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# Gender Issues and Best Practices in Land Administration Projects

## A Synthesis Report

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*Prepared for*

Gender and Rural Development Thematic Group (PREM/ARD) and  
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# Acronyms

ARD	Agriculture and Rural Development Department
AUSAID	Australian Agency for International Development
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEPES	Centro Peruano de Estudios Sociales (Peruvian Center of Social Studies)
CIDA	Canadian International Development Agency
CONTAG	Confederação Nacional dos Trabalhadores na Agricultura (National Confederation of Agricultural Workers)
FIDA-Kenya	International Federation of Women Lawyers-Kenya
FSU	Former Soviet Union
GRID	Gender Resource Information and Development Center
INCRA	National Institute of Colonization and Agrarian Reform
INRA	Instituto Nacional de Reforma Agraria (National Institute for Agrarian Reform)
LTP	Land Titling Project
LTP1	First Land Titling Project
LTP2	Second Land Titling Project
NGO	nongovernmental organization
PESANTEch	Paralegal Education Skills Advancement and Networking Technology
PETT	Programa Nacional de Titulación de Tierra
TAWLA	Tanzania Women Lawyers Association
UN	United Nations
UNIFEM	United Nations Development Fund for Women

*All dollar amounts are U.S. dollars unless otherwise indicated.*



# Executive Summary

This report is a synthesis of information gleaned from four case studies of World Bank-financed land programs in Azerbaijan, Bolivia, Ghana, and the Lao People's Democratic Republic. (See appendix 1 for summaries of these case studies.) The case studies were designed to both broaden and deepen our understanding of how land policies affect women and men, with an aim to applying this knowledge in very practical ways to World Bank-supported land projects. The case studies are essentially program evaluations focusing on how each project approached gender issues, what the gender-differentiated issues are in terms of project participation and benefits, and what lessons can be learned from these diverse experiences. (See appendix 2 for a discussion of the methodology used in preparing the case studies.)

## Why Does Gender Matter in Land Projects?

Land ownership confers direct economic benefits as a key input into agricultural production; as a source of income from rental or sale; and as collateral for credit that can be used for either consumption or investment purposes. However, women may not fully participate in these benefits as members of a household if they do not share formal property rights over the land; only independent or joint ownership can ensure that women have access to control over land-based earnings. Formal rights to land for women can have an impact on intrahousehold decision making, income pooling, and women's overall role in the household economy.

But land is a particularly critical resource for a woman when the household breaks down—that is, for example, in the event of male migration, abandonment, divorce, polygamous relationships, or death. In both urban and rural settings, independent real property rights under these circumstances can mean the difference between dependence on natal family support and the ability to form a viable, self-reliant, female-headed household. Indeed, women's land rights within marriage may afford them greater claims on the disposition of assets upon divorce or death of the husband, as Fafchamps and Quisumbing (2002) found to be the case in rural Ethiopia.

In addition to the direct economic benefits of land ownership, property rights may serve to empower women in their negotiations with other household members. Even beyond increasing bargaining power within the household, land rights may empower individuals to participate more effectively in their immediate communities and in the larger civil and political aspects of society. From a gender perspective, facilitating women's greater participation in these extra-household institutions has both the value of diminishing male dominance of community-level decision making and the benefit of building up women's organizational skills, social networks, and social capital. Women with property rights are more likely to be active members of their communities, and as a result, community institutions themselves are more likely to be responsive to the needs of women.

Although the basic principles of the direct and indirect benefits of independent land rights for women

are global in nature, there are important regional and subregional gender-related differences in land tenure regimes, legal structures, and household resource allocation that should be taken into consideration in the formation of land policy and land administration initiatives. Ultimately, the specific local, national, and religious laws, customs, traditions, and institutions governing land rights must be identified through field research and interviews with women who will participate in and benefit from the land project. Understanding gender differences requires gathering household-level information at the earliest stages of the project.

## Priority Gender Issues in Land Administration Projects

In the design and implementation of a land administration project, there are many issues that should be addressed to increase the participation of women and thus improve the project's ability to recognize and legalize women's rights to landed property. Land administration is concerned with the management of the landholding system for land, natural resources, and fixed improvements such as buildings. Land administration projects might involve

- individualization or privatization of land rights;
- formal recognition of rights based on occupation and use;
- conversion of rights from one legal system to another;
- introduction of a land registration system or conversion of the documentation of rights from one form of registration to another;
- introduction or strengthening of land valuation and taxation systems;
- development or enhancement of land use planning and regulation, including land consolidation and reordering;
- development or enhancement of dispute resolution systems;
- changes in organizational structure and procedures (institutional strengthening and re-engineering).

The projects reviewed for this research included combinations of most of these issues. Gender issues arise in all of these activities because of the ways in which rights are held, transacted, and managed, or because of the varying roles played by women and men

in the land administration processes, in either the public or private sector.

In several of the projects evaluated here (that is, Azerbaijan, Ghana, and Lao PDR), gender was not considered explicitly at the time of project design. In more recent land administration projects undertaken by the World Bank and other donors, more direct attention has been paid to including a gender component. Explicitly recognizing gender as an issue to be considered at the outset will allow better monitoring and evaluation of project impacts and will enable the required financial costs and the required expertise for programs to be included. This synthesis report is structured to address the central gender issues facing policy makers and project managers sequentially as they arise during the course of a prototypical land project.

## Intrahousehold Legal and Customary Rights

Land projects usually review and provide input into land legislation and policy. To specifically consider gender, the project must also understand formal law and customs related to intrahousehold property. Laws and customs related to marital property and inheritance will have the greatest impact on women's rights to own land within a household and when a household structure breaks down. Customs or traditions connected to intrahousehold relationships are not easily changed, and most land projects will have to work within the existing legal and cultural framework, at least initially.

## Identification of Property Holders

As land administration projects have increasingly appreciated the importance of formalizing women's rights to land, there has been the recognition that the practice of issuing titles to just one person in the household (the household head) may be denying other people their land rights. Identifying property holders requires looking deeper than the household level to the individuals within a household or community. Questions such as the following will all lead to a better understanding of how to best identify and formalize women's land rights: Who has communal and who has individual rights to land? What are the inheritance and marriage practices? How much of a role do consensual unions that are not formalized play within

this social system? and What are the variations between urban and rural areas?

## **Methodology for Gender-Disaggregated Field Assessment of Land Rights**

The collection of appropriate gender-disaggregated data is essential for all land administration projects, and should be a World Bank priority, given the investments in the land sector. The main issues are (1) how land rights are distributed among different groups of women and men, and (2) what effects differentiated land rights have on gender equity and on women's capabilities. Collection of this information should be done during land administration project preparation to guide the design of the project, during project implementation, and after the project is completed.

## **Adjudication and Registration Processes**

In land administration, gender issues have often been relegated to women's organizations, nongovernmental organizations (NGOs), or female staff. Gender equity, however, should not be seen as a separate subproject. Instead, it needs to be mainstreamed throughout the project and the organizations involved. At the same time, one cannot expect a land administration project alone to change social policy or law.

During design and implementation of adjudication processes and registration systems, project staff need to be aware of the complexity of tenure, the variety of local customs and practices that can exist within a country. Project staff, community leaders, and project beneficiaries need appropriate information about the formal and informal laws.

The scheduling and location of public meetings, site adjudication, and registration processes should also consider such limitations as household duties and transportation costs. Documentation, such as identity cards, can also be difficult for women to obtain, especially in rural areas. Ways to mitigate this problem need to be addressed early in the project design. In dispute resolution, women may have rights under formal law, but either do not have the knowledge or do not have the money to pursue their rights through the courts. Lack of support from family and community can deprive women of rights even after court rulings.

## **Education, Training, and Communication**

The training of implementers and communication with beneficiaries are key to ensuring gender equity in any land administration project. Training for and communication with beneficiaries of the project help ensure that women can make informed decisions and can help enforce accountability and transparency of the project. Well-informed beneficiaries can make the project sustainable and more effective.

The content of the community training and communication will vary, but, at a minimum, specific training for women should include the following:

1. the legal rights of women specifically, including inheritance and divorce;
2. special problems encountered by women (for example, documentation, location of registration offices, access to credit);
3. the involvement of women and men in the adjudication process and in registration of rights;
4. potential benefits of participation.

In addition to the message of the training or communication, timing, location, and gender of participants can all have an impact on whether the message reaches women, especially those women who are poor, illiterate, or vulnerable.

## **Lessons Learned and Recommendations**

Probably the most important lesson and recommendation that can be made regarding the integration of gender in land administrations projects is to make gender an integral part of the project from the beginning and in all of its phases and components. One underlying lesson from all four land projects and the literature review in relation to legislation is that formal law that requires gender equity in property rights is mostly ineffective in the face of customary law that does not recognize equitable property rights for men and women. Another key finding is that land legislation may conflict with family or personal law, and both types of legislation must be reviewed for their impact on women.

The importance of identifying property holders on the ground before starting a land administration program cannot be overstated. That is, who has what rights in the bundle of rights associated with land? Land ad-

ministration programs should consider ethnic and cultural variations that influence norms and practices regarding land rights. These include access rights across different ethnic groups, inheritance practices in patrilineal and matrilineal societies, and marriage practices. In addition, customary norms and practices tend to change as populations move from rural to urban areas. These different norms and practices will influence who are considered legitimate landed property holders, and they may conflict with formal legal norms.

Strategies that focus on gender training, education, and communication for project designers, implementers, and beneficiaries will include having a plan for communicating the importance of gender issues; addressing different levels of target audiences; including both men and women in any training; ensuring that gender issues are mainstreamed; and ensuring that lo-

cal and regional variations in cultures, socioeconomic conditions, and traditions are included and respected within any information campaign.

## Research

Perhaps the most valuable lesson learned regarding gendered land rights is that lack of information can lead to policies and projects that either limit or reduce women's economic and social opportunities. Few, if any, projects gather gender-disaggregated information at the beginning of a project and then throughout its life. But not understanding women's rights as separate from the household's rights risks disempowering the most vulnerable—although often most economically active—members of society.

# Introduction

Over the past 10 years, the World Bank has undertaken a tremendous expansion of its lending portfolio in the areas of land policy and administration.<sup>1</sup> There are currently 44 approved projects with land as a primary component, more than 100 projects with land as a secondary component, and in the pipeline more than a dozen projects dealing with both urban and rural land issues.<sup>2</sup>

In its flagship publication on land policy, the Bank recognized that past initiatives have often failed to appreciate the importance of the way in which control of assets, and in particular land, is assigned within the household (Deininger 2003). The 2003 Policy Research Report argued that strengthening women's land rights is important both for potential gains to agricultural productivity and for household-level human capital investments such as nutrition and child schooling. It advocated legal measures, education, and capacity building, as well as preferential treatment of women in public programs, such as titling and land reform.

This synthesis report on gender issues and best practices seeks to both broaden and deepen our understanding of how land policies affect women and men, with an aim to applying this knowledge in very practical ways to World Bank-supported land projects. The study is built around four case studies of Bank-financed land programs in Azerbaijan, Bolivia, Ghana, and the Lao People's Democratic Republic. The case studies are essentially program evaluations focusing on how each project approached gender issues, what the gender-differentiated impacts have been in terms of project participation and benefits,

and what lessons can be learned from these diverse experiences.

Drawing on insights from the case studies, along with a review of existing literature and comparative experiences of other countries and international development agencies, the report is structured to address the central gender issues facing policy makers and project managers sequentially as the issues arise during the course of a prototypical land project. Following this brief introduction, chapter 2 deals with the question of why gender matters for land policy and administration, and identifies specific regional challenges facing the gender equity goals of land programs. Chapter 3 discusses the distinct roles of government, nongovernmental organizations, and international donors in promoting gender equity in the formalization of land tenure systems. Chapter 4 then takes up the gender-specific concerns at the various levels and stages of a land project: the legal framework; the field identification of property rights holders; the baseline studies, monitoring, and evaluation of projects; the formal adjudication and registration of land rights; public information campaigns; and beneficiary and implementing agency training. Set forth for each of these phases of project implementation are a checklist of gender-specific information needs and recommendations for how to incorporate such information into project design and implementation. Chapter 5 summarizes the lessons learned and policy recommendations. Summaries of the individual case studies, along with a description of the studies' methodologies, are included as appendixes to the main report.



## Why Does Gender Matter for Land Policy? Theory and Evidence

In most developing countries, land is a critical asset for women and men, and especially for the urban and rural poor. Property rights in land—whether these are customary or formal in nature—act both as a form of *economic access* to key markets and as a form of *social access* to nonmarket institutions, such as the household and community-level governance structures. Figure 1 illustrates this conceptual framework. Because of land's fundamental importance in conferring such access, it is essential that policies that seek in any way to alter the distribution or to formalize property rights in land take great care not to inadvertently disenfranchise the most vulnerable members of the target population, including women. Indeed, if such land programs form part of an overall poverty reduction strategy, it is incumbent upon policy makers to understand the ways in which these most vulnerable groups gain access to land, the particular challenges facing their claims to land rights, and the role that effective rights to land can play in securing their livelihoods and those of their families.

### Gendered Economic and Social Benefits of Land Rights

Land ownership clearly confers direct economic benefits as a key input into agricultural production, as a source of income from rental or sale, and as collateral for credit that can be used for either consumption or

investment purposes. Depending on the norms governing intrahousehold decision making and income pooling, women may not fully participate in these benefits if they do not share formal property rights over the land; only independent or joint ownership can assure women access to control over land-based earnings. Comparative analysis of data from Honduras and Nicaragua, for example, suggests a positive correlation between women's property rights and their overall role in the household economy: greater control over agricultural income, higher shares of business and labor market earnings, and more frequent receipt of credit (Katz and Chamorro 2002).

