology	4
a. Site and case selection	4
IV. Legal and Customary Framework	5
a. Land tenure and land governance	5
b. Community land rights formalization	6
c. Gender and land rights	6
V. Intervention	7
a. Pre-project situation	7
b. Project objectives and scope	8
c. Project implementation approach	8
VI. Gender Assessment	11
a. Laying the groundwork for social change.	11
b. Modification of community statutes	11
c. Women’s roles in the community and women’s leadership.	11
d. Engaging with male leaders and community members to advance women’s rights	12
e. Project linked to other material gains for the community.	12
f. Linkages to national and regional advocacy	12
g. Recognizing and protecting use rights to community land	12
VII. Recommendations	13
a. Align community land titling activities with the Constitutional protections for women by adopting more inclusive statutes	13
b. Local, regional, and national government capacity development is needed to safeguard women’s rights	13
c. Government could take further steps to protect women’s rights to community land	13
VIII. Conclusion	14

I. Executive Summary

This case study identifies good practices and lessons learned about enhancing women's participation in community land governance in rural Peru's Puno and Ayacucho regions of the Andean Highlands. The two-year project launched in 2014, "Indigenous Quechua and Aymara peasant women's access to land governance in their communities," was implemented by *Servicios Educativos Rurales* (SER), a Peruvian national NGO that works to promote the exercise of human rights through democratic participation and rural development. The project aimed to reduce the gender gap in the use and control of communal land and resources, increase rural women's involvement in land tenure governance in their communities, and support rural women's access to productive resources.

The project aimed to empower women by increasing their participation in community governance structures promoting women leaders and strengthening community governance institutions to safeguard women's participation toward changing gender-neutral and discriminatory community statutes.

The SER project implemented the following good practices:

1. Respecting and building on local institutions. The project was designed to accommodate the customs of each community to ensure project effectiveness and the receptiveness of communities to the project, and local leaders were consulted at every stage of the community engagements. Though time-intensive, this process of engaging with local processes and including local leaders and local authorities at each stage of the project was central to the project's ultimate success in revising the statutes and developing rules that the communities understood and adopted as their own.
2. Adopting a "demand-driven approach" to shape the project. This approach aimed to ensure that communities accepted the project and that the project met the needs of community members, while building the capacity of the entire community to understand and support effective governance and the value of women's membership and participation in the community.
3. Working with both men and women. Though the project initially set out to work with women-only groups, SER found early on that including men in the project was necessary both to diminish risk to female participants as well as to ensure the success of the project's objectives of bringing about cultural change.
4. Building flexibility into the project design and implementation. The project's committed approach to inclusive processes that solicit input from communities about the design and focus of the project effectively ensured that the project's aims were aligned with local priorities and needs. This approach required a significant amount of flexibility and willingness to adjust the original project design.

5. Linking to national networks and supporting knowledge sharing among women leaders within communities and between communities in each region. Strategic partnerships with and origins from within national indigenous women's networks and the broader social movement to advance indigenous women's rights was a key factor in the project's effectiveness. This connection provided strategic, technical capacity, and staffing support for the project at the national and regional levels, and supported the sustainability and continuity of the project as it worked to develop female leaders and scale up effective approaches in other rural areas.
6. Linking to and building upon international and domestic legal frameworks. The formal procedures for registering communities created the foundation for the project's engagement with communities and were used as a vehicle for improving women's rights within communities. This was key to the sustainability of the outcomes sought and to generating interest in the project among community members; the community statutes have a lasting effect on communities, and the community members will retain their awareness of required processes for documenting community rights after the project ends.

The project illustrates challenges and effective approaches for promoting women's land rights in the context of communities having a constitutional right to self-determination that can inform the implementation of the land rights regularization program currently underway in Peru.

II. Background

Peru's economy has been the fastest growing in Latin America, with an average annual growth rate of 5.9% during 2005–2014,¹ due to the rise in international prices for metals and minerals exports, which account for almost 60% of the country's total exports. Peru's poverty rate declined from 49.2% to less than 23% during the same period, and the government has pledged to reduce overall poverty by another 10% in the next decade. This growth has not been distributed evenly, however, and though it is an upper-middle income country, rural poverty rates in Peru remain disproportionately high, particularly among indigenous people living in remote rural areas.²

Geographically, the country is divided into three regions with markedly different natural characteristics: Costa (the mostly arid, narrow Pacific coastal region); Sierra (the mountainous Andes region); and Selva (the rainforest region of the Amazon basin).³ Prior to agrarian reforms (1969–1991), land tenure arrangements across the country were highly inequitable, with 80% of private land concentrated in large estates, and peasants in the Sierra exchanging their labor on the estates for access to small plots. The agrarian reforms expropriated and redistributed the estate land, defined as holdings larger than 150 hectares on the coast and larger than 15–55 hectares in the Sierra.

a. Community land tenure

Peru's formal laws recognize the autonomy and rights of the country's indigenous (*nativas*) and peasant (*campesinas*) communities.⁴ The Agrarian Census 2012 reports that there are 6,115 *campesino* communities and 1,388 native communities in the country.⁵ Peruvian law recognizes both individual rights and group property rights. Peasant and indigenous community lands are usually held collectively and are known as *comunidades*. This tenure form is used by both indigenous and peasant communities.⁶ In the Sierra, community land is held and titled collectively, but is organized largely on the basis of individualized family plots. The extent of communal land management varies significantly among *campesino* communities; according to one estimate, about 79% of community land is for collective use, and only 21% of the land is individually parceled as family plots.⁷ However, the majority of arable lands are parcelized in family

plots, with the remainder managed collectively as non-arable land and grazing areas.⁸ As a general matter, individualized rights to community land are not formally registered or titled.

National regulations establish procedures and guidelines for the internal organization and representation of *campesino* communities in the coastal and Sierra regions, as well as for native (Amazon) communities, and have established rules for demarcating external boundaries and titling their territories.

In *campesino* communities, the community assembly makes decisions about land, resources, and distribution. These assemblies discuss issues, concerns, and requests for land, water, and other resource use among community members (or *comuneros*) and outsiders, and are the main forum for community members to meet and make decisions on community issues. Assemblies in the areas studied represent the entire community and convene at regular intervals to discuss issues and vote on the composition of the board of directors. Representation in these assemblies varies among communities, with some communities allowing only one family member – usually a senior male – to represent each household in the assembly. In some communities, the board makes all decisions on behalf of the community, while elsewhere the board has decision-making authority over certain issues (such as water allocation), but not others.