In addition to the short- and medium-term economic gains generated by greater access to product, capital, and land markets, women with stronger property rights in land are also less likely to become economically vulnerable in their old age, or in the event of the death of or divorce from a spouse. In her study of gender and inheritance in rural Honduras, for example, Roquas (1995) found that widows (and women landowners, in general) are more likely to work their lands indirectly, relying on some combination of hired labor, family labor, and rental to generate income, and/or use the property as collateral for loans for nonagricultural undertakings. Moreover, for widows, land ownership may be one of the few vehicles through which elderly women can elicit economic support from their children, either in the form of labor contributions to agricultural production or cash or in-kind transfers. In the absence of other forms of

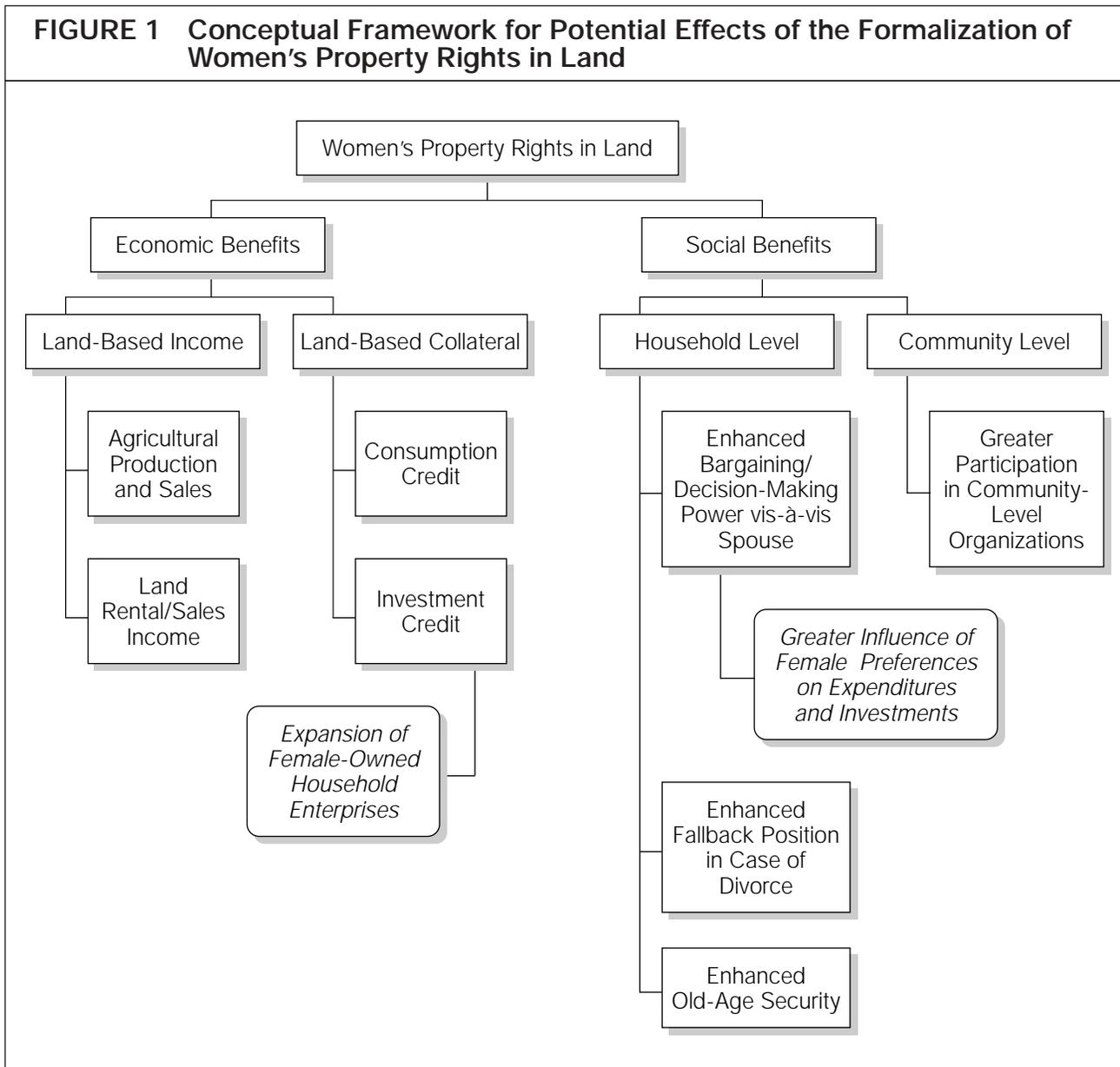
social security, the elderly rural population relies heavily on intergenerational transfers for their livelihoods; and children are more likely to contribute to their parents' well-being if the latter retain control over a key productive (and inheritable) resource such as land (Lucas and Stark 1985).

Land is a particularly critical resource for a woman in the event that she becomes a de facto household head as a result of male migration, abandonment, divorce, or death. In both urban and rural settings, independent real property rights under these circumstances

can mean the difference between dependence on natal family support and the ability to form a viable, self-reliant, female-headed household. Indeed, women's land rights within marriage may afford them greater claims on the disposition of assets upon divorce from or death of their spouses, as Fafchamps and Quisumbing (2002) found to be the case in rural Ethiopia.

In addition to the direct economic benefits of land ownership, property rights may serve to empower women in their negotiations with other household members, and with the community and society at large. Intra-

**FIGURE 1 Conceptual Framework for Potential Effects of the Formalization of Women's Property Rights in Land**



household economic theory suggests that the strength of spouses' "fallback positions" or "threat points"—how well they can do in the absence of economic cooperation with their partners—is an important determinant of their ability to shape household preferences and therefore shape resource allocation decisions (cf. Katz 1997). Data from Central America, for example, have indicated that greater female landholdings are associated with modest increases in food expenditures and child educational attainment, controlling for other relevant household characteristics and unobserved preferences, with elasticities in the 0.01–0.05 range (Katz and Chamorro 2002). Quisumbing and Maluccio (2002) also found a positive relationship between the amount of assets (including land) that a woman possesses at the time of marriage and the shares of household expenditures devoted to food, education, health care, and children's clothing.

Even beyond increasing bargaining power within the household, land rights may empower individuals to participate more effectively in their immediate communities and in the larger civil and political aspects of society. From a gender perspective, facilitating women's greater participation in these extrahousehold institutions has both the value of diminishing male dominance of community-level decision making, and the benefit of building up women's organizational skills, social networks, and social capital. Women with property rights are more likely to be active members of their communities, and as a result, community institutions themselves are more likely to be responsive to the needs of women.

Although it is imperative that land administration and other land-related policies and projects supported by the World Bank be mindful of the potentially negative consequences of excluding women from such programs, the formalization of women's property rights in land should not in and of itself be seen as a panacea for gender inequality—just as land market reform in general is not a panacea for poverty (cf. Boucher, Bradford, and Carter 2005). On the one hand, there may exist multiple barriers to women's ability to translate formal land rights into the kinds of economic and social access discussed above, including gender-specific social norms that circumscribe women's economic activities and decision-making roles, as well as discrimination in the markets for land, labor, and capital. On the other hand, even where enhanced property rights do generate positive outcomes

for women, these must be complemented by initiatives in areas such as education, reproductive health, and political representation in order to realize their full potential for reducing gender inequality.

## Regional Challenges to Gender Equity in Land Policy

Although the basic principles of the direct and indirect benefits of independent land rights for women are global in nature, there are important regional and subregional gender-related differences in land tenure regimes, legal structures, and household resource allocation that should be taken into consideration when forming land policy and land administration initiatives. Ultimately, the specific local and national institutions governing land rights must be identified through field research. What follows are findings from the secondary literature regarding general patterns and trends in the major regions of the developing world.

### Africa

The rights of African women regarding land ownership and management vary dramatically according to the cultural and historical context of the region they are born into, as well as the region they marry into. In his survey of land tenure rights of African women, Kevane (2004) divided Africa into six specific regions: those influenced by Islamic law, the matrilineal areas of Africa, the house-property systems of East Africa, the cocoa- and coffee-producing areas of West Africa, Sahelian West Africa, and southern Africa. Although tenure systems vary greatly even within these regions, these six classifications are helpful in developing a general base for understanding the diversity within Africa.

Of the six regions outlined above, those areas influenced by Islamic law, matrilineal areas, and the house-property systems of East Africa each offer women greater opportunities for land rights than do the remaining three regions. The specific regions of Africa where Islamic law favors women are the coastal eastern region, Northern Nigeria, Northern Sudan, Chad, and the area from the Sahelian countries to Senegal. According to Islamic law, a daughter is entitled to inherit a share of land equal to half of the share of land bequeathed to her brothers. The varia-

tion in size results from the cultural understanding that a woman is provided for by her husband, whereas a man must provide for his wife, his mother, and his unmarried sisters. In addition to this, a woman in some areas is also entitled to one-eighth of her husband's land, should the woman be widowed. However, Islamic communities throughout western Africa tend to avoid adhering to Sharia law by forcing women to cede or sell inherited land to their brothers or other male relatives. In Sudan, recent conflict within the country has reduced the possibility of individual ownership of land by women, even through direct inheritance (Mwagiru 1998).

In addition to African Muslim societies, matrilineal areas throughout Africa also offer women more opportunities regarding land rights. Where we tend to see patrilineal societies bequeath land only to male members of the family, matrilineal communities tend to bequeath to both male and female members of the family. In areas throughout central Africa, where matrilineal descent is highly concentrated, the villages also tend to be matrilocal, with women living in their home villages after marriage. These areas tend to see a higher incidence of female retention of land ownership after marriage or through inheritance.

Eastern African countries, including Kenya and Tanzania, have an entirely different cultural foundation regarding land ownership. Under the house-property systems of these areas, a husband may have several wives, yet must provide some portion of his cattle, farmland, and homeland to each wife. In this scenario, each wife maintains control over the production of her allocated property—conditional on her bearing sons. Although the wife does not own the property in the technical sense, such as with a land title, she does have veto power over the husband's decisions regarding her property. In addition, it is customary in many house-property communities for the husband to offer property as compensation upon divorce.

Although the house-property system appears to offer women greater control over land in some areas, it must also be mentioned that most customary law throughout East Africa is patriarchal, with rights of women limited to their status as daughters and wives, rather than individual members of the community. A woman's inheritance rights to land may be weakened by claims made by male relatives of her deceased husband, or by claims made by her brothers to her father's property (Tsikata 2003).

The cocoa-producing regions of West Africa tend to be areas where women lack basic rights in regard to land ownership and management. There is also virtually no variation in the rights granted to women in matrilineal or patrilineal communities, as men successfully gain individual ownership rights over the land and women tend to gain communal rights in the name of their matriarchy. In patrilineal communities, women with a claim to land are actually representing an absent brother or other male relative. Courts in these regions also tend to favor the rights of men over women.

Another major factor affecting women's rights to land in Africa is the landholding patterns. Most farm and residential land is customarily owned by individuals by virtue of inheritance of ancestral land. There are also common areas owned by communities at custom. In these communities, women tend to have equal access for gathering or grazing, and in fact may rely upon this access disproportionately. There are countries where all land is owned by villages, or held by the village for the state (for instance, Ethiopia and Tanzania), but they are almost entirely products of socialist reforms.

Individualization of land has not always resulted in an increase in women's ability to own and control land. If common land is titled to the head of the household, wives may lose their property rights, especially if joint ownership is not compulsory. Second, customary rights of women for seasonal or other shared use of land can be cut off by individualization of ownership rights. If these "secondary" rights are not specifically preserved (for instance, by registering them), they can be lost. In fact, formal ownership of land and property generally has strengthened the control of already powerful groups, has rendered women's rights and access to resources less secure, and has led to loss in many cases.<sup>3</sup>

In much of Africa, men determine user rights for women and children. Married women may have use or cultivation rights to the land of their husbands, but difficulties arise when there is a divorce or separation.<sup>4</sup> Access, acquisition, holding, and use are subject to the superior right of the family, group, clan, or community.

As land becomes more valuable because of cash cropping and an increase in population growth, women may lose their rights to land. This may occur even in communal systems of land ownership. For example, in Tanzania, widowed women who had previ-

ously been allowed to stay on their husbands' land are now being dispossessed of that land as it increases in value.<sup>5</sup>

In Ethiopia, the most recent laws have moved women's rights to land and property forward. The Family Code (2000) puts civil law ahead of customary law, and mandates joint tenure for married couples and those living in long-term (more than three years) consensual unions. However, Ethiopia's constitution (1995), which calls for equality for men and women, opens up the door to customary law for intrafamily relations by stating that, with the consent of the parties, disputes relating to personal and family laws can be resolved in accordance with religious or customary laws.<sup>6</sup>

Because much of the land in Africa is ancestral land, the majority of countries do not have marital property regimes. That is, property acquired during a marriage remains the separate property of one of the partners. This system can greatly disadvantage women in patrilineal, patrilocal societies.

## Asia

Women's property rights in Asia are heavily influenced by religion and custom, and many countries have pluralistic legal systems codifying the various customary or religious family laws. Inheritance schemes vary, depending on religion or customary lineage patterns (patriarchal or matriarchal).

Hindus, Muslims, and Christians in India are each governed by different testamentary and intestate succession laws. Hindu personal law divides property into two classes: separate (usually self-acquired) property and joint family (ancestral) property. Muslim intestate succession is governed by uncodified Muslim personal law, which grants widows and daughters the right to a share of some family property, although a share smaller than that of men. The Indian Succession Act of 1925 generally governs the succession of property if a Christian dies intestate. If a Christian man dies without a will and he has children, his widow receives one-third of the estate and sons and daughters get equal shares in the rest (Brown and Chowdhury 2002).

Sri Lanka has a pluralistic system like much of Asia. Under one inheritance scheme, women cannot inherit from their deceased spouses unless their husbands provided for them in a will. If a husband is miss-

ing or his death is undocumented, women cannot obtain title to property. Other inheritance regimes arise under other customary laws. Land distributed by the state is distributed to male heads of households and joint ownership of land is not provided for in law.<sup>7</sup>

In parts of Asia, such as Cambodia and Lao PDR, women and men traditionally had an equal right to land. In many of these countries, community property regimes are recognized in formal law. This is the case in Indonesia, Lao PDR, and Vietnam, for example. However, even when under both customary and formal law men and women have equal rights to land, in titling programs land is often titled to male heads of household only. This occurs for several reasons, including because titling is a formal, public process and therefore is the responsibility of the head of the household, usually a male. Public education, gender awareness training at all levels of the project, and using local approaches for gender inclusion are strategies that encourage joint titling of land to men and women, especially where it is culturally acceptable (Tinker and Summerfield 1999).

In India, land law is legislated at the state level, not nationally, so the legal land rights of women vary. Several states in India, such as Madhya Pradesh and West Bengal, have promoted the joint titling of land in their land reform programs. The state of West Bengal has implemented one of the most extensive redistributive land reforms in India since the 1950s. However, Indian law also recognizes the personal law (inheritance and marriage, divorce, separation, and so forth) of its different ethnic and religious groups (Agarwal 2003). These personal laws are often in conflict with the gender-equity provisions of land reform legislation. In a land reform program in Karnataka State, women received title to land when the government distribution program focused exclusively on women (Brown and Chowdhury 2002).

In Nepal, equal property rights are constitutionally provided, although neither formal nor customary law otherwise provides for equal rights (Shrestha 1999).