Peru's long history of titling efforts has created a patchwork of tenure contexts in the Sierra. Many, though not all, communities received community titles during the agrarian reform or subsequent eras of land titling, while others remain without community titles, or have yet to complete the processes of community registration or demarcation and titling of community land.

Within community lands, the extent of lands held communally and the rules governing such lands varies considerably among communities in the Sierra as a whole and in the project target areas. These differences are attributable to a range of factors, including the history of settlement and displacement during the reforms and civil conflict, the amount and quality of land available relative to the size of the community, and the use to which the land is put or can potentially be put. In most communities, shifting demographic and economic forces also contribute to changes in tenure dynamics, with seasonal and long-term out-migration among the major drivers of shifting land use patterns in many areas.

Among rural communities in the Sierra, land administration varies significantly from place to place. In many cases, community lands are highly individualized, with a small portion of land managed and used communally. For example, the Anchac-Huasi community in Vinchos District, Ayacucho Region is a pre-colonial community that was never converted into *haciendas*. Land is titled and registered under a single community land title, but has for decades been farmed in parcels by individual families. Much less commonly, the community retains the tradition of

1 World Bank. 2016. Peru Overview, <http://www.worldbank.org/en/country/peru/overview>. Updated Apr. 25, 2016. Last visited September 27, 2016.

2 International Fund for Agricultural Development (IFAD). 2006. República del Perú, Proyecto de manejo de los recursos naturales en la Sierra Sur (MARENASS) - Evaluación preterminal, Report No. 1316-PE. October 2002.

3 Food and Agriculture Organization of the United Nations (FAO). 2015. AQUASTAT – Peru country profile. Updated September 2015. http://www.fao.org/nr/water/aquastat/countries_regions/per/indexesp.stm.

4 In general, *campesino* communities are found in the Sierra, though a few can be found in the Coastal and Amazon regions. Native communities are defined as being made up of sets of families linked by language or dialect, cultural and social characteristics, and common ownership and permanent use of the same territory with nucleated or dispersed settlement. These communities originate from the tribal groups in the Amazon and its surrounds, and are primarily located in the Amazon region. However a few native communities (less than 2.5% of native communities) can be found in the Sierra. Instituto Nacional de Estadística e Informática-IV Censo Nacional Agropecuario, 2012.

5 Instituto Nacional de Estadística e Informática-IV Censo Nacional Agropecuario, 2012.

6 Constitution of Peru 1993.

7 Valera, Guillermo. 1998. "Las comunidades campesinas vistas desde el III CENAGRO". In *Comunidades campesinas y desarrollo sostenible*. Lima: Grupo ALLPA.

8 Bumeo de la Rocha, Z. 2005. *La propiedad colectiva de la tierra y las comunidades campesinas del Perú*, CEPES.

communal land administration in which land is managed communally through the application of strict internal rules that determine annual reallocation to *comuneros*.⁹

Few studies have examined women's rights to community land in Peru.¹⁰ The few references that do exist indicate that women have limited access to land, which is conditioned upon their membership in a community and their relationship within a family,¹¹ including marital status and whether they have children.¹²

Women are often excluded from participating in the assembly, and barriers to women's decision making around rights to land and resources within the community has been identified as a constraint to equitable development outcomes by both the World Bank and the Interamerican Development Bank (IDB).¹³

In recent years, land sector reforms have prioritized formalizing individually and collectively held land, and creating and consolidating land markets. Nearly 70% of individual property in urban and rural areas has been titled to date.¹⁴ Formalization of community lands lags behind, with an estimated 46% of native communities and 33% of *campesino* communities lacking registered titles.¹⁵ Current efforts are underway to regularize rural property through the Proyecto de Titulación y Registro de Tierras (PTRT-3) program, with a focus on native and peasant community titling.

According to the PTRT-3 project planning documents, the project's current prioritization of community land titling is a response to issues stemming from the aforementioned demographic changes and growing pressures on land and resources among communities. The PTRT-3 faces some challenges: new indigenous and *campesino* groups continue to emerge and to claim rights to be formally recognized and have their autonomy and rights to land and resources formalized; migration to unoccupied areas and urban centers is growing; there is continued interest in land by outside investors; and there are growing pressures to develop natural resources.

b. Women's rights in the context of community land

Gender dynamics vary among communities, though in general women in the Sierra have limited opportunities to participate in

decision making and leadership. Barriers to women's participation in governance structures commonly arise in communities due to long-accepted social norms and procedural barriers. In many communities, women lack the right to vote or participate in community decisions because they are not considered "qualified" community members. The rules around who is deemed "qualified" vary from place to place; in many communities, only heads of household are considered to be qualified. Heads of household are generally men, though a widow or unmarried woman may be designated as household head upon the death of her spouse or parents. This designation of the household head as qualified has the effect of excluding women in male-headed households from voting on land issues, or, in some communities, even participating in discussions about land.

Even in communities that expressly include women as qualified, their right to vote can be undermined through procedural rules, such as those allowing only one vote per family. And to the extent that women may be involved in the board of the community assembly, their role is usually that of treasurer or secretary.

Limitations on women's participation in community land governance is complicated by widespread male labor out-migration from rural Sierra due to conditions of poverty and scarce economic opportunities. Migrants leave the communities to seek temporary or permanent employment elsewhere. Women whose husbands migrate are responsible for the well-being of the family as well as the farm work, including the tasks usually performed by men. However, in many communities the out-migrants retain the status of being qualified to vote and participate in community meetings. As a result, community governance has in some cases broken down or been stalled, as absent men are not present to participate, and decisions are put on hold until men return to the community. Women, though often left with the responsibility for maintaining and caring for the land and household, are prevented from participating in decisions that impact their interests.

c. Project background

This case study focuses on a project initiated in 2014 to strengthen women's participation in community land governance in the rural Sierra of Peru. The project, called "Indigenous Quechua and Aymara Peasant Women's Access to Land Governance in their Communities" ("the project") is being implemented by SER as part of the organization's ongoing efforts to promote the exercise of human rights through democratic participation and rural development. SER is a Peruvian non-governmental organization (NGO) that has worked for over 35 years across Peru to promote human rights, democracy, and rural development, with a particular focus on women. The project aims to increase women's use and control of community land and resources, increase rural women's involvement in land tenure governance in their communities, and support rural women's access to productive resources.

9 Nuijten et al. 2006. Property Relations and the Concept of Community in the Central Andes of Peru. Colloque international "Les frontières de la question foncière - At the frontier of land issues", Montpellier, 2006.

10 Burneo de la Rocha, Z. 2005. La propiedad colectiva de la tierra y las comunidades campesinas del Perú, CEPES; Alejandro Diez Hurtado. 2010. Informe de investigación, Derechos formales y derechos reales: Acceso de mujeres campesinas a tierras de comunidades en el marco del proceso de formalización de la propiedad en comunidades de Huancavelica. International Land Coalition.

11 Diez Hurtado, "Informe de investigación."

12 Ibid.

13 Interamerican Development Bank (IDB). 2014. Proyecto Catastro, Titulación, y Registro de Tierras Rurales en el Perú, Tercera Etapa - PTRT3 Análisis Ambiental y Social (EAS) y Plan de Gestión Ambiental y Social (PGAS).

14 Ibid.

15 Interamerican Development Bank (IDB). 2012. Rural Land Cadastre, Titling, and Registration Project in Peru - Third Phase (PTRT-3) - Loan Proposal.

The concept for the pilot project was developed by SER, in collaboration with ONAMIAP, a national organization of Andean and Amazonian indigenous women that advocates for the full exercise of indigenous women's individual and collective rights, and other grassroots women's organizations at the local level (FEDECMA and COMI in Ayacucho and Puno, respectively). The proposal emerged from these organizations' knowledge and experience working on policy and legal reforms related to women's rights to land and democratic participation. SER proposed the project concept to Brot für die Welt¹⁶ as a pilot; SER is currently working to replicate the project model in additional areas where it has a presence.

III. Methodology

The research methodology for this case study comprised desk and field research. Desk research included a review of secondary and primary materials to inform country and case selection, research strategy, and analysis.

The research team was composed of a land tenure specialist and a program assistant. The research team carried out key informant interviews in Lima with the assistance of a local consultant and land expert, and carried out field assessments with assistance and interpretation services provided by SER project coordinators from Puno and Ayacucho. Field assessments took place in the communities in which SER is implementing the project. Interviews were conducted in three communities and the commercial center of Ayacucho in Ayacucho region (Pacuri-B, Luyanta, and Anchac Huasi), and in three communities and the commercial center of Ilave in Puno region (Ancasaya, Huancarani, and Compacaso).

The field research took place over two weeks. The primary methods for obtaining information were semi-structured interviews with representatives of government, community leaders, non-governmental organizations, donors, and academic institutions.

The research team held focus group discussions with multiple women-only groups as well as mixed groups of women and men in both Puno and Ayacucho regions. The research team explicitly requested that mixed groups include women and tried to encourage participation of women by accommodating their needs during venue and schedule selection. It should be noted that in some cases the team was not permitted to meet with women only; when asked to meet separately, women demurred.

a. Site and case selection

The site and case selection for this case study bears mentioning. The case study parameters were to find and study a large, donor-funded, state-implemented community land regularization project in Latin America that exhibited promising efforts to address internal barriers to women's rights to community land so as to mitigate potential harms resulting from formalization of rights. The study team was unable to identify any such project that expressly took steps to protect and promote women's rights to land, resources, and participation within communities receiving community land titles. As a matter of policy, donor-funded projects now routinely implement safeguards to ensure that women participate in projects, and all such projects reviewed included standard practices to that end. However, no project reviewed was found to have taken any measures to protect or strengthen women's rights within communities whose land rights were formalized through project activities. As a rule, such considerations were deemed to be beyond the scope of the formalization projects.

¹⁶ Brot für die Welt ("Bread for the World") is a development and poverty relief agency of the German Protestant church.

Though the case study identification process was not an exhaustive or empirical study, this finding indicates that there are few, if any, efforts among Latin American land formalization projects that are addressing this key issue for women's rights to community land. This was true of past and current phases of the formalization program supported by the Interamerican Development Bank that is underway in Peru. The current phase of the PTRT program presents a window of opportunity to address this gap in protections for women's rights within communities participating in land rights formalization.

As a result of these preliminary findings, the project team decided to study a local intervention that sought to strengthen women's participation in governance in communities that had already received community land titles.

IV. Legal and Customary Framework

a. Land tenure and land governance

Peru's legal framework for community land provides for participatory self-governance by recognized peasant and native communities.¹⁷ Peruvian law conveys rights of ownership of community land to peasant and native communities and assigns responsibility for regulating access and use of land and other resources to community members.¹⁸

The laws and regulations establish that communities are to be governed by a community assembly that is led by an executive board.¹⁹ These structures provide a mechanism for communities to determine and administer their own rules and procedures for land and other resources within the bounds of the community. This structure also serves as the community's face and entry point for outsiders and local government to transact and interact with communities.²⁰

The law recognizes these communities as autonomous institutions and thereby grants to rural communities legal personality from which members derive their right to use land and to self-govern concerning matters of communal labor, economic administration, and land use. Both the law and the regulations espouse a basic principle of equality in terms of rights and obligations for community members,²¹ and Constitutional and civil code principles of gender equity apply to all laws.²² However, the law and regulations do not clearly affirm the application of these rights and principles to men and women and lack express language to guarantee women's inclusion in governance. In identifying rights holders, the laws use the term "*los comuneros*," which can refer to either men or women in the community, but does not explicitly affirm women's rights of membership and participation.²³

Articles 17 and 18 of the Ley General de Comunidades Campesinas (General Law on Rural Communities) establish the community assembly as the supreme body of the community under the leadership of an executive board, which is responsible for community governance and administration in accordance with the traditions and norms of the communities.²⁴ The law thus permits the community to establish the membership, rights and obligations, political dynamics, and decision-making authority within the community.²⁵ The assemblies decide upon issues such as the allocation of new land (for example, obtained through agrarian reform) or the reallocation of the family patrimony of land following the death of a community member.²⁶

17 Constitution of Peru 1993; Ley General de Comunidades Campesinas No. 24656.

18 The principal laws and regulations relevant to rural communities and land are: the General Law on Rural Communities No. 24646, the Rural Communities Regulation Supreme Decree No. 008-91-TR, and the statutes adopted within each community.