In China, although land use rights were theoretically allocated to farm households for a period of years, approximately 80 percent of Chinese villages adopted the practice of periodically readjusting landholdings in accordance with changes in household makeup as part of the household responsibility system. As originally implemented, any changes in the number of members in a household, such as by birth,

death, or marriage, were to be followed by an immediate adjustment of the size of a family's landholding. This system of immediate readjustment was hard to manage and was later replaced in most villages by a system of reassessment and readjustment of the entire village every few years (Prosterman et al. 2001).

In most cases these land readjustments ensured that women did not lose their rights to a share of household land upon marriage, because their husbands' households would be entitled to receive additional shares of village land upon their entry into the households. However, even the practice of land readjustments did not ensure that all women received land shares in their husbands' villages. Women who were divorced were particularly vulnerable. By custom, they returned to their families, but their land shares may have already been readjusted in that community, causing them to create land pressure on their parents or their brothers (Li and Bruce 2005).

Because the practice of readjustments caused a significant overall reduction in land tenure security on farmland in China, a new Rural Land Contracting Law went into effect on March 1, 2003. This new law protects contracted land rights from readjustments, while allowing villages to reserve land to help newly added populations to the village. To protect a woman who moves away to her husband's village but is no longer able to receive land in the new village, women are able to keep the portion of the land belonging to their birth families that was allocated for them. However, land is seen as belonging to the household, and when a woman leaves the household, the land is no longer considered to be hers. According to interviews with women farmers, few women will exercise this right (unpublished field research)<sup>8</sup> (Li and Bruce 2005).

## Central and Eastern Europe and the Former Soviet Union

The shift from collective to individual agriculture in the transition economies has brought about the privatization of land rights and varying degrees of land transaction liberalization. Whereas the gender-differentiated impacts of this radical and far-reaching asset redistribution process are just beginning to be studied, in several Former Soviet Union (FSU) and Eastern European countries there are indications of unequal treatment of men and women in the implementation of the new land laws, and evidence of the resurgence of

local-level patriarchal norms and practices with regard to women's rights to land, even where the formal privatization rules do not disfavor women.

In most of the FSU and Eastern Europe, inheritance laws are similar to those of the Western European civil codes. Property is generally to be divided equally among the spouse and children. However, where customary law differs, formal inheritance laws are rarely followed. This is true, for example, in both the Kyrgyz Republic and Azerbaijan where youngest sons generally inherit land and immovable property, and daughters receive a dowry.

Distribution of state land to private individuals and the impact on women varies from country to country. In Uzbekistan, for example, where there is a gradual transition from centralized to market-based property and production, former agricultural collective land has been divided and leased out to families, and unpaid family labor has largely replaced wage labor and machinery. In the absence of state policy to maintain gender equity with regard to land rights, men are gaining control of land: Leasehold contracts and the household parcels are overwhelmingly in the name of the male head of household. Very few women are granted leases and very few women manage farms (Kandiyoti 2003).

In other transition countries, titles and deeds to privatized land are not always made out in the name of both husband and wife, and women may also not be allowed to lease land. In Albania, for example, family land was issued according to the number of family members, but titled and registered only in the name of the head of household (Lastarria-Cornhiel and Wheeler 1998). The male household head, generally the oldest man in the family, is able to exercise customary rights over that family land, and it remains unclear whether individual family members have a right to withdraw, sell, or lease their land shares.

In the Kyrgyz Republic, although the legal rules provide for individual rights within the family and the land titles list the names of all family members, individuals actually only have the right to the value of their portion of the land, but not to demarcate or partition this land.<sup>9</sup> In the Kyrgyz Republic, women leave their households to join their husbands' families upon marriage. For a woman to receive the value of the land she leaves, the remaining co-owners of the land plot must purchase the land from her. The primary impetus for this rule was a concern about frag-

mentation of land, but cultural norms played an important role as well. Very few women request the value of their land when they leave their households to join their husbands' households because it would be shameful for them and for their families if they did so (Giovarelli et al. 2001).

In much of Eastern Europe, however, individual titles to land have been distributed and women have the cultural and societal right to own land. State land was distributed to individuals in the Russian Federation; in Bulgaria, Estonia, Latvia, Lithuania, and Romania, land was restored to whomever were the rightful heirs to the land, regardless of gender or household status. In these cases, women are able to exercise full ownership rights to their land because, in addition to the legal right to land, they have a socially accepted right to the land distributed to them.

In much of Eastern Europe, community property for marital couples is compulsory (Bulgaria, Croatia, Czech Republic, and Russia, for example). On the other hand, although marriage registration in Eastern Europe and the Former Soviet Union was mandatory under the old regimes, research indicates that legal marriage rates are decreasing in many of these countries. In Bulgaria, legal marriage dropped from 9.0 per 1,000 in the 1970s to 4.2 per 1,000 in 1997. Statisticians assume that the decrease in the number of marriages is partly the result of an increase in the number of couples who cohabit but are not married (South Eastern European Women's Legal Initiative 2005). According to May 1999 sociological research on tendencies among young people, 60 percent of the respondents stated that they did not prefer marriage as a form of cohabitation (Giovarelli 2004). In unregistered marriages, the compulsory joint title provisions will not take effect.

## Latin America

How do Latin American women acquire land? Data from several countries indicate that inheritance is the most important medium through which women become independent land owners: 54 percent of female-owned land in Brazil was inherited, 84 percent in Chile, 43 percent in Ecuador, 57 percent in Honduras, 76 percent in Mexico, 47 percent in Nicaragua, and 75 percent in Peru (Deere and León 2002; Katz and Chamorro 2002). Laws and customs governing inheritance are therefore key to the gender distribution of

land.<sup>10</sup> Women are eligible to receive property primarily in their roles as wives and daughters.

Many Latin American countries limit the portion of an individual's property that she or he can freely will to others, and subject the remainder to certain rules regarding the distribution to surviving spouses and children. In Honduras and Nicaragua, for example, property owners may cede up to 75 percent of their estate—high by Latin American standards—to whomever they choose, and the remaining 25 percent is set aside for widows (*porción conyugal*) (Deere and León 2001).

In the case of an intestate death, all Latin American countries designate the legitimate children of the deceased person, regardless of sex, as the first beneficiaries of equal shares of the property (less the marital share). However, given widespread land scarcity, it is common for families to consolidate inherited property either through sales or more informal arrangements that allow one or several (usually male) siblings to retain control of the farm. In most of the region, only if there are no living children do wives become primary beneficiaries, eligible to share the estate with the parents of the deceased husband.

It is also noteworthy that the laws governing inheritance of property in general do not necessarily apply to land acquired under government-sponsored agrarian reform programs; provisions for the latter are often more geared toward preventing fragmentation of holdings by limiting the number of inheritance beneficiaries to a surviving spouse and/or single child.

From a gender perspective, the upshot of all of the laws governing inheritance is that landowners who leave wills have a fair amount of discretion regarding the disposition of their property—and are therefore likely to be influenced in their decision by intra-household norms and expectations—whereas those who die intestate (especially common among the poor) are subject to national law that gives priority to children and some protection to spouses.

Deere and León (2002), who pioneered the research on gender and land in Latin America, argued that intergenerational inheritance patterns appear to be demonstrating greater gender equality over time. They attributed this trend to four factors: (1) rising literacy, which raises wives' and children's awareness of their legal rights regarding inheritance; (2) smaller family sizes associated with decreasing fertility, which leads parents to divide property more equally

among siblings; (3) higher migration rates of young people, which further reduce the number of potential heirs interested in remaining in the agricultural sector; and (4) the declining importance of agriculture in the livelihood strategies of rural households, which reduces the income value of land and therefore makes land less coveted by male family members.

A second important means by which women in Latin America acquire land is through compulsory marital property regimes. Civil or family laws that mandate joint ownership of land acquired during a marriage for married couples or couples living in consensual unions automatically give women some control over land while married and a share of the land in case of divorce or abandonment. Most Latin American countries have some form of marital property laws.

State-sponsored redistribution and titling programs have recently begun to target women. Dating

back to the 1960s for most Latin American countries, the majority of agrarian reform legislation privileged men by designating only household heads with agricultural experience as potential beneficiaries (Deere and León 2001). Women, therefore, make up fewer than 20 percent of the beneficiaries in 10 countries for which gender-disaggregated data are available (Deere and León 2001, table 11). However, a “second generation” of agrarian reform—one in which the clarification and legalization of property rights has taken precedence over redistribution—has seen the share of allocations and titles issued to women in the 1990s increase to close to 40 percent. Continued progress in the alleviation of legal, institutional, and social barriers to women’s land rights is crucial to reconciling the gap between women’s participation in the rural economy and their access to productive resources.<sup>11</sup>

## Actors in the Struggle to Improve Women's Land Rights

In the last few decades, a number of institutions and organizations have become involved in programs to improve women's land rights. These range from government institutions to civil society organizations to donor agencies.

### State Institutions

Beginning in the 1980s, international organizations, such as divisions of the United Nations, took up the demands of the women's movement for equity and have been successful in pressuring member governments around the globe to modify laws and codes to explicitly recognize gender equality, including equity with regard to property rights. At the national level, many countries created women's offices, usually attached to ministries or to the presidential office, which advocate for and promote gender equity. These offices have usually dealt with basic legal rights, such as general equality clauses in constitutions and civil codes and with social services for women, such as health care. They have also been active on equal property rights, lobbying for and promoting gender equality clauses in family and inheritance laws as well as in such land legislation as land reform laws and titling laws. An example of the very active role such institutions have had in the implementation of a land administration program is the Lao Women's Union in Lao PDR, with representatives in the communities. The provincial-level Women's Federation in China, for example, plays an important advocacy and mediation role in difficult cases of inheritance, land disputes, and allocation of apartments.

One of the distinguishing features of the Land Reform Law in Bolivia is the explicit recognition of women's and men's equal rights to land. Article 3, paragraph V, states that equity criteria in favor of women will be applied in the distribution, administration, tenure, and use of land, independent of women's civil status. Women are not required to be heads of households or married in order to be eligible for land rights. The gender provisions of the INRA (National Institute for Agrarian Reform) Law are supported by other Bolivian legislation, such as the 1994 constitution (article 6)<sup>12</sup> and the ratification of the UN's Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>13</sup> by the Bolivian State in 1989.

Other state institutions can also play an important role. In India, for example, West Bengal promoted the joint titling of land in its land reform programs. Beginning in 1992, at the petition of peasant women's organizations, directives were issued from the West Bengal government that land was to be allocated to women as individuals or jointly with their husbands. Local land reform offices, however, largely ignored these directives, claiming not to have knowledge of them or maintaining that the local planning committees (*panchayats*) at the village and district levels should draw up the list of eligible land reform beneficiaries. If these local committees do not find eligible women, local land reform officials maintain that there is little they can do. Several studies have found that even when a wife's name is included on land reform documentation, she often is not informed of that

fact or is not made aware of her property right to the land (Brown and Chowdhury 2002; Gupta 2002). In addition, her name is entered in an ambiguous manner that does not make it clear whether she is included because she is a joint owner or because her inclusion will merely help in identifying her husband (Brown and Chowdhury 2002).

## Labor Organizations

A number of civil society organizations and institutions have also engaged in the struggle to recognize and improve women's rights. Among these are NGOs and labor organizations. In this section, we will examine the ambiguous role that labor organizations have played.

Labor organizations (particularly rural workers' unions and peasant groups) have been active in efforts to gain land rights for landless and landpoor rural workers. Although women are very active in these struggles, these organizations have often failed to recognize women as full members and to make their needs and demands a priority. Urban labor organizations, which generally have more active women's groups within them, have not always supported rural women's demands. The experiences of rural women in Brazil with regard to their land rights within the agrarian reform process are examples of the conflicting trajectories of labor organizations as class-based organizations and of women's efforts to gain effective rights to land, not just legal recognition.

Brazil is the most recent country in Latin America to implement a redistributive land reform. During the first years of the reform, most of the redistributed lands were estates already occupied by rural families organized into peasant groups. In the early 1990s, the agrarian reform effort slowed considerably, picking up again in the mid-1990s with the Cardoso government. In contrast to most other countries, at that time the implementation of agrarian reform in Brazil was delegated to state governments instead of the national government.<sup>14</sup> The language of the agrarian reform legislation and the procedures followed by the agrarian reform agency (the National Institute of Colonization and Agrarian Reform [INCRA]) were to adjudicate land to the household head. As a result, as of 1996 only 12.6 percent of agrarian reform beneficiaries were women (Guivant 2003).

At the same time, however, efforts were undertaken by various organizations, including labor organiza-

tions, to legally recognize women's rights to land. In the 1988 constitutional convention, the national agricultural workers' union, *Confederação Nacional dos Trabalhadores na Agricultura* (National Confederation of Agricultural Workers [CONTAG]), together with the governmental women's office, *Conselho Nacional dos Direitos da Mulher* (National Council for the Rights of Women), lobbied strongly for inclusion of an article (article 189) in the new constitution that would recognize women's rights to agrarian reform land, including joint ownership. The joint titling of land to couples is optional, however, not mandatory. During the early 1990s, the two main labor organizations, CONTAG and *Central Unica dos Trabalhadores* (Central Workers' Union), called for the inclusion of women's names on agrarian reform certificates and titles; neither organization, however, made this issue a principal priority (Deere 2003).

The number of women who have received legal rights, whether by individual or joint titles, remains low. One reason is that the agrarian reform agency did not modify or change its norms and procedures in the identification of beneficiaries or in the issuance of certificates and titling.<sup>15</sup> In addition, there was little institutional, political, or grassroots pressure for INCRA to recognize women as legitimate agrarian reform beneficiaries or to recognize their rights to joint ownership. The rural labor organizations and the peasant organizations pressing for land redistribution, including the women's wings of these organizations, failed to follow up on the opening that the constitution gave rural women. In part this was because of the low priority given to women's land rights and to other gender issues by the leadership of these organizations.

According to Deere (2003), a decade after legal recognition of joint ownership, the national leadership of CONTAG finally took up the recommendations of its women's commission and, at its Seventh National Congress in 1998, approved the specific demand that the names of both spouses be included in the land registry. Over the next few years, CONTAG participated in a number of national women's events, such as International Women's Day on March 8, 2000, and the *Marcha das Margaridas* in August of that same year. As a result, INCRA finally acknowledged the legal norm of joint property established in the 1988 constitution by announcing that it would change its titling procedures to include on property documentation the names of both spouses (Deere

2003). Although no official gender-disaggregated data are available for the period after 1996, some preliminary data for several states cited by Deere (2003) indicate that not only has the number of beneficiaries increased significantly, but also the proportion of women beneficiaries has increased.