19 Ley General de Comunidades Campesinas No. 24656, arts. 17 and 18.

20 *Ibid.*, art. 11.

21 *Ibid.*, arts. 2 and 3.

22 Constitution (1993), art. 2.2; Civil Code, art. 4.

23 Civil Code 1983, arts. 135-139.

24 Ley No. 24646, art. 1(d).

25 *Ibid.*

26 See note 10 above.

Membership in the community, rights of participation and voice in the assembly, and the right to stand for election to the board are outlined in the law. Article 5 establishes the right of community members born in the community, the children of community members, and persons integrated into the community to be community members. Membership thus includes women because women are either born into a community or marry into a community. All community members have the right to use community goods and services as established in the community statutes and the agreements of the community assembly.²⁷

However, membership in the community does not grant the right to vote and participate in community decisions; such rights are reserved for “qualified” community members (*comunero calificado*).²⁸ The general practice is that one person per household – generally the male head of household – may hold the status of *comunero calificado*, though the law does not require such a restriction. This practice of selecting a single male head of household is unsurprising given the traditional patriarchal culture that remains dominant throughout rural Peru; as a result, women usually do not speak or vote in the assemblies.

The legal framework for community land clearly establishes the rights of communities to self-govern and defines protocols and procedures for community governance, including governance of issues related to land rights. Because the law establishes the legal personhood of communities, communities have the right and responsibility to define their own rules of internal governance. Importantly, though the laws and regulations provide guidance for the content of formal documents outlining community membership and governance rules (census and statutes, respectively),²⁹ communities may establish their own norms, including interpretation and application of rules of membership, voice, participation, and decision making.³⁰

b. Community land rights formalization

In 1992, the Special Land Titling and Cadastre Project (PETT) was created as a specialized institution of Peru’s Ministry of Agriculture (MINAGRI) with the aim of formalizing private property rights through titling.³¹ Under PETT, Phase One of the Programa de Titulación de Tierras Rurales (PTRT) program began in 1993, and Phase 2 (PTRT 2) ran from 2000-2006. PETT and the Commission on Formalization of Informal Property (COFOPRI) were merged in 2007 and placed under the responsibility of the Ministry of Housing, Construction and Sanitation (VIVIENDA).³² In 2010 as part of the decentralization process, the rural titling functions were transferred to regional governments. In 2014 MINAGRI assumed responsibility for national rural land titling policies and supervision of the regional govern-

ments titling implementation activities. The third phase of PTRT has been under preparation for several years but has not been implemented largely due to this shift of responsibilities. A new PTRT operation financed by IDB has been approved in 2015 and it is expected that implementation will begin with the new government that takes office in 2016.

These changes have presented challenges to the state titling efforts, with institutional coordination, funding, and capacity constraints significantly delaying the formalization efforts.

c. Gender and land rights

Article 2 of the 1993 Constitution stipulates equality before the law, including equal rights to contract and to exercise the right to property and inheritance, among other rights. The Civil Code provides that men and women have equal capacity to enjoy and exercise their civil rights (art. 4).

Marital property is governed by the Civil Code and Article 5 of the Constitution. Women have the legal right to own land in Peru, and the Civil Code provides that the default marital property regime is partial community of property (art. 295). Under this regime, gifts, inheritance, and property brought into the marriage can be held as separate property.³³ Spouses can opt for a separate property regime; to be valid such an election must be formalized in a deed and signed by both parties (art. 295). The Constitution and the Civil Code (art. 290) also affirm the principle of equality in the home and spouses’ mutual duty and right to participate in running the household.

Peru’s Constitution and the Civil Code (1984) govern inheritance of land. Widows have strong legal rights in Peru, which stands out among its Latin American neighbors in requiring that in cases where an estate is descending by will, a portion of the estate must pass according to the intestacy statutes to protect the interests of children and surviving spouses. The legal framework is silent as to the application of marital property and inheritance laws to community lands. While principles of gender equity established in the Constitution (art. 2.2) and Civil Code (art. 4) have general application, communities are granted rights of self-determination under the Constitution (art. 89), which may include establishing rules and processes related to inheritance and marital property rights within a community.³⁴ For example, Law No. 22175 in article 19 states that controversies among members of the native community are resolved by its own (internal) organizations. It also says that in civil or criminal processes, the courts should take into account the customs, traditions, beliefs, and values of the communities.

Laws governing community lands and community self-governance are gender-neutral.³⁵ There is no explicit requirement that

27 Ley No. 24646, art. 6.

28 Ibid.

29 See generally, Ley No. 24646 and Reglamento de la Ley General de Comunidades Campesinas, Decreto Supremo No. 008-91-TR.

30 Ibid.

31 MINAG 2013. Decree-law No. 667 on the Rural Property Registry.

32 Supreme Decree No. 005-2007-VIVIENDA, adopted in February 2007

33 Civil Code, arts. 295, 302 (Decreto Legislativo No. 295). All goods are presumed to be part of the community of property unless proven otherwise (art. 311).

34 Article 89 of the Constitution (1993) recognizes the legal existence of native and peasant communities as juridical persons having autonomy in their organization, communal work, and use and free disposal of their lands.

35 Ley No. 24656.

community-level governance include women, nor are protections for women's rights mandated. In practice, women are often excluded from the male-dominated community assemblies. In addition, community decisions on inheritance of rights to community land tend to favor inheritance by sons rather than widows.³⁶

Customary rules of inheritance in Peruvian communities often discriminate against women and girls, and gender distribution of land remains unequal. Traditionally, in agricultural communities, patrilocal marriage practices discourage inheritance of land by daughters in favor of sons who remain in their birth village.³⁷ Though both male and female children traditionally inherited land in many communities, some studies suggest that this distribution strongly favored male children, with female children inheriting much smaller plots as compared to their male siblings.³⁸ Changing demographics – notably, widespread out-migration from rural areas by men to find work – and increasing fragmentation of land holdings may be contributing to a breakdown in these traditional norms, and may be leading to a change towards more egalitarian inheritance of land.³⁹

V. Intervention

a. Pre-project situation

In the communities encountered in the present case study research, the majority of arable land was long since allocated into individual family parcels. Where land rights are individualized, family parcels are passed from generation to generation, usually without strong participation or oversight of the community. Individual parcels are heritable and can be rented out to other community members, but cannot be sold. In some cases, there exist titles of possession and deeds of sale pertaining to individual plots within the community land. Such documents are considered valid within the community, but in fact hold no legal value. This level of individualization is the norm among rural communities in the Sierra. Family parcels are held and worked by family members, who are seen as the legitimate owners of the land.