## Legal Aid Organizations

Legal aid organizations are generally NGOs that provide free or low-cost legal counsel and advice to groups and individuals who are resource poor. One mechanism for providing legal counsel that has become quite widespread among legal organizations is the training of paralegals who work with communities and disadvantaged groups. Many of these legal organizations also engage in advocacy for women's land rights and in lobbying legislative bodies and state land program officials to legally recognize women's equal land rights as well as marital property and joint ownership.

In the Philippines, the Paralegal Education Skills Advancement and Networking Technology (PESANTEch) produced a study on the agrarian reform program that found the legal system had failed to properly handle land and agrarian cases. The paralegals at PESANTEch provide farmers (male and female) with the basic knowledge and skills necessary to improve their tenure arrangements and entitlements. The paralegal organization was set up to further the effectiveness of land literacy efforts by providing advocacy as well as information.

In Kenya, the International Federation of Women Lawyers (FIDA-Kenya) undertakes advocacy and civil litigation on women's land rights. Their activities include research; training of community and opinion leaders, monitors, and paralegals; advocacy in public interest cases; and extension of legal awareness. FIDA-Kenya has undertaken a number of cases in the recent past that clearly show how traditions perpetuate injustices against women in relation to property rights. They have focused more on rural than on urban areas, and are trying to stop husbands and fathers from selling off land that sustains families. This often entails engaging with local land boards that are generally made up only of men. Paralegals are chosen from the communities, receive regular training, and are given certificates. These paralegals take care of minor legal actions and report violations. FIDA-Kenya has also produced a primer on property law. Its

policy recommendations include the formulation of more gender-responsive policies in land reform processes; the automatic inclusion of women as joint owners in family properties; and the adoption of an inheritance law that makes it mandatory for women to have a share of their parents' ancestral land.

Another legal aid organization, Tanzania Women Lawyers Association (TAWLA), has played an important role in extending gender awareness regarding property rights. The Gender Land Task Force, which was coordinated by TAWLA, issued a series of recommendations for the 1999 Land Acts. Most of its recommendations were adopted, including legal awareness programs (leaflets, posters, and radio messages in simple language) and legal aid desks in villages to provide timely legal services. Other recommendations included training of trainers, law enforcers and opinion leaders; production of a booklet of procedures and a training manual; and the formation of a village information center. These actions should facilitate the observance of the joint property presumption between spouses, which is contained in the 1999 Land Act.

The principal objective of the Women's Legal Centre in South Africa is to remove barriers, through advocacy and litigation, to women attaining substantive equality. The organization lobbies parliament for land reform on issues affecting women's rights and conducts impact litigation on women's rights issues, including land rights. As the Women's Legal Centre takes up test cases, it has found that customary tenure and law were difficult to litigate against because of strong opposition and the lack of a coherent law reform process. For example, the center has not been able to bring a case to court on customary inheritance practices that discriminate against women as both daughters and wives.

## Customary Institutions

Customary institutions are often very important for enforcing women's land rights or making changes to long-held cultural norms. They are local and therefore accessible, the leaders are generally respected by the community, and women are less ashamed to approach village leaders than to participate in a formal court hearing. There may be a number of different institutions that enforce customs in villages. Customary institutions may include councils of elders; mahallya, or neighborhood, committees (generally in Muslim

countries); tribal councils; clan leaders; religious leaders; and informally identified leaders such as teachers or other educated professionals. These traditional institutions can have more power to change cultural norms than do legislative bodies or modern institutions. Traditional leaders are able to speak with authority for the whole community and can thereby institute fundamental, socially agreed change.

## Women's Organizations

Women's organizations have also been active in pressing for women's rights to land, particularly after the declarations of the Fourth World Conference on Women held in Beijing in 1995. For example, women's organizations in almost all the countries of Latin America have lobbied government and pressed for women's land rights.

In Guatemala, the *Coordinadora de Mujeres por el Derecho a la Tierra y la Propiedad* (Organizing Committee of Women for the Right to Land and Property) has been working with the Land Fund to ensure that women are treated equally with regard to access to the fund and to ownership. In Panama, successful lobbying by the *Coordinadora Nacional de Mujeres Rurales* (National Committee of Rural Women) resulted in the inclusion of mandatory joint titling in the reform of the Agrarian Code.

In 1993, Peru began implementation of a rural titling program with two main objectives: to title the land adjudicated to farm workers and peasants during the agrarian reform of the 1970s, and to regularize the rights of smallholders who occupied land without legal title. The language of the titling program is gender neutral in the sense that gender is not mentioned as a requirement of eligibility for title. The titling program, however, did not consider the cultural constraints that women, particularly rural women, may face in having their names included on land titles.<sup>16</sup> In addition, titling program officials did not receive any gender-sensitivity training at the ministerial and program levels or at the ground implementation level. Anecdotal evidence indicates that the large majority of titleholders are men, and that spouses are not being included in title documents.

In 1996, under the umbrella of the *Red Nacional de la Mujer Rural*,<sup>17</sup> a national forum of 130 peasant leaders, presented a series of demands regarding the rural titling program. Among the demands was that titles be issued to both spouses (whether spouses by

civil marriage or consensual union), that sale contracts of land purchased by women be recognized as legal for title purposes, and that inheritance of land be equally divided among all sons and daughters (Deere and León 1998). The *Red Nacional de la Mujer Rural* also brought attention to the fact that women were not being targeted in the information and education campaigns organized by the *Programa Nacional de Titulación de Tierra* (National Program of Land Titling [PETT]). In 1997, the *Red Nacional de la Mujer Rural* began a national campaign demanding joint titling of marital property, and started to pressure PETT officials to adopt norms and procedures to ensure the joint titling of spouses (Fernandez et al. 2000). The *Red Nacional de la Mujer Rural*, together with the rural research facility *Centro Peruano de Estudios Sociales*, also organized a series of regional meetings around the country with women peasant organizations and, with the regional PETT agency, they highlighted the productive role of women in agriculture, the importance of land rights for women, the participation of women in the titling process, and the need for gender-sensitivity training for titling officials (Fernandez et al. 2000).

## Donor Organizations

Donor organizations can play an important and sometimes inadvertent role in improving women's land rights. A project in Honduras funded by the Canadian International Development Agency (CIDA) provides an example.

In 1992, Honduras passed an "agricultural modernization" law that established a program for the purchase and titling of occupied public lands by smallholders. These lands were to be adjudicated without bias to women and men, and could be jointly titled to a couple. Joint titling was only optional, however—available only if a couple requested it. Because of women's subordinate status in Honduras and the lack of information regarding the joint titling option among rural women, very few joint titles were issued during the first few years of the titling program.<sup>18</sup>

In the Guayape Valley of Honduras, a rural development project<sup>19</sup> funded by CIDA had begun operation in 1991. In its first phase (1991–5), the project focused on diversifying and stabilizing agricultural production in the valley, mainly through irrigation and technical innovation. This phase gave some limited support to land titling, mainly to facilitate borrowing for farm im-

provements. Ninety percent of the titles were issued solely in the name of the male member of the couple, with only 10 percent issued to couples.

The project's second phase (1996–2001) focused on the development of a replicable model for sustainable natural resource management. Experience in the earlier phase made it clear to NGO staff that completing the titling process was important for all aspects of the valley's sustainable socioeconomic development and for setting up the basis for investments in agriculture and natural resources management and conservation. CIDA also realized that the project's success depended on the participation of both spouses within a household, and that couples in comparison to individuals had a better credit repayment record. In the second phase, therefore, couples with joint titles were given preferential status for credit. In this way, CIDA promoted the option of joint title in the Guayape Valley. Through a combination of innovative agreements and initiatives between the NGO and government agencies involved in the titling process, the number of titles issued to women more than doubled, compared with other regions in Honduras.<sup>20</sup> By the year 2000, women were included on 56 percent of titles that were issued for 2,500 parcels covering almost 20,000 hectares: 36 percent of titles were issued to couples, 20 percent were issued to women only; 44

percent were issued to men alone (Secretaría de Agricultura y Ganadería, Honduras 2000).

The United Nations Development Fund for Women (UNIFEM) Project in Tajikistan conducted a national consultation on rural women's rights in Tajikistan, with the participation of representatives from the Government of Tajikistan, UNIFEM headquarters, local NGOs, and UN agencies and international organizations operating in Tajikistan. The purpose of the national consultation was to highlight women's lack of empowerment, land rights, and economic security. The consultation attracted many participants, and further plans for action were made to advocate for rural women's interests and concerns related to the land reform in Tajikistan. The UNIFEM Project developed official commentary, related to women's land rights, to the Family Code of Tajikistan and to the Land Code.

In addition, an agreement has been signed between UNIFEM and the Women and Family Affairs Commission under which information and counseling centers will be established in 11 districts of Sogd and Khatlon provinces and in some other regions of Tajikistan. The centers will offer free legal counseling on land, loans, and farming, and should help the fledgling Tajik female farming sector grow.



## Priority Gender Issues in Land Administration Projects

In the design and implementation of land administration projects, there are many issues that should be addressed to increase the participation of women and thus improve the projects' ability to recognize and legalize women's rights to landed property. At the same time it should be recognized that land administration projects alone cannot change, nor should they necessarily change, the culture and traditions of the country. They must act within the existing legal system, but at the same time, they can promote reviews of the law and of practice to make them more gender inclusive.

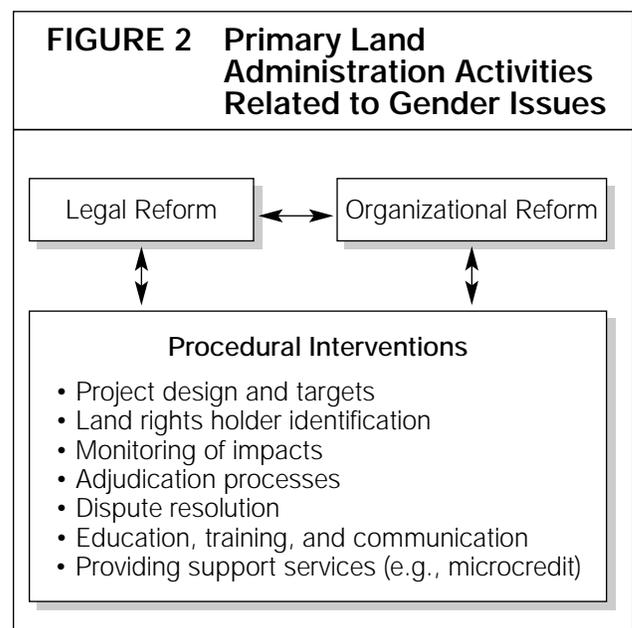
Land administration is concerned with the management of the landholding system for land, natural resources, and fixed improvements such as buildings. The main processes in land administration reform projects (for example, Nichols 1993) are illustrated in figure 2.

The following reforms are common (individually or in various combinations) in large projects and programs:

1. individualization or privatization of land rights (that is, from collective, state, large estate, or communal landholding patterns);
2. formal recognition of rights based on occupation and use (these may be group or individual holdings);
3. conversion of rights from one legal system to another (for example, conversion from leasehold to a form of ownership or from customary to formal law);
4. introduction of a land registration system or conversion of the documentation of rights from

one form of registration to another (for example, deeds registration to title registration);

5. introduction or strengthening of land valuation and taxation systems;
6. development or enhancement of land use planning and regulation, including land consolidation and reordering;
7. development or enhancement of dispute resolution systems;
8. changes in organizational structure and/or procedures (institutional strengthening and re-engineering).



The emphasis in most land administration activities has customarily been on the technical and legal components, rather than on the social, economic, or environmental impacts of these activities.

The projects reviewed for this research included combinations of most of these activities. For example, Ghana involved sporadic conversion from a document-based to title-based registration system, whereas the projects in Bolivia and Lao PDR entailed adjudication and formalization of rights, resulting in registration. The Azerbaijan project was concerned with privatization and registration. In Azerbaijan and Lao PDR, the projects also explicitly dealt with new organizational structures and institutional capacity building. This was one of the limiting features of the land registration project in Ghana, which was hindered by the existing structures, mandates, and procedures.

Gender issues arise in all of these activities because of the ways in which rights are held, transacted, and managed, or because of the varying roles played by women and men in the land administration processes, either in the public or private sector. Traditionally, land administration organizations are male dominated, in large part because of the importance of fieldwork (often in rough conditions) that was deemed unacceptable for women (and is still unacceptable in some countries and regions).

These factors lead to several issues in land administration reforms that have a gender dimension, including

1. a lack of understanding of the complexity and diversity of land tenure patterns, including women's rights, by most land administrators, by project managers, and by those providing technical assistance;
2. a belief that addressing gender issues only means issuing titles or co-titles to women, with little appreciation, for instance, for what happens (a) in subsequent transactions, (b) in enforcement and actualization of those rights, (c) in realizing the benefits that may stem from formalizing women's rights (such as access to cred-

it), and (d) in altering decision-making powers within households;

3. a belief that addressing gender issues within land administration is ensuring that women are hired (for example, as clerks, interpreters, social specialists), rather than mainstreaming equal opportunities for all employees in all types of activities.

There has been a lack of understanding of the diversity and complexity of tenure and a belief that gender issues can be solved easily through co-titling or employing women on the projects.

Overcoming these misconceptions at all levels is the real challenge for land administration projects with respect to gender.

In several of the projects evaluated in this study (that is, in Azerbaijan, Ghana, and Lao PDR), gender was not considered explicitly at the time of project design. The need to address gender issues in Lao PDR arose from social studies made in parallel but not as part of the project. In Ghana, the inclusion of women in the titling project was a result of the nature of urban landholding and general recognition of women's property rights. It did not result from any specific intervention or targets. In Bolivia, gender concerns were discussed during the project preparation, but it appears that these concerns did not translate into guidelines and procedures specifically focused on women. It was only after the project was several years into implementation that the implementing agency began to take some measures to modify titling procedures so as to incorporate women into the titling process and get their names on titles.

In more recent land administration projects undertaken by the World Bank and other donors, more explicit attention has been paid to including a gender component. There have been generally three major approaches: (1) specifying enhancement of women's access to land and credit as project targets (for example, Brazil, Mozambique, Vietnam); (2) analyzing impacts from a gender perspective through parallel studies or demonstration projects (for example, Lao PDR, Kyrgyz Republic, Zimbabwe); and (3) making

gender a cross-cutting theme in all project activities (for example, Brazil, Cambodia). Each approach has its strengths and weaknesses, and the approach (or combination of approaches) taken will depend on the scope of the project, the political will of the project designers and implementers, and the particular cultural issues within the country and region. The main point, however, is that explicitly recognizing gender as an issue to be considered at the outset will allow better monitoring and evaluation of project impacts and will enable the required financial costs and the required expertise for programs to be included.

Priority issues outlined in this section include the legal (both formal and customary) framework regarding women's rights to land, the process and methodology for identifying rights holders on the ground, and the actual formalization and adjudication of land rights, and education and training during implementation of the project. In addition, there is the critical issue of monitoring and evaluating project activities and results during the life of the project to ascertain whether gendered activities and procedures are effective and to introduce midstream adjustments where needed.

## Intrahousehold Legal and Customary Rights

The first question facing policy makers and project managers during the course of a prototypical land project is what are the formal legal rights to land for individuals and households? If gender is taken into account, the next set of questions would concern the rights to land *within* a household or community, and how those rights differ for men and for women. This inquiry would look at both formal legal land rights for women and customary or socially acceptable rights to land. Specifically, the questions would be these:

- Do women have a basic formal legal right to hold land (to own or to use over the long term)?
- What rights are included—the right to use, to make decisions about, to pass by inheritance, to partition, to transfer, to receive the benefit of or income from?
- What land do women have a right to own or use?
- What rights do women have within their natal family, within their marital family, or outside of these? That is, what do the inheritance laws, marital property laws, polygamy laws, and laws related to di-

voice say about women's rights to own ancestral property and/or marital property?

Cultural prohibitions against women's ownership or use of land are often more powerful than written law. Customary law may determine which rights to land a woman may freely exercise—perhaps the right to use the land or the right to gather fruit from it, but not the right to bequeath the land through inheritance, for example. Women may also have inferior legal rights to land as a result of outright discriminatory policies at the central or local level because of case law that redefines the written law, or because of poorly drafted regulations governing land and property rights.

Land projects generally must deal with formal law and customs related to intrahousehold property as they exist, and they must work within them. Much can be done within *land* legislation to encourage women to acquire joint title to marital property, and examples of this follow. Family law, inheritance law, or customary law, however, may have a more significant effect on women. Although changing family law and inheritance law may be necessary, such changes do not come easily and in some cases would be outside of the realm of a land administration project.

What follows is a review of these legal and customary issues in the four cases undertaken for this report. In all four case studies, both formal law and customary law had an impact on women's rights to land and on the implementation of the land project. This section discusses the two central legal norms related specifically to women's ownership<sup>21</sup> of property within the household unit: (1) marital property rights and (2) inheritance rights.

## Marital Property Rights

Marital property can be held in common ownership, joint ownership, or separate ownership. Each of these can be voluntary or compulsory rights in law. Common ownership means that each person owns a portion of the whole of the property (not yet demarcated). The owners can do as they want with their portion of the whole, and upon death, their portion is part of their estate. Joint ownership means that more than one person owns the whole of the property. The main difference between these forms of tenure is that in the case of joint tenure, the land can only be acted on with the consent of all the owners because each owner is acting for all owners on the whole property

(see table 1). For example, for land to be disposed of, all joint owners must agree to do so. While still alive, joint owners may transfer their interest to all the other owners but to no other person. In some property systems, if a joint owner dies, his or her interest in the land will vest in the surviving owner(s). In others, upon the death of one of the owners, the property must be divided equally among all owners and the joint tenure becomes common tenure, with the deceased owner's share being inherited by his heirs (usually spouse and children). The law may mandate a type of ownership in certain circumstances (such as marriage). Compulsory joint ownership for married couples is sometimes referred to as community prop-

erty, and often some land is excepted (that which is bequeathed or gifted to one party only).

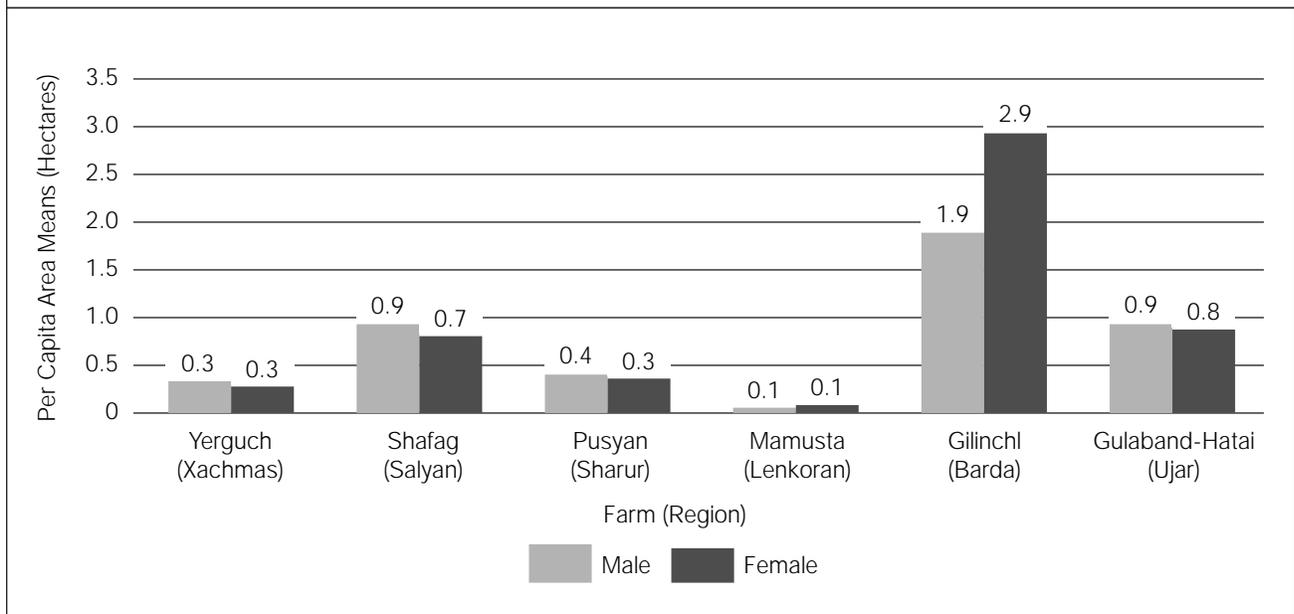
Compulsory joint or common ownership can occur in one of two ways. First, the state could distribute and title state land to private individuals and require that the land be distributed and titled to all members of the household, or to all qualifying members of the household (regardless of gender).

In Azerbaijan, a former Soviet republic, the 1996 Land Reform Law required that land, which had been held in collective ownership, be divided on a per capita basis and distributed to rural residents. Under the World Bank Farm Privatization Project, all members of a household who were above age 16 or 18 received

**TABLE 1 Forms of Property Ownership**

	<b>Common Ownership</b>	<b>Joint Ownership</b>	<b>Separate Ownership</b>
Tenure	Parties own a separate share of the whole	Parties own the property together as a whole (each owns the whole)	Parties own property separately
Compulsory or voluntary (civil law/family law)	Usually voluntary	Can be compulsory (unless contract to the contrary) for married couples, those in consensual unions, or household members of a farm. Can also be voluntary.	Can be the presumption for married couples and those in consensual unions
Compulsory or voluntary (land law)	Can be compulsory when land is privatized or individualized (land is distributed to all household members on a per capita basis)	Can be compulsory when land is privatized or individualized for married couples or families living in one household	Can be the presumption as part of a distribution of land
Inheritance	Owner can bequeath a separate share of the property by will, or share will be distributed intestate	Either the deceased's share automatically vests in the remaining owners, or the property must be divided and becomes common ownership	Separate inheritance
Transfer	Owner can transfer a separate share without permission of other co-owners	Permission of other joint owner(s) is required for any transfer of the property	Can transfer without permission

**FIGURE 3 Land Distribution, by Gender of Household Head, in Azerbaijan**



a per capita share of land, and their names were listed on the land certificate, although only the name of the head of the household was registered in the land registry. Under the Land Reform Law, this distributed land was held in common ownership.

Although the law called for equal distribution of land per adult farm member per farm, in fact there were variations between the size of the land plot received by male heads of household and the size received by female heads of household on several of the farms.

In a 170-person survey of the six farms that were reorganized under the World Bank project, we found that female-headed households received on average from 0.4 to 0.1 hectare per capita less than did male-headed households (see figure 3). Exceptions were the Mamusta and Gilinchl farms. On Mamusta farm, female-headed households on average received 0.5 hectare more than male-headed households. On Gilinchl, the one household headed by a female received 1.0 hectare per capita more than households headed by males.

In Bolivia and Lao PDR, legislation provides that land allocated to a household by the state is held in joint ownership. In Bolivia, the Family Code specifies that property acquired through grant or adjudication from the state forms part of the community property

of the conjugal couple (article 111). This stipulation has been interpreted by the Land Administration Program to include land distributed through the agrarian reform and resettlement programs. Based on this interpretation, titling procedures require that land being titled for the first time be titled to the couple, not only to the head of household. Moreover, Bolivia's INRA Land Law (no. 1715, 1996) explicitly recognizes women's and men's equal rights to land. Article 3, paragraph V, states that equity criteria will be applied in the distribution, administration, tenure, and use of land in favor of women, independent of their civil status.

For land that is acquired other than through state distribution, a country's law may provide for compulsory joint ownership for married couples, and potentially for those who live in consensual unions. Compulsory joint ownership rights for marital property are usually established in civil law, family law, or land law, which frequently conflict.

In Azerbaijan, although the distribution of state land created common ownership within the household, marital property under civil law is held jointly unless the matrimony contract establishes another agreement. Under the civil law scheme, therefore, a court could decide that, by law, the shares of a married couple are held in joint ownership and not in common ownership, thus giving women within a

Separate property within the marital community provides women with the most control over their portion of the land. The women in Ghana who had land titled in their names stated that they preferred to own their own land, rather than having joint ownership of land with their husbands. On the

other hand, when women have far fewer resources than do men, separate property regimes can disadvantage women if they do not traditionally inherit or acquire land by themselves. In a separate property system, class or wealth may be a greater determinant of ability to own land than is gender.

marriage greater control over the total household land but less control over her share of the land.

Formalizing the right to joint ownership through title registration is not always mandatory, and is rarely fully enforced. In practice, the Bolivian legislation requiring joint ownership of state-distributed land initially had little effect (1996–2001). Beginning in 2001, INRA, the land administration agency, realized that the May 2000 regulations of the law did not include sufficient procedural guidelines to ensure gender equity in the titling process. INRA, therefore, modified its activities and procedures with the objective of including more women in the process and granting land rights to more women.

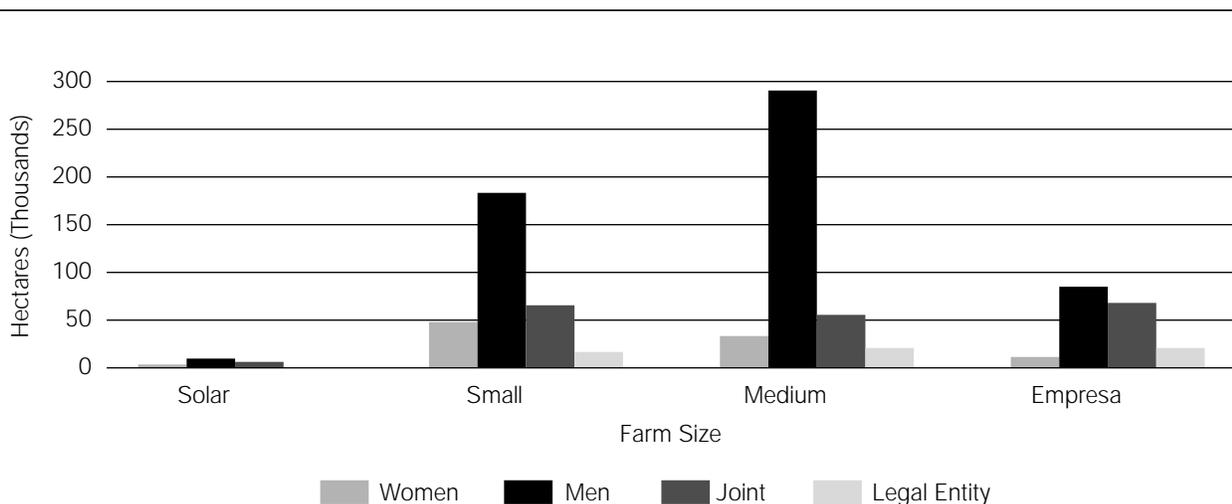
Whereas the number of titles to women increased as these issues were handled, the amount of land being titled to women was even smaller than the number of titles would suggest. Figure 4 confirms this by showing that the amount of land being titled to men

far exceeded the amount titled to women as individuals and to women in joint titles.

In Lao PDR, even though the state is the ultimate owner of all categories of land, individuals and groups have use rights to land. Under formal law, land distributed to couples is to be jointly titled (Law on Land, article 43; Family Law; and Property Law). There are no cultural restrictions on women owning land. However, even with formal law and customary law in place that supported women’s right to a land title, when gender was not initially a focus of the titling project, the result was a low number of titles with women’s names.

If the law establishes rights of community property without requiring mandatory joint registration, land could be registered in the name of the household head only, and a court or other dispute resolution body would have to adjudicate whether the land is held in joint ownership. Under a community property system, even when title to land is registered in one

**FIGURE 4 Amount of Land Titled, by Gender and Farm Type, in Bolivia**



**TABLE 2 Location of Land, by Gender of Registrants, in Ghana**

Location of Land	Gender of Registrants			Total
	Male	Female	Joint	
First-class residential area	217	72	32	321
Second-class residential area	531	234	72	837
Third-class residential area	160	48	31	239
Fourth-class residential area	16	6	0	22
Commercial center	12	7	2	21
Total	936	367	137	1,440

Source: Land Title Registry, Accra, Ghana, 2002.

name only, if the land was acquired during the marriage and with marital funds, the land is owned equally by both spouses. Sometimes proof of marriage or commingling of household sources is required to trigger the right. In most jurisdictions, each spouse may also own property in his or her individual right (called “separate” property). Therefore, joint ownership provisions, without mandatory joint registration, are subject to customary and traditional interpretations of interhousehold ownership.

Countries that have a separate property regime have the presumption that both members of a couple (married or not) have a separate right to land or property acquired during a marriage. Thus, even if someone is formally married and uses the marital property to purchase land, that land can be in the separate ownership of one person only. In this case, if the land is titled it would also be titled and registered solely in the name of one of the parties.