Registration of community land provides a critical link to local and district government services; communities with missing or incomplete paperwork are left out of local level budget allocation and lack access to services. Registered communities having the correct documentation may present a request for funding from the district government.

PTRT-3 is the third phase in the ongoing land rights formalization effort that began in 1992 with the PETT project. Though PTRT-3 is designed to engage with internal community governance structures of indigenous and *campesino* communities, it is not responsible for establishing and ensuring the functionality of these bodies. In many cases, this has limited the effectiveness of PTRT titling efforts, for which limited governance capacity of communities presents a barrier and causes significant delays.

For women, this gap poses a potential barrier to realizing land rights protections under the formal law and to ensuring that women are not further marginalized as community land rights are formalized. Women are often left out of community governance and cannot realize these rights. In part this can be related to the development and content of community statutes, which establish who is considered a member of the community. Only members have the right to attend and speak up in meetings, run for and hold leadership positions, and make decisions at the community level. In defining their statutes, communities have tended to adopt existing internal norms and traditions, or else borrow from neighboring communities or generic statute language that does not reflect local rules. Both practices have resulted in community statutes that exclude women's participation in governance.

The SER project works to address these issues by working to improve community land governance to ensure that both men and women in communities have security of tenure, play a meaningful role in governance, and can benefit from government-led programming.

36 Deere, C. and M. Leon. 2003. The Gender Asset Gap: Land in Latin America, World Development Vol. 31, No. 6, pp. 925-947.

37 Ibid.

38 Deere and Leon. "The Gender Asset Gap"; CEPES. 2008. Los derechos de propiedad sobre la tierra en las comunidades campesinas, Informe Final, <http://www.cies.org.pe/sites/default/files/investigaciones/los-derechos-de-propiedad-sobre-la-tierra-en-las-comunidades-campesinas.pdf>.

39 Deere and Leon. "The Gender Asset Gap."

b. Project objectives and scope

SER is a national NGO working on issues of rights and democracy, citizen empowerment, and participatory land and resource governance. SER undertook the project with the objective of increasing indigenous peasant women's access to and effective use and control of resources on community lands so as to close the gender gap and to support men's and women's contributions to a sustainable rural economy. The project, called "*Mujeres campesinas indígenas quechuas y aymaras acceden a la gobernanza de la tierra en sus comunidades*"⁴⁰ ("the project"), worked with communities to address barriers to women's land rights in rural communities by building capacity and awareness among community leaders and community members: (a) to safeguard and promote women's rights of voice and participation in community decision making, (b) to increase the participation of native and peasant women in local and regional organizations, and (c) to provide support and guidance to community assemblies in developing or amending their internal governance instruments.

Certain benefits accrue to communities that are officially recognized by the government, including, but not limited to, eligibility for state-sponsored programs and budgetary support. Yet many communities lack the capacity to meet the state requirements. The project capitalized on this capacity gap as the entry point for engaging with communities on governance-related issues.

The project was implemented in Puno and Ayacucho regions of the Andean Highlands, where SER has regional offices and has been active for several years, with oversight and technical support provided from SER's main office in Lima. Project participants included 140 leaders (indigenous peasant women and men) in 60 rural communities in Socos and Vinchos Districts (Ayacucho) and Ilave and Pilcuyo Districts (Puno). In these highland areas, family economy is based on agriculture, livestock, and, to a lesser extent, trade, particularly in parts of Puno bordering Bolivia.

In each region, the regional coordinator leads project activities, with support as needed from SER program staff and technical consultants. Regional coordinators have extensive experience working with native and peasant women's networks and with the communities in the respective target areas. Each regional coordinator worked directly with five communities, reaching a total of ten communities. The project ran for two years, from January 2014 to December 2015, and a new project is now underway in Puno Region to continue and expand the project for an additional two years.

Project goals and planned component activities included:

Intended Outcome 1: Indigenous peasant women exercise their collective rights, closing the gender gap in the land tenancy systems in their rural communities.

Components:

- Develop and implement a training program to build capacity among indigenous and peasant women on gender equality, leadership, land rights, and prior consultation and negotiation.
- Facilitate an exchange of experiences among rural women leaders from Ayacucho and Puno on land governance and gender equity.
- Support the participation of indigenous and peasant women in local and regional organizations, advising them as needed to improve the content and presentation (through training on public speaking) of their participation and to cultivate their leadership skills.

Intended Outcome 2: Indigenous and peasant women participate in land governance.

Components:

- Increase community awareness of the importance of the participation of women leaders and community leaders in community governance structures (general assemblies and executive boards).
- Support rural communities in the development and modification of community governance instruments (particularly community statutes) to safeguard women's right to participate in decisions and to own land.

Intended Outcome 3: Communities have stronger collective rights, can access national and regional resources, and participate in national and international advocacy.

Components:

- Prepare and disseminate studies on women's and men's access to land in Ayacucho and Puno, to elucidate the formal aspects that enable or impede women's access to land.
- Support communities to develop proposals for funding support from local government.
- Support local and regional exposure visits, and share strategies for incorporating national, regional, and local public policies on land governance and women.
- Participate in meetings and regional and national forums on land.

c. Project implementation approach

Gender is a crosscutting issue integrated across SER's programming. Project design was informed by SER's previous work with communities, as well as its ongoing collaboration with and participation in regional and national networks of organizations working on rural community rights and women's empowerment. A previous project undertaken by SER produced two reports

⁴⁰ "Indigenous Quechua and Aymara Women Farmers' Access to Land Governance in their Communities."

analyzing the social, economic, and institutional background of peasant communities in the Ayacucho and Puno regions, respectively. Though these reports did not focus on gender, in their analysis of community land dynamics they highlighted challenges for women, citing limited participation of women in land governance as an issue. This analysis contributed to the project design and implementation strategy.