In Ghana, land is held as separate property. Under customary law, property is owned not by the marital community but by the ancestral family. Thus, the formal law to date does not address community property. However, the 1992 constitution requires that the parliament enact legislation regulating the property rights of spouses (article 22), and that assets jointly acquired during marriage must be distributed equitably in case of divorce. There are major variations, primarily based on tribal affiliation, in the number of women who own land in Ghana. One source estimates that 50 percent of land owners are women in the Ashanti region, and only 2 percent to 4 percent own land in the northern and upper west regions, respectively (Fenrich and Higgins 2001, note 1). Under

Law 152, co-owners can register as joint owners or owners in common; where they are owners in common, the registration must state what portion of land each common owner holds (section 88). Either party can request that the land be partitioned.

The Ghana titling project focused on urban land, and for the most part, the owners were from upper- or middle-income families. A study of 1,440 registered titleholders found that the majority of those who registered land were from first- and second-class neighborhoods (table 2). Neighborhoods are classified as first through fourth class, with first class being the wealthiest neighborhoods. For women who registered as sole rights holders, 64 percent were from second-class neighborhoods, 20 percent from first-class neighborhoods, and 13 percent from third-class neighborhoods. Overall, of the 1,440 titles examined, only 10 percent were registered jointly.

Many neighborhoods are mixed in Accra. That is, not all residential houses in first-class neighborhoods are expensive, and some expensive houses can be found in third-class neighborhoods. However, our interviews with 82 people who had registered their land indicated that the great majority of titleholders lived in houses that could be described as well above average. The houses all had water, sewerage, electricity, phones, and toilets. Most owners also owned one or two vehicles and a satellite dish for television reception. The vast majority of owners were educated to the college or university level.

Joint tenure can be very valuable for women in the case of divorce or abandonment. Customary law does not encourage divorce. Extended families, village elders, and the village government may make an ef-

fort to keep the family together. Often, a “cooling-off” period is required by local leaders before a divorce will be allowed. If a divorce occurs, in some cases property division is based on “fault.” Few interviewees wanted to discuss divorce.

Women who are abandoned or divorced are vulnerable in most societies because they are stigmatized and less “marriageable.” Moreover, they generally do not have rights to their husband’s ancestral land, and they may not have rights to their own ancestral land. In many cases, when a daughter is married, her portion of the family wealth has already been given to her in the form of dowry or bride price. In Karnataka State, India, each religion has its own marriage and divorce laws. Laws governing Hindus, Muslims, and Christians all allow for monetary maintenance in some form, but none permit a woman the right to any of her husband’s ancestral or separate property. One focus-group study indicated that the only land divorced Hindu women retained was the household plot of land received from government schemes and titled in their own names. In Ghana, many of the women interviewed who had titled land were divorced or separated.

Two legal issues related to community property must be examined in the context of land administration and titling: consensual unions and polygamy. Legal marriage can be expensive and time consuming, and it may require residence or personal identification documentation that women do not have.<sup>22</sup> In many countries, protection for women’s property rights under mandatory joint titling provisions is only enforced (if at all) when legal marriage can be proven. A specific legal provision that a consensual union will trigger legal protection of property rights acquired during that union would enable many unmarried rural women to enforce their property rights when they would not otherwise be able to do so. Bolivia and Lao PDR have such a provision.

Polygamy affects a variety of legal land issues, including division of property, management of property, and joint ownership. In Ghana, polygamy is allowed in both customary marriages and in Islamic marriages, but not in “ordinance” marriages. Unfortunately, the land legislation basically ignores polygamy. Therefore, subsequent marriages can mean that property designated for a first wife will be divided among the additional wives and children. Where agricultural land is involved, first wives can be dispossessed of land needed for survival. A 1993 study on

land disputes in Uganda found that in Kabale and Mbale districts, land shortages, rising populations, and polygamy (with allocation of land to multiple children and multiple wives) led to a predominance of intrafamilial land disputes (Kigula 1993). This may also be the case in rural Ghana, and should be considered in any rural titling project.

## Inheritance

Women primarily inherit land as daughters or wives. In many countries, women are more likely to acquire ownership rights through inheritance than by any other way (Deere and León 2001). Generally, formal law recognizes succession by will and by operation of law. Succession by will occurs when the deceased person has written a will that orders the distribution of his or her property. Intestate succession is by operation of law and occurs in the absence of a will or when a will does not cover the whole estate. Legal intestacy rules are important because most rural and/or poor people do not make a will.

In Azerbaijan and Bolivia, intestate property is to be divided equally among all the children and the spouse. In Azerbaijan, when one spouse dies, the deceased person’s share of common joint property, including land plots, is defined and subtracted from the total amount or value of the property. A surviving spouse has the right to inherit by will or at law a deceased spouse’s share of common property, but the property does not automatically belong to her or him.

In Ghana, where most land is controlled by tribal chiefs, land is considered to be ancestral land, and the surviving spouse and children are only entitled to one house and the household belongings under law. Beyond that, the spouse is entitled to a share of the residual estate along with other family members under customary law (Dowuona-Hammond. 2003). However, as to the residual estate, the inheritance law only applies to property acquired by the marital community and does not apply to ancestral property, thus severely limiting its scope. In addition, the law does not address polygamy.

In Lao PDR, customary norms with regard to land rights and gender are principally applied through inheritance practices. Although Lao PDR is a multi-ethnic country with both matrilineal and patrilineal traditions, the great majority of its society is matrilineal.<sup>23</sup> In practical terms with regard to land rights, this means that both daughters and sons can inherit land

Patrilineal inheritance patterns of ancestral land often correspond to patrilocal residence patterns and one cannot be changed without changing the other. Legislation alone will not alter these customary and traditional patterns. Land projects must strive for gender equity within these established patterns.

and that there are no cultural restrictions on women owning land. Inheritance practices are not rigid and parents usually decide which children will inherit what family property. Often this decision is made on the bases of need and the relationship between parent and child. The traditional practice is for the youngest daughter to remain in her parents' home after marriage to take care of them in their old age; she therefore inherits the family homestead.

In all four countries, customary law plays a significant role in the succession of property. In Azerbaijan, the formal inheritance law is ignored because, under customary law, the inheritance scheme is entirely different than under formal law. Under customary law, rights to land are viewed in the context of the distribution of wealth within the extended family. All of the focus-group interviewees indicated that customary inheritance rules and not formal inheritance rules were followed. Customary law provides that all children get a share of the household's wealth, and the daughter's share is given in the form of a dowry.

A dowry is given directly to the bride by her family and is considered to be her premortem inheritance. A dowry can include livestock, jewelry, clothing, and may even include land. Women have the customary right to retain the dowry and to take it with them to their parents' home in case of divorce.

The youngest son generally inherits the property of the household, and the older sons have a house built for them by their family. In anticipation of this inheritance, the youngest son remains in the household and is responsible for care of his elder parents who continue to live with him.

In Bolivia, customary norms show a strong bias against women owning land. At the time of inheritance, the land usually passes from father to sons, although widows are permitted to remain on the property. Daughters may inherit a small share of the land (Salazar 2004).

## Role of Law Reform

Although legislative reform can be a necessary step and a prerequisite to a woman's right to own or use land in her own right, legislative reform by itself often makes little difference to the majority of women. The first women who take advantage of positive legal changes—especially those changes that go against customary law or traditionally held beliefs—are urban, educated, and usually wealthy women. As we noted above, customary law has a major impact on women's ability to exercise their rights to land.

As was indicated by the Bolivia and Lao PDR case studies, mandatory titling and/or mandatory registration do not necessarily mean that women gain equal rights to land. The unequal outcome is related to cultural practices and biases, lack of information, or nonenforcement of legal rules. Legislative intervention alone cannot provide women with the effective right to own and control their own land if women's ownership of land is not accepted and enforced culturally and socially. Customary or religious biases can mean that women will not be able to exercise their right to jointly own and control land until there is a shift in the thinking and understanding of men, women, officials, and household members. Legislative change must be accompanied by legal education and legal aid for both women and men.

Law can have an impact, however, and it can create an opening for women's land rights. In Azerbaijan, the Land Reform Law did not have many specifics for distribution of land, but it did call for distribution to all adult members of the village. The World Bank project developed a procedure that required that both men and women receive land, and they did receive it. Although Azerbaijan comes out of the Soviet system of collective farming, its very old traditions, which are still practiced, do not encourage this type of distribution. Women do not receive land under the country's customary marital property and inheritance laws. Yet, the law was followed, and women have rights to farmland. The laws in Bolivia and Lao PDR also supported women in receiving rights to land, and although these laws were not followed in many cases, women's landholdings increased overall.

Policies related to intrahousehold transfers of land, such as inheritance and marital property, need to be studied and understood before advising on land-related legislation. Inheritance and marital property rules and practices have a major impact on women's rights to

ownership of land and their poverty status. As with many issues related to the family, inheritance and marriage customs are deeply embedded in society. If a policy goal of a project is, for example, to assist women-headed households and deal with women's poverty, establishing widows' rights to land as a priority could be very beneficial. A national discussion of inheritance and marital property policies would elevate the status of the discussion of women's rights to land in developing countries.

Donor projects can contribute to gender inequality by supporting those who are already advantaged by wealth, power, or customs to the disadvantage of those who are poor and vulnerable. When women's rights are explicitly taken into account and women participate in the design and implementation of a policy, equity is increased. In many cases, increased gender equality can also lead to increased economic equality (Meinzen-Dick et al. 1997; Mook 1976). Land administration projects that do not at least understand laws and customs related to intrahousehold land rights can negatively affect women and families.

## Legal and Land Policy Issues

For the most part, when donors are involved in the drafting of land policy legislation, the language of the legislation is at least gender neutral, referring to a head of household, for example, and not making the assumption that the head of household is male. On the other hand, in many countries the cultural or traditional interpretation of gender-neutral terms (like "head of household") assumes the male rather than the female. Therefore, for land legislation to be inclusive of both men and women, at a minimum it must explicitly recognize women's and men's equal rights to land. This is true in Bolivia's legislation, which states that "equity criteria will be applied in the distribution, administration, tenure, and use of land in favor of women, independent of their civil status" (Ley INRA, article 3, paragraph V).

Beyond such a declaration of equality, the legislative rules that will have the biggest impact on women are more often found in the regulations and not the broader policy statements of the law. Consideration should be given to the following issues:

- Are men and women guaranteed equal participation in the adjudication process? (In Bolivia, for example, article 231[c] of the Land Law Regula-

tions specifies that titles are to be issued without regard to gender.)

- Is the director of the land agency held responsible for nondiscriminatory practices with regard to gender? (In Bolivia, the most useful provision to date is article 28[g], which gives the INRA director [and provincial INRA directors] the responsibility to ensure that legal gender rights are observed in the implementation of the INRA Law.)
- What documents are required by the regulations for proof of ownership? Are these documents readily available to both men and women, and are they expensive to acquire?
- Do the regulations require that the field for the owner's name on the legal cadastral form include all owners if the land is held in common ownership? Do the regulations require proof of marriage or consensual union? What type of proof is required?
- Do the regulations require *written* consent for transfer of property held in common ownership (including sale, mortgage, and lease)? Are there guidelines for how to determine whether land is held in common ownership by operation of law, even if it is registered in only one name?
- Do the regulations deal with polygamy if necessary?
- Do the regulations deal with illiteracy?
- Is there any requirement for public notice of sale or transfer of land?
- For individualization or privatization of rights, is it a requirement that all adult members of the household be listed on the title? Is it a requirement that they be listed in the registry as well?
- Where are disputes adjudicated?
- What is required for a dispute to be heard?
- How do the issues of money, time, and literacy influence the dispute resolution process?

## Identification of Property Holders

Traditionally, land administration projects have identified the head of household, usually assumed to be male, as the beneficiary of land formalization and titling projects. In recent years, more efforts have been made to protect women's rights through co-titling (that is, both names appear on the title documents and in the register). Also, with the growing number of households headed by female in many countries, there are increasing numbers of titles in women's names.

Traditionally, land administration projects have identified the head of household, usually assumed to be male, as the beneficiary of land formalization and titling projects.

In Ghana, for example, in a survey that looked at 1,440 registration entries, 65 percent of registered owners were male, 25 percent were female, and 10 percent of the entries were to joint owners (Dowuona-Hammond 2003). In Azerbaijan, all adults in a household were recognized, and in Bolivia and Lao PDR, specific efforts were made to include women in the titling process. In both the Ghana and Lao PDR cases, which involve urban titling projects, the identification of women property holders will likely become more difficult as the projects extend to rural areas where there are more complex and varied traditional landholding patterns. In none of these projects were the results of subsequent transactions (for example, inheritance or sale) investigated to see whether the gender balance of landholder(s) recognized in the initial process was retained.

There are many issues that land administrative programs face when attempting to identify property holders on the ground. This subsection will explore some of the principal issues involved in identifying property holders and their implications for the fieldwork required in issuing titles. These issues include different types of land rights and titles, ethnic and regional variations within a land titling program, and conjugal unions (polygamy, legal marriage, and consensual unions).

## One-Proprietor-per-Parcel Model

As land administration projects have increasingly appreciated the importance of recognizing women's rights to land, there has been the recognition that the practice of issuing titles to just one person in the household (the household head) may be denying other people their land rights. More than one person may hold rights to a particular parcel of land. Or, if there is more than one parcel, different people may have rights to different parcels. Wives, for example, often have clearly recognized and legitimate use rights to household land that are lost if the land is given in ownership to the male head of household only. A re-

view of the "one-titleholder-per-household" practice has shown that

- titling guidelines do not call for the identification of more than one property rights holder in the household;
- titling procedures do not allow for inquiry into the number of property rights holders in the household;
- titling forms do not permit the listing of more than one property rights holder;
- titling brigades are not trained to look for and identify more than one property rights holder;
- titling activities with communities and households (informational meetings, workshops, and so forth) focus on the male heads of household and do not encourage or facilitate the participation of other people, including women.

In both Ghana and Lao PDR, the identification of women property holders will probably become more difficult as the projects extend to rural areas where there are more complex and varied traditional landholding patterns.

Therefore, one of the first determinations that needs to be made in the identification of property holders for each parcel of land is whether there is more than one rights holder, and if so, who those people are. The types of titles to be issued to individual households, depending on the number of property holders and legal options, include individual titles, joint title, and co-ownership titles.

## Some Major Ethnic and Cultural Property Norms and Practices

Land administration programs should consider ethnic and cultural variations that influence norms and practices regarding land rights. These include access rights across different ethnic groups, inheritance practices in patrilineal and matrilineal societies, and marriage practices. These different norms and practices will influence who are considered legitimate landed property holders, and these may conflict with formal legal norms.