Among the first components and products of the project was a comprehensive analysis of women's land rights in the target area. The report collects and analyzes the experiences of indigenous peasant women (*comuneras*) regarding land use, access to land, and participation in land decisions within their communities. The study shows how economic activities are contributing to the intensity and frequency of migration and analyzes impacts on the organizational and political dynamics of the community land governance. The study was published and presentations made to the public in Puno (July 2015) and Ayacucho (August 2015).

The SER project aim was to empower women. As originally designed, the project set out to target and work primarily with women to increase their participation in general assemblies, promote female leaders, and strengthen community governance structures to safeguard women's rights of participation and voice. Changing gender-neutral and discriminatory community statutes and helping communities lacking statutes to adopt language affirming women's rights was a central part of the project's strategic engagement to realize these objectives. Based on the preliminary assessment, as well as on SER's previous experience working with communities in the regions, the project employed key engagement strategies, including: (1) respecting and building on local institutions; (2) adopting a 'demand-driven approach' to shape the project; (3) working with both men and women; (4) building flexibility into the project design and implementation; (5) linking to national networks; and (6) linking to and building upon international and domestic legal frameworks.

1. Respecting and building on local institutions

The project used methodologies that accommodated the customs of each community to ensure project effectiveness and the receptiveness of communities to the project, and carefully coordinated with local leaders at every stage of the community engagements.

This was especially critical to the process of changing community statutes to affirm protections for women's rights of participation and decision making in communities. The process for changing the statutes took a long time and consisted of many steps. First, the regional coordinators, with support from a hired facilitator, engaged local leaders and asked them if they were aware of the content of the statutes and their impact on women. This facilitation encouraged reflection on the part of the leaders about the implications of the original statutes on women's rights and on community governance.

The project next formed a committee in each community with the task of updating the statutes. These committees received training on domestic and international laws, particularly ILO Convention 169⁴¹ and national laws offering protections for women, and discussed what minimum requirements these laws imposed on the community statutes. The project used multi-media, posters, and role-playing to increase the understanding of committee members on the legal framework. Over the course of four to five meetings, the committees drafted revised statutes, which they presented to leaders and the formal authorities for comments and revisions. The committees then revised statutes and called a meeting of the assembly to present the provisions of the new statutes to the community. These assembly meetings took two to three days. Female leaders helped to present the proposed new statutes to the communities. The project also enlisted the support and participation of local teachers throughout this process, and, because leaders respect teachers' perspectives and their integrity in presenting information, this helped to garner support among leaders for the statutes' new language.

Though time-intensive, this process of engaging with local processes and including local leaders and local authorities in each stage of the project, was central to the project's ultimate success in revising the statutes and developing rules that the communities understood and adopted as their own.

2. Adopting a demand-driven approach

A central element of the project concept was its "demand-driven" approach; i.e., the project did not approach communities with a set program of what would happen in the project. The project worked with the communities to facilitate a process of self-reflection about their current and desired situations and worked from this community self-assessment to devise a set of activities to accomplish those objectives. This approach aimed to ensure that communities accepted the project and that the project met the needs of community members, while building the capacity of the entire community to understand and support effective governance and the value of women's membership and participation in the community.

3. Engaging with both men and women to support the overall aim of empowering women

The deeply rooted patriarchal traditions in the target communities and rejection of the project by male leaders perceiving that the project wanted "to take men's land" posed a risk to the success of the project. Though the initial aim of the project was to work only with women, the project team adjusted its strategic approach early on to mitigate this risk by actively seeking to work with and sensitize men. This approach is a central part of the project, both to diminish risk to female participants (by convincing spouses and other community members that the

41 The Indigenous and Tribal Peoples Convention, 1989, also known as ILO Convention 169, was designed to protect the rights of indigenous peoples, recognizing and protecting tribal peoples' land ownership rights, and setting a series of minimum UN standards regarding consultation and consent.

project is supporting the community as a whole) as well as to ensure the success of the project's objectives (since changing patriarchal norms within the community requires that both men and women support women's rights).

Engaging men had a significant impact on the ultimate scope of the project. For example, during outreach and sensitization (in soliciting interest on the part of communities to participate in the project) many communities demanded that all community members – men, women, board members, leaders, and youth – receive the trainings. SER saw this as a critical need to ensure that communities accepted the project and to support broader awareness and acceptance of women's rights within communities. SER made this adjustment in all communities, with significant implications for the project budget and the implementation plan. Overall, both regional project coordinators and the national project coordinator agreed that this was an important step in order to engage with men in the communities and to improve the receptivity of communities to the project and its intended changes.

The project's initial engagement with communities helped to encourage both men and women to embrace and participate in the project. In the first outreach events in each community, the regional coordinators used role playing to explore men's and women's respective value in communities and the idea of complementarity – that men and women each contribute and that a society without one or the other would be incomplete. This idea is strongly rooted in Andean cultural traditions and provided an entry point for the project to initiate a conversation within communities about the potential value of women's increased agency and participation. The role-plays also touched on current challenges within communities, particularly the issue of male out-migration and its impact on community governance and on women.

4. Flexible implementation approach

By necessity, to adopt the community-driven approach described above, flexibility was an important part of the project design. Though the overarching aims and approach were defined from the outset, SER remained flexible in determining the mode of engagement, specific activities, and target participants.

This was especially important because of the slow and often unpredictable nature of the process of revising community statutes. Because each community was at a different stage in the process of registration, the project had to adapt to a range of timelines.

SER also adjusted the project approach as needed to overcome barriers to women's participation. For example, at the beginning of the project, women expressed reluctance to participate in trainings and meetings because they were too busy. The project responded by encouraging women to bring their children to the trainings and project meetings. In addition, the project invited

women to bring their older children along to assist illiterate women to understand and participate.

5. Linking to national networks and supporting knowledge sharing among women leaders in communities and between communities within each region

The project's strong and active link to national and regional networks of women's and indigenous people's organizations gave shape to the project concept and supported its implementation. The concept for the project arose from SER's experience at the national level working on advocacy to increase women's participation in governance. It was also informed by the successes of recent campaigns to promote joint titling in the last phase of PTRT-2. These campaigns, which centered on the lack of identification cards as a barrier to women's participation in joint titling, have been widely regarded as a success for women.⁴²

These national campaigns to strengthen women's land rights through joint titling and related grassroots empowerment movements have sustained a dialogue on women's empowerment in rural communities. Leaders from these earlier campaigns are the key personnel in the SER project, and their links to national and local networks and their experience working with local communities, contributes considerably to the project's effectiveness. The national and regional coordinators on the project help also to bolster SER's institutional capacity on gender. Because the regional coordinators are from the regions in which they are working, they are familiar with local customs and contexts and are able to build trust with the communities. SER's longstanding presence in the regions also helps to establish trust between the project and the target communities.