### *Communal and Individual Land Rights*

Ethnic groups within a titling area may have different customary tenure systems. One basic issue is the relative importance of communal rights and individual (or household) rights. In transition regions where individual ownership rights are replacing communal rights, conflicts within the community may emerge. In Bolivia, for example, the land regularization program has the option of giving out community titles<sup>24</sup> if the community requests that type of title. In communities that have requested such titles, some individuals and families—particularly those who have purchased land—may want the land they control to be titled individually, whereas the majority of the community prefers that the community's land be controlled by and titled to the community. Thus, two questions need to be considered with regard to this particular issue: What type of land rights system is preferred by community members, and what are the potential conflicts those preferences may cause?

#### *Inheritance Practices*

Other issues related to ethnic groups are largely related to marriage and inheritance practices; it is these practices that particularly determine customary norms with regard to women's rights to land. Customary inheritance rights may not be in accord with legislation regarding intestate inheritance. In addition, sons and daughters may be occupying land that legally still belongs to their parents—land is often distributed premortem or inter vivos, and the legal recording of the transfer is done after the death of the parents or not at all. Land administration programs need to determine the norms and procedures for dealing with these conflicting and informal inheritance practices. For example, with regard to premortem inheritance, should the title be issued to the parent(s) who are still alive, or should the heir who is living on the land receive title?

A more difficult question is how to deal with inheritance practices that directly conflict with formal legislation. What role does land administration have in enforcing inheritance laws, particularly in societies where the drawing up of wills is not common and therefore intestate inheritance laws should apply. Could premortem distribution (without re-registration), for example, be taken as an indication of the deceased person's desire and therefore be considered an informal will? In most cases, this will deny daughters their legal inheritance rights. Evidence of this was

One of the first determinations that needs to be made in the identification of property holders for each parcel of land is to determine whether there is more than one rights holder, and who those people are.

found during a focus-group discussion in Bolivia where a father had the household land titled to the sons in the family, excluding the daughters and his wife. Daughters were told that their brothers would take care of them.

Land administration programs should consider drawing up guidelines and procedures for dealing with land distribution to heirs when that distribution conflicts with the law. Where premortem distribution has not taken place, it would seem that land administration programs should adhere to inheritance law in deciding who inherits landed property; the heirs can subsequently decide what they want to do with their inherited land rights.

#### *Marriage Practices*

The other issue related to lineage and inheritance is marriage practices. The principal practice that affects a person's rights to landed property is the place of residence after marriage. There is a general correlation between matrilineal inheritance and matrilineal residence, and between patrilineal inheritance and patrilineal residence. This correlation is not strict, however, because there are numerous variations in custom, and changes are occurring as societies experience social and economic dislocations. Generally, the customary norm and practice in both matrilineal and patrilineal societies is that land inherited or received from one's family remains the property of that person and his or her lineage; it does not become part of the conjugal couple's property.

Two potential problems related to this issue are how land allocated by the state is viewed by the beneficiaries, and exactly who are the beneficiaries. Very often, land titling programs are part of or occur subsequent to land allocation programs; this has been the case in Azerbaijan, Bolivia, and Lao PDR. If the land allocated by the state is clearly state land, it would not be considered lineage or family land. In that case, social equity concerns would indicate that the land be allocated

In Bolivia, the Land Registry refused to register joint ownership titles (as community property) to consensual couples, insisting that only legally married couples were recognized as legitimate spouses. As a result, titles to couples without an accompanying marriage certificate were being

rejected by the Land Registry, and titling brigades were therefore reluctant to issue such titles. Titling brigades were also finding some male household heads and some community authorities resistant to the inclusion of women in the process and on the land titles.

and titled to both spouses and to single heads of family, whether they be male or female. In Bolivia, for example, the land administration project adopted the procedure that land parcels titled for the first time, whether smallholder parcels or medium properties, are to be titled to the couple, not only to the head of household.

Although Azerbaijan is a patrilineal and patrilocal society, state land was distributed to all adult members of the former collective or state farm, regardless of gender. However, although women's names were on the land certificate, both men and women in focus groups said that men primarily make all decisions in the family, including those related to land.

In some cases, however, the land allocated may be land that the community and its families formerly owned. Families may therefore believe that the land is actually theirs and that the allocation program is simply returning the land to them. In this case, the issue of lineage will most likely influence who the community and its members believe is the property holder. This was the case in the title registration of land certificates issued to households in Albania after land privatization in the 1990s. And this may be a potential problem in Lao PDR as the titling program moves from urban to rural areas. Some rural areas are patrilineal, and women do not generally acquire landed property from parents or in marriage. The land administration program will need guidelines and procedures to deal with the issue of whether state allocation regulations or lineage norms determine who is the appropriate property holder(s) for a land parcel.

## Conjugal Unions and Land Rights

One of the problems that land administration programs may encounter is nonformal conjugal unions. Most countries that have reformed their legislation in the recent past to make them more gender inclusive and gender sensitive tend to explicitly state that both legal marriage and consensual union are considered the basis for

marital or community property. The 1996 Land Law in Bolivia states that men and women, regardless of their civil status, have equal rights to land. The procedures of the land administration project in Bolivia require that when a legal title or a regularization certificate is issued to a couple, regardless of their civil status (married or consensual), both names must be included in the space provided for the titleholder, recording the woman's name first and then that of the man.

At this point, one issue is whether to recognize consensual unions if the legislation only mentions legal marriage and does not explicitly recognize consensual unions. This could be dealt with in the titling regulations and procedures by suggesting that evidence of joint use rights requires the joint titling option. Social assessments on this issue should inquire about the prevalence of consensual unions in that society and the land use rights of both spouses. The results from this social assessment should guide decisions by land administration with reference to consensual unions.

After having established whether joint titles are to be issued to consensual unions as well as legally married couples, there is the issue of determining which relationships are consensual unions. Most legislation that recognizes consensual unions also has a procedure for legal recognition of consensual unions. Others may simply list some basic criteria for consensual unions. In Bolivia, titling procedures indicate that the field appraisals by the titling brigades verify effective possession regardless of civil status (married, divorced, separated, single, widowed) or gender. In Colombia, for example, co-ownership does not have to be proved, but only stated as true. In these cases, land administration program procedures should include acceptance of consensual unions if couples meet these criteria or possess a certificate of legal recognition.

Many low-income families, however, are not aware of these procedures, or do not have the resources to undertake them. In some countries where personal identification papers are an issue, particularly for

low-income and illiterate people, undertaking any legal procedure is problematic. A land administration project in rural Peru found a solution to this problem by issuing co-property titles. The distinction is that in this case marital status is not considered and they both own a separate share of the property, rather than owning the property together as a whole (Deere and León 2001). Therefore, land administration guidelines and procedures could include the option of issuing co-property titles to a couple if they cannot produce a certificate of consensual union.

Another issue related to conjugal unions is polygamous households. Many societies do not outlaw polygamy. Even when a country does not legally sanction it, the legislation prohibiting it is generally ineffective if polygamy is customary or traditional. However, polygamy seriously affects women's rights to property and is the source of much tension and anxiety over land rights in many countries. Polygamy complicates legislation requiring written consent of spouses for disposition of property; it also complicates provisions on inheritance and co-ownership of land. Legislating around polygamy is difficult, but to ignore formal or informal polygamy is to inadequately protect women's property rights. The situation is made even more difficult by the fact that many men refuse to acknowledge or discuss polygamy, and women are often hesitant to raise it as an issue.

There are no effective and gender-sensitive titling procedures for polygamous households. Several countries have attempted to legislate land rights for women in polygamous marriages. In Ethiopia, for example, the Oromiya regulations (2002) require that the husband and wife be jointly certified for their commonly held land. In a polygamous marriage, a husband is allowed to get a holding right certificate with only one of his wives, and the other wife or wives will get an independent right certificate. The use right of a family is not affected if either the husband or the wife or both leave the area. In Burkina Faso, under the 1990 Family Code, if a couple is monogamous, the couple's property is community property. But, if there is more than one wife, all property is separate property.

Where polygamy is widely practiced but illegal, however, it is ignored in relation to land rights. Field research in the Kyrgyz Republic revealed that women were concerned about losing their husbands and their rights to their husbands' income in the event that their husbands took second wives. Women stated that husbands generally favor second wives, so while their

husbands are living, the first wives' income and security are threatened. In addition, first wives are vulnerable to having to divide their property among their husbands' heirs. On the other hand, women who are second wives have no legal rights to any of the men's income or property and, therefore, this group of women is also very vulnerable.

Legislation regarding property ownership in polygamous situations could be helpful. One possible rule would be that upon taking a second wife, all property belonging to the first marriage or consensual union would be partitioned and divided so that the husband only had his share to distribute to his new wife and children. Of course, the law is a very cumbersome tool for dealing with complicated family relationships, and if it does not make sense within a particular context, it will not be followed. Customary polygamy rules need to be studied and understood before titling legislation is drafted, guidelines are drawn up, and procedures are determined.

## Rural/urban and Regional Variations

Another regional issue is that of differing practices in rural and urban areas. In many countries, there are different laws and regulations for rural and urban land. In Lao PDR, for example, permanent land use titles are being awarded to urban landholders under the Lao Land Titling Program, whereas rural landholders have been awarded land use certificates that are valid for three years. Aside from legislation, however, there are other urban and rural differences. It appears that customary norms and practices tend to change as populations move from rural to urban areas.<sup>25</sup> For example, a study of customary land tenure systems in Lao PDR mentioned that although titling land to women in Hmong villages "simply would not work, despite the laws of the country," there was recent evidence in urban areas that this custom is not strictly adhered to and that both sons and daughters inherit land (Ministry of Finance, Lao PDR 2002, 59–60). On the other hand, as the Lao PDR titling program extends from urban areas to rural areas, it will have to deal with this conflict between formal and customary legal norms. In many societies, land titling programs will need to establish norms and procedures to deal with customary property and ownership norms that do not correspond to gender-equal statutory laws.

Related to rural/urban differences is the issue of the market economy and its impact on property

rights, particularly notions of individual ownership. In urban areas, as the market economy exerts its influence by making production practices more labor intensive and oriented toward the market, there is a tendency for land rights to become more individualized (less communal), for families to become more nuclear (less extended), for land rights to be acquired through purchase (rather than inheritance), and for customary practices to become less prevalent. This is also the tendency in rural areas where commercial agriculture is practiced, particularly among small and medium-size farm holdings. In these situations, lineage considerations may become less important and inheritance practices more flexible. More opportunities may exist for both wife and husband to own land they have acquired together, for women to purchase land, and for both daughters and sons to inherit land rights.

Illiteracy and lack of access to services may affect the implementation of land administration projects in rural areas. In Bolivia, as in many Latin American countries, low-income rural women often do not have identification cards as required by titling procedures. This can either slow or prevent a claim, and more flexible procedures (for example, verification by community leaders) or the inclusion of a component to facilitate obtaining identification documents might be considered.

All of the above suggest that land administration guidelines should take these regional differences into consideration and require procedures that accommodate these different situations and customary norms and practices. Wherever possible, these procedures should not ignore or take away any land rights that women may already hold; and wherever possible, they should strive for gender equity in the allocation of land and in the granting of legal land rights.

## **Methodology for Gender-Disaggregated Field Assessment of Land Rights**

The collection of appropriate gender-specific data is a concern for all land administration projects and should be a World Bank priority, given its investments in the land sector. The knowledge regarding gender and land rights issues consists of (1) how land rights are distributed among different groups of women and men, and (2) what effects differentiated land rights have on gender equity and on women's capabilities.

Collection of this information should be done during land administration project preparation to guide design of the project, during project implementation, and after the project is completed. The methods for collecting these data include social assessments, baseline studies, and impact-evaluation studies. The importance of collecting gender-disaggregated data is essential for assessing the extent and depth of women's land rights and for assessing the impact of land administration projects on gender equity.

In Lao PDR, the social assessment study did not occur until well after the project began and the indicators were incomplete, thus hindering evaluation of the real impact in household and community power, decision making, and socioeconomic conditions. In Bolivia, where the titling project financed through the World Bank is ending, an evaluation study is about to begin; however, there is no baseline study with which to compare the results of the evaluation to measure what the impacts have been.

### **Project Preparation: The Social Assessment**

The social assessment for any land-related project should include community-level male and female key informant interviews as well as focus groups of potential male and female beneficiaries regarding land tenure norms and practices. Detailed information regarding variations in multiple land use rights, inheritance, and marital property, for example, can then be a valuable input to meeting the objective of strengthening women's land rights within the target area's sociocultural context. It is also at this project preparation stage that gender-specific indicators should be developed to measure the program's differential impact on men's and women's land rights. Appendix 3 provides a template for key informant interview and focus-group protocols that could serve as a guideline for future land project social assessments.

### **Project Implementation: The Baseline Survey**

When a land administration program is under implementation, it is appropriate to collect gender-disaggregated household-level information, which can serve the dual purposes of consultation for eventual adjudication and of establishment of baseline data for project monitoring and evaluation. As resources al-

low, the baseline survey should be administered both in areas targeted for intervention and in similar areas not targeted. Appendix 5 exemplifies the type of survey instrument that could be used to collect such information.

## Monitoring and Evaluation

To monitor the extent to which gender-specific project objectives are being met, to carry out midstream implementation adjustments, and more generally to evaluate the gender-specific impacts of a given land program, it is essential that projects maintain gender-disaggregated databases and carry out periodic community- and household-level data collection. At the project level, information on project participation and benefits should be disaggregated by gender, including such things as personnel statistics, attendance at public information and training sessions, as well as issuance of legal title. At the community level, key informant interviews and focus groups of beneficiaries designed along the lines recommended for the social assessment can provide qualitative feedback to project managers regarding the perception of project impact and male and female beneficiary satisfaction.

Finally, land projects should administer at least one midterm and one project-completion household sample survey to track gender-specific changes against the baseline data. If designed properly, such surveys can allow for the quantitative assessment of the impact of land policy reform and land tenure regularization on women's economic opportunities and intra-household bargaining power. Appendix 4 provides a list of sample indicators that could be used to monitor and evaluate gender-specific project impacts.

## Adjudication and Registration Processes

Critical to protecting the rights of men and women in land administration is the adjudication process. This consists of a number of steps, although each project may adjust the order and methodology to suit local needs or the aims of the project. These steps include information campaigns (which are discussed in the final section of this chapter); collection of information on the rights, rights holders, and location of the rights; provision of public notice (particularly in systematic registration) and registration of the interests; and dispute resolution.