These linkages are also important to ensuring the broader impact of the project beyond local-level implementation. An important part of the project was its active promotion of the participation by local women leaders in regional and national advocacy and other activities. The project facilitated forums for exchanging insights and discussing regional experiences and issues including but not limited to women's issues.

This exchange both strengthened the legitimacy and content of national-level efforts while cultivating leaders from among local communities and supporting community empowerment more broadly. Through these networks, the project plans to make recommendations for including and protecting women in community titling. These recommendations will be presented to PTRT-3 by a consortium of organizations in late 2015, with the aim of informing and influencing PTRT-3 project implementation.

⁴² Glavin, G., K. Stokke, and H. Wiig. 2013. The impact of women's mobilization: Civil Society Organizations and the Implementation of Land Titling in Peru. *Forum for Development Studies* 40 (1), 129-152.

6. Linking to and building upon international and domestic legal frameworks and programs

The formal procedures for registering communities created the foundation for the project's engagement with communities and are used as a vehicle for improving women's rights within communities. This was key to the sustainability of the outcomes sought; the community statutes have a lasting effect on communities, and the community members will retain their awareness of required processes for documenting community rights after the project ends.

Through community education, the project also emphasized the importance of ILO Convention 169 as a basis for asserting increased protections for the land and resource rights of communities. As a result of this training, the communities included express references to the ILO convention and to domestic legal provisions to protect equal opportunity. Expressly linking the statutes to the international legal framework for protecting community rights established a normative basis for internal governance that extended beyond traditional norms, and signified a shift in community members' awareness of the context of their rights as situated within a broader movement to protect and promote community rights to land, resources, and self-governance.

The project also supported communities to develop and present inputs into local processes of participatory budgeting (*presupuestos participativos*) for community improvement.⁴³ Working with leaders selected by the communities, the regional coordinators facilitated a process of identifying key issues of concern to community members, developing a proposal, and carrying the proposal through to local authorities. The men and women appointed by their communities to be leaders gained direct experience in public participation, public speaking, and local government accountability.

VI. Gender Assessment

a. Laying the groundwork for social change

An important limitation of the SER project is that it works to address only the first step of securing women's rights to land by promoting women's participation in land governance; the project does not explicitly address further steps in securing women's rights land, such as community norms for land allocation, redistribution, inheritance, etc. Though some community awareness-raising activities included information about the importance of women's land rights, the objective of the project is to support women's participation in governance, and the project does not directly work to change allocation or access to land. The working theory, however, is that supporting women's participation will result in better decisions about land and resource access and allocation. Because the majority of the community land in the target areas is parceled to individual families and the community assembly has little say over those parcels, it is unclear what impact the project will have on women's access to land. For now, the expectation is that mindset change will be supported through women's increased participation in community discussions, and that this in turn will result in improvements for women's access to and control over community land.

b. Modification of community statutes

Six communities successfully modified their statutes to guarantee women's rights of participation and decision making. This is a significant achievement since prior to the intervention, only widows and single mothers were considered "qualified" community members and therefore entitled to full voting rights. Now, the statutes in the SER target communities affirm that both men and women are qualified members, and thus both able to participate in community governance. According to one male community member in Ayacucho, "The project helped us to reflect on how we want to be organized and what we want to work for. In the end, we changed a few articles. This process was good for our society. Now, our rules match the reality of our community."

c. Women's roles in the community and women's leadership

Women have been elected to leadership positions on communities' boards in 75% of project target communities, including one community in which the president is a woman and four communities in which the vice president is a woman. On average, women make up 33% of leaders in communities participating in the project.

This project is linked with changes in the way that women are viewed in the communities and, perhaps most importantly, the way they view themselves. Some women reflected that the revised statutes ensuring their rights to participate confer upon them a responsibility to learn about community matters and participate actively.

43 This is a participatory policy and management process under the Ministry of Economy and Finance that is intended to permit communities to participate in regional and local processes to define priorities in the use of municipal resources and to meet the objectives of the Development Plan. (Ministry of Economy and Finance webpage, "Presupuesto Participativo", http://www.mef.gob.pe/index.php?option=com_content&view=article&id=1940&Itemid=100288..)

Importantly, women are now seen as active participants in the communities, and are able to make decisions even when their husbands are absent. According to one female leader in Ayacucho, “Aside from what is written [in the statutes], the project has made a difference in how women and men see the community; all women and men are citizens and have value.” This is reflected in the increase in the frequency and quality of women’s participation in meetings, and is a significant shift with positive implications for communities where out-migration of men is common.

Strengthening women’s capacities to speak in public and to actively participate in public is needed to ensure that women can play a stronger role in decision making at the household and community levels. The project helped to encourage women to speak up in their community and household discussions by raising awareness within communities about the value of women’s active participation and by providing training and mentoring support to women to speak up and take on leadership roles. Women now participate more and occupy leadership positions and are better equipped to speak up about community issues.

d. Engaging with male leaders and community members to advance women’s rights

To defuse resistance to the project, project activities actively included men, and the project engaged in ongoing efforts to generate male community member support for the project and for women’s rights. Many men in the communities initially thought the project was trying to take community land and reallocate it to women. In some communities, overcoming this suspicion and getting communities to be receptive to the project required more dialogue with community members than was originally anticipated. Framing the project aims carefully, by focusing on family well-being rather than focusing more narrowly on women, provided an environment that supports open discussion and receptiveness to women’s issues.

e. Project linked to other material gains for the community

With the support of the SER project, two communities also presented budget proposals (still pending at the time of this study) to local government that included women’s ideas and considerations for community development. Because SER target communities are economically impoverished, the possibility of concrete material benefit helped create the incentive to engage in project activities. Whether ultimately funded or not, this linkage strengthens communities’ participation in local governance.

f. Linkages to national and regional advocacy

Linking the project to national and regional networks and efforts ensure that local interventions receive technical support from national and regional advocates and that national efforts are in turn informed by local needs and contexts. The success of the SER project can be tied in large part to the active collaboration and ongoing connection between SER and national network organizations, which are engaged in broader advocacy efforts that derive both legitimacy and specificity from the specific, locally sourced insights and experiences gained from the local intervention. For example, the SER project has informed engagement with the Agricultural Property Title Clearance and Rural Cadastre Division (DISPACR), which is responsible for setting national agrarian policy, and is a key institution in the rural titling process. An SER staff member participates in a multi-sectoral advisory committee, at which she is able to articulate concrete issues and priorities for protecting and promoting women’s rights within the context of community land titling.

g. Recognizing and protecting use rights to community land

In the longer term, SER and ONAMIAP are working to develop a mechanism for recording rights within titled community land so as to recognize and protect both men’s and women’s use rights. The objective is not to promote individualization and individual titling of community lands, but rather to offer options on how to handle already individualized allocation of collective rights.

VII. Recommendations

The prevalence of informal, though longstanding, individual parcelization of community land creates a lacuna for women's land rights and their rights of participation and democratic governance. While there are potential entry points to support women's rights on land held by the community and administered communally – through interventions such as the SER project – the potential impact of such a project on rights to *de facto* individual land is yet to be seen.

a. Align community land titling activities with the Constitutional protections for women by adopting more inclusive statutes

The current position of PTRT-3 – which corresponds to the approach taken by the World Bank in similar projects elsewhere in Latin America – is that the communities' claim to self-governance is an internal issue that falls outside the domain of the state; in the case of women's rights within communities, community rights to autonomy are seen as outweighing the government's interest or ability to enforce women's rights. This is a constitutional question that invokes sensitive issues of indigenous self-governance and the state's rights and obligations. In Peru, it is not a question to be handled lightly. DISPACR should take measures to address this issue directly to ensure that women's rights are protected through the titling activities of PTRT-3. An entry point for this exists through the project's Environmental and Social Analysis (EAS) strategy, which proposes a specific activity to evaluate and propose measures to strengthen the capacity of native and peasant community bodies to ensure the full participation of all community members in each step of the titling process.⁴⁴ Measures could include the development of a policy on gender, model guidelines that promote women's rights of membership, participation, and voting rights in communities titled through the project, and capacity development on women's rights and protections for regional government in charge of implementing titling activities. In this way, though not requiring the community to be more inclusive of women, DISPACR and implementing agencies could support communities to develop and adopt more inclusive statutes and practices that would realize the aims of the law to protect men's and women's rights, while also supporting the state's objective of accurately recording existing rights of all community members to land.

b. Local, regional, and national government capacity development is needed to safeguard women's rights

Limited awareness of women's rights among government actors at all levels is a significant barrier to protecting women's rights to community land in Peru. In one case, after the project had successfully facilitated the revision of a community's statutes,

and the community had registered women on the community census and sought to officially register the list as required by the regulations, the notary refused to notarize the census on the grounds that only men may be heads of household. This misunderstanding of the law among local officials is not uncommon and poses an administrative barrier to women's rights. Such barriers call for increased capacity development efforts at the local, district, and national levels by government and donors implementing land titling programs.

c. Government could take further steps to protect women's rights to community land

Field interviews with government officials and civil society actors found that there is a general resistance within government to proactively deal with traditional norms that act as a barrier to women's rights. Though there are constitutional limits to the government's ability to impose norms on communities and well-founded reasons not to undertake such an effort, there is a clear gap in the legal framework for ensuring that the rights of both women and men within communities are protected.

The laws and regulations that govern land titling and community land rights should be reviewed and, where appropriate, modified to ensure that gender issues are explicitly included and addressed. Ensuring that the enabling regulations that implement the laws lay out clear procedures and safeguards for women's rights is especially critical.

⁴⁴ See note 14 above.

VIII. Conclusion

In general, the project has identified critical gaps in women's rights of participation and ability to realize rights to rural land, and has developed a locally responsive, strategic, and timely approach to addressing identified barriers. The project is a promising example of working to overcome gaps between the law and practice by empowering women and communities to realize women's rights of participation in land governance. By leveraging communities' interest in registration, the project was able to promote women's participation in governance and capacity development of men and women in communities. The project's committed approach to inclusive processes that solicit input from communities about the design and focus of the project effectively ensures that the project aims are aligned with local priorities and needs. While the project itself faced some challenges, such as the short timeline for implementation, it worked well to achieve its aims of improving community governance processes and norms, empowering women, and supporting the ability of communities to access government programs. The completion of a study on gender and land dynamics in the project areas is a notable achievement that contributes significantly to the region's scant scholarship on the subject.

The project's successes are attributable to the local legitimacy and deep commitment to participatory processes that SER has taken. This approach has allowed the project to gain the trust of the communities and to overcome resistance and suspicion of the project through patient, ongoing engagement with community members. In addition, the project's strategic partnerships with and origins from within national indigenous women's networks and the broader social movement to advance indigenous women's rights was a key factor in the project's effectiveness. This connection supported the development of the project strategy, provided rich technical support for the project, provided key staff to lead the project at the national and regional levels, and supported the sustainability and continuity of the project as it worked to develop women leaders and scale up effective approaches to other rural areas.

The project provides important insights into the challenges and effective approaches for promoting women's land rights in the context of communities having a constitutional right to self-determination. These experiences can lend insight and provide valuable input into the implementation of PTRT 3, both in the program's operational activities and in strengthening community governance overall.



The Landesa Center for Women's Land Rights is an initiative of Landesa, an international non-governmental organization committed to the power of land rights as a pathway to eliminate extreme poverty, reduce conflict, and build more gender-equal and just societies. Given the centrality of women's land rights to a host of sustainable development and human rights outcomes, the Center partners with governments and global networks to champion women's land rights in high-level and strategic norms-setting fora, and by leveraging innovative solutions for stronger gender-responsive land rights on national and regional levels.



Resource Equity was founded in December 2014 as a women-run, women-first non-profit which focuses exclusively on gender issues related to land and resource rights. We work in concert with other organizations worldwide to advocate for social and policy change that will enable women to have secure rights to land, and develop the capacity of others to do this work around the world.