## Collection of Information and Evidence of Rights

In land administration projects, the type and nature of the information collected are usually determined by laws, regulations, and project procedures. However, they can be classified as information about the potential rights holders, information about the nature of the rights (including duration, if based on possession, and sometimes land use, occupancy, or value), and information about the location and boundaries of the rights. In Azerbaijan, the Farm Privatization Project required initial information about the relative value of the land for distribution (for example, soil quality, access to roads and water) as well as the number of household members and other workers who were eligible for shares in the distributed land. In Bolivia and most Latin American projects, crucial pieces of evidence are personal identification documents that many women do not have or cannot easily obtain. In Cambodia, where systematic titling took place (for example, for an entire village at the same time), each house was visited and neighbors, as well as family, attested to the identity of rights holders. This process may have both disadvantages and advantages: Custom may prevent communities from identifying all stakeholders (for example, a daughter who now lives in the city but may have some legal interest), but the process may allow identification to proceed without bureaucratic delays.

The second type of information—the nature of the rights—is more problematic and varied because of the many issues discussed above concerning the types

**FIGURE 5** Registration Documents in Ghana



All stakeholders need to be involved in the adjudication process. In a land titling pilot project in Mozambique, for example, certificates of title were being issued to women in a customary tenure area. The men were long-term migrant workers away in

South Africa, and only visited home occasionally. Actually, however, under customary law only the men could hold the rights to land.

Source: Nichols, Fourie, and Mejais 1996.

of interests that may exist. This is especially important in terms of customary tenure where women often hold secondary rights in land (for example, rights to gather firewood), but others have rights to farm the same land. These secondary rights are difficult to identify, locate, and document, and they can be lost in a land titling project where, for example, certificates of title are issued. Such certificates may become the primary evidence of land rights, and under some systems of land registration (such as Torrens land title system or English land title system) the holders of secondary interests may lose the ability to contest the registered title. Having women who understand the local traditions and tenure systems on the adjudication teams can help ensure that these rights are protected (see Food and Agriculture Organization 2003).

In Ghana, these types of issues will be increasingly important as the land administration projects extend to periurban and rural areas. In the urban areas covered by the project of the 1990s, registration was voluntary and sporadic. Documents, if they existed, had to be obtained from the Lands Department and other sources (such as planning commissions). Although this did not have a gender bias, the bureaucratic processes were very long and discouraged participation by poor people, illiterate people, and those from remote areas.

The third type of evidence required is the location of the rights. This may come in the form of surveys on the ground or identification of parcels on large-scale topographic, parcel, or photo maps. The important issues here are the timing of the site visit (are all of the

interested parties—including neighbors—available?). If some parties are not available (as an example, in Muslim countries women may not be able to participate in a field demarcation with nonfamily men<sup>26</sup>), then mechanisms should be in place to ensure their interests are protected. This is especially important when secondary plots are involved that may be wholly used by females in the community or when overlying interests (such as rights to water) may exist in other parcels.

## Public Notice and Registration

The most important aspect of the provision of public notice (that is, through newspapers as in Ghana or through public displays as in the Kyrgyz Republic and Moldova) is that all potential stakeholders have the ability to know about and understand their rights and any threat to those rights. Thus, issues such as media, illiteracy (including map illiteracy), location, and timing are crucial. Public displays need to be accessible by everyone, including the elderly and those who cannot leave home because of cost, lack of transportation, or household responsibilities. Whereas this affects both women and men, women in rural areas are often less mobile than men.

In some cases, the primary verification of people, interests, and boundaries is conducted on the site, and after public notice, registration can proceed quite efficiently. This is one of the advantages of systematic titling, as conducted in Lao PDR, or of large-scale privatization, as in Azerbaijan. Sporadic registration, as in Ghana, is often more cost efficient for govern-

Initially, in most households in Lao PDR, only the men participated in the information meetings and other certificate or titling activities. Therefore, women were not aware of the legal and economic significance of having their names on land use

documents, nor were they present when decisions were made as to whose name would appear on the certificate or title.

Source: Gender Resource Information and Development Center 2000.

ments initially, but it can lead to bureaucracy and delays. In the Ghana project, the requirement for surveys and survey plans conducted by the Lands Department created two- to three-year backlogs of registration applications.<sup>27</sup> People interviewed during the Ghana case study indicated that repeated visits had to be made to the Lands Department to keep the applications moving, and that women were often most persistent. However, the women interviewed (those who had received title) were often well educated and able to take time to pursue the application.

## Dispute Resolution

Although many potential disputes can be prevented by transparent and consistent procedures, there is a need to develop mechanisms to resolve disputes that arise either during or after the adjudication process. The trend in land administration is to avoid having disputes reach the courts because (1) courts do not al-

ways have the expertise in land law to apply accepted principles consistently; (2) the court process is usually excessively long and costly and thus discourages all but the most economically valuable claims; and (3) disputants, particularly women, often have unequal powers to acquire legal advice and to sustain their claims. These factors may especially inhibit claims by rural women who do not have the support of family or community—for example, in cases of divorce or inheritance. Rights in legislation or granted by the courts may not translate into actual enjoyment of those rights in a hostile environment.

The solutions include special tribunals that can be established not only during initial adjudication but also to settle land matters over time. Typically, tribunals include land specialists and involve procedures that are less costly and time consuming than the courts. In areas where there are strong traditional laws (such as customary tenure or religious law), involvement of the recognized community elders or authorities can facilitate dispute resolution, but those authorities may not be inclined to recognize women's land rights.

## Issues to Be Considered in the Adjudication Process

The following are questions that should be considered in adjudication to protect the interests of men and women:

1. Have all of the stakeholders had access to information concerning their rights and the adjudication process?
2. Is the adjudication team familiar with the local customs, laws, and practices affecting the rights of both men and women?
3. Do the processes have to be modified from region to region (for example, urban/rural or other types of land tenure)?
4. Are secondary interests, including rights to resources, considered and protected in some way through the adjudication?
5. Do all stakeholders have equal access to the documentation required for adjudication, and, if not, what measures can be taken to level the playing field?
6. Are the timing and location of adjudication procedures and registration offices appropriate for all potential interest holders?

**FIGURE 6** Field Adjudication and Boundary Survey, World Bank Land Management and Administration Project in Cambodia



In Bolivia, the *saneamiento interno* process involves resolution of disputes during adjudication by community members, thus giving the community an investment in the project.

7. Are women's rights adequately represented and protected in dispute resolution, and how can lengthy and costly litigation be avoided?

## Education, Training, and Communication

Major objectives or components of most land administration projects are institutional strengthening, capacity building, and improvement of organizational coordination and performance. In Lao PDR, this involved developing educational and training programs that included women and men and that eventually led to involving more women in the project implementation. Liaison with the Lao Women's Union strengthened the project's capacity to address gender issues at the local level.

In Ghana, although initial attempts to coordinate land agencies through an intergovernmental committee failed, a new project will address these issues and will include a stronger socioeconomic component in conjunction with the Ministry for Women's Affairs. Bolivia also strengthened its capacity to address social issues in the field through gender training of field teams and the use of local mediators in some situations.

There is significant opportunity to affect long-term gender mainstreaming through organizational reform, particularly through selection processes for new staff and for education and training. Providing role models and mentorship programs, both within organizations and within foreign assistance, is also an important aspect of building gender capacity in organizations, although none of the projects reviewed actively used these methods. It is important that these activities and the roles represented are integral parts of the project and not simply add-ons designed to meet gender targets if sustainable results are to be achieved (Nichols, Crowley, and Komjathy 1999).

Education, training, and communication are valuable tools in promoting gender equity in land administration projects on a number of levels, including

1. raising general awareness about the rights of men and women with respect to land and property within the country, and thus encouraging the longer-term sustainability of the project interventions and socioeconomic goals;
2. making project implementers more aware of the social and cultural implications of land administration and the need for gender sensitivity, in addition to giving them tools (such as guidelines, examples, benchmarks) to use within the project;
3. increasing the participation of women in land administration, a profession that is generally male dominated worldwide (an exception being some European countries);
4. increasing the participation of women and men in the land titling process, subsequent registration, and other related activities (for example, access to credit or community services).

The following sections discuss how these goals can be met more effectively.

## Training of Implementers

The first phase of any project should be the identification of gender issues in the country, noting regional variations. This information, together with best practices from other jurisdictions, ideally would be used in all training programs. The second phase should be the identification of whom within the project or associated with the project should receive the information. Decisions on the delivery, including trainers, timing, and media, should follow.

Women and men both need to learn more about gender issues related to land and land administration. Oftentimes, it is assumed that women in land administration know more about or are more sensitive to the gender issues. One of the dangers of this assumption is that gender issues are marginalized and left to be taken care of by the few women employees involved. In Lao PDR, the role of gender awareness was delegated to the Lao Women's Union, and despite their expertise, it did not really become mainstreamed in land administration.

An important opportunity exists for World Bank intervention by including women in any technical or

In the Lao PDR Project, a high diploma program was established in the country, and of the first 26 students, 7 were women. One woman was also sponsored for a graduate degree in Australia. In Vientiane Province, 17 percent of the total staff

were women working in the field in surveying and adjudication. It was noted that the women were well respected and listened to by the community and were considered more trustworthy than men.

other training, education programs, or study tours. This has been shown to be an enabling strategy that can promote more gender inclusion, despite the traditions within land administration. It enables women to play more than a secondary role, and it encourages project managers to be more aware of gender balance. Some bilateral agencies, such as the Swedish International Development Agency, have used 50 percent quotas in both short- and long-term training abroad to encourage more female participation in countries such as Russia and Ukraine (WaterMark Industries 1999). Similarly, AUSAID encouraged female participation in diploma and master's programs, the result being greater participation of women in field teams and program development (for example, land policy). In Ghana, where no special considerations were made, there were and continue to be few women in field aspects of land administration.

The training of implementers also needs to be multileveled. It should begin with decision makers (that is, those designing and approving the project), such as task managers within the World Bank, top ministerial representatives, and bilateral donors. This training should include

1. the general policy of the World Bank regarding gender and the reasons why gender matters (including any international agreements regarding women's rights applicable to the country);
2. how land administration projects affect men and women culturally, socially, and economically;
3. how the country can benefit from gender inclusion in land administration;
4. best practices and examples of how these benefits can be achieved.

Various approaches for this training can be used, such as (1) printed brochures and short text materials, (2) an introduction to the topic during project negotiations, and (3) short seminars, as appropriate. The main point is to provide the material in a way that is not

threatening (especially where large cultural differences exist). This can often be best achieved by stressing the benefits to the organization or country, using statistics, if available, and concrete examples. Many countries do not like to admit that, despite legal protection of equal rights, implementation of equal rights may be faulty. Specific examples (such as the problem with providing personal identification documentation in Bolivia) can help make the issue real.

A more in-depth training is needed at the project management level. This involves both foreign technical assistance and the main staff in the project implementation unit. It is at this level that information concerning gender issues in the recipient country must be available at the beginning of the project, including baseline studies wherever possible. In addition to understanding the cultural, social, and other aspects of the specific population groups from a gender perspective, the main issues for this audience will be

- why should gender be a focus of the project?
- how does it cross-cut the project activities?
- what can the project do about it?

A variety of delivery methods for such training should be considered. General seminars for staff may be effective. If these seminars are voluntary, however, they often preach to the converted, and so are either poorly attended or disregarded by those who might benefit most. Another approach is setting benchmarks for the project to achieve at the outset; this tends to raise interest among those who need to achieve those benchmarks.<sup>28</sup> In the projects reviewed for this study, only Bolivia appeared to have some specific goals for project activities with respect to gender (such as attendance at informational meetings), and these procedures evolved during the project.

At the field and operational level (for example, communications people, adjudication teams, registration staff) there is a need for a wide variety of training, depending on whether the activity involves direct

**FIGURE 7 Training of Registration Staff in Kazakhstan**



contact with the landholders and on whether the activities involve collecting data that should be gender disaggregated. Various techniques could include

- seminars and workshops for staff;
- special modules in training courses (such as the Lao diploma in surveying and mapping);
- case study examples;
- best practice guidelines;
- gender-related statistical indicators.

It is always important to include both men and women in the training to prevent the marginalization of gender issues to female staff. The training is probably best handled by in-country experts, such as the Lao Women's Union, who understand the specific cultural issues and can better discuss how best the project objectives can be achieved on the ground. All of the case studies also pointed out the need to understand the variety of issues in different regions of the country that result from different customary law (Ghana and Lao PDR), religions (Azerbaijan and Lao PDR), and socioeconomic considerations (Bolivia and Lao PDR).

In the Bolivian case study, the gender-sensitivity training of departmental INRA personnel and titling brigades consisted of a half-day session. This training outlined the objectives of the gender program; emphasized that women should participate in the titling process, reviewed the legal rights of women (not only in titling, but also in other property issues such as inheritance); and discussed the problems that women encounter, such as monolingualism and lack of identity cards.

A main issue with training project implementation unit staff and implementation teams is the need for

constant updating as more information becomes available and the need to take into account staff turnover. The Bolivian project, for example, readjusted its field procedures during the project as the problems were identified. If new information, forms, or processes are needed, then these will have to be introduced to operational staff on a continuous basis. Workshops during the project are also important in gaining insight from operational staff on actual issues and results experienced on the ground.

## **Training of and Communication with Beneficiaries**

This part of the process is the key to ensuring gender equity in any land administration project. Although it is often assumed, even in industrial countries, that people know their rights, both women and men may not know them. Training for and communication with beneficiaries of the project help ensure that the ultimate client can make informed decisions and can help enforce accountability and transparency of the project. Perhaps even more important, well-informed beneficiaries can make the project sustainable and more effective (for example, by making more gender-informed decisions in subsequent transactions, or by accessing credit or government services). The main issues in this training component include

1. identifying and involving the target audiences;
2. having the right messages, delivery vehicles, and timing;
3. creating a receptive learning and interaction atmosphere.

The Lao Women's Union used a two-pronged approach for training that appears to have worked well in communities. Two information sessions were held, one with both men and women so that both groups could understand and discuss the gender issues, and one with only women. The latter created an environment in which women were less inhibited and could ask questions that were directly relevant to them. The community training focused on the rights under law and the benefits of involvement in the land titling. In Lao PDR, the Women's Union had representatives at the local level who also understood and could mobilize the beneficiaries.

Village information meetings were by far the most important means by which beneficiaries became aware of the titling program (see figure 8). More than

75 percent of all respondents in our 300-household, random-sampling survey (70 percent of men and 92 percent of women) reported learning of the project through such meetings. For men, another relevant avenue of information was the village head; approximately 15 percent of male respondents reported learning of the land titling program in that way. Regarding actual participation in the information meetings, 82 percent of male respondents and 72 percent of female respondents reported having attended. Of those who did not participate in these preproject information meetings, the most important reason cited by men was that they had not known about them, whereas women most frequently reported not attending because the male head of household had attended instead.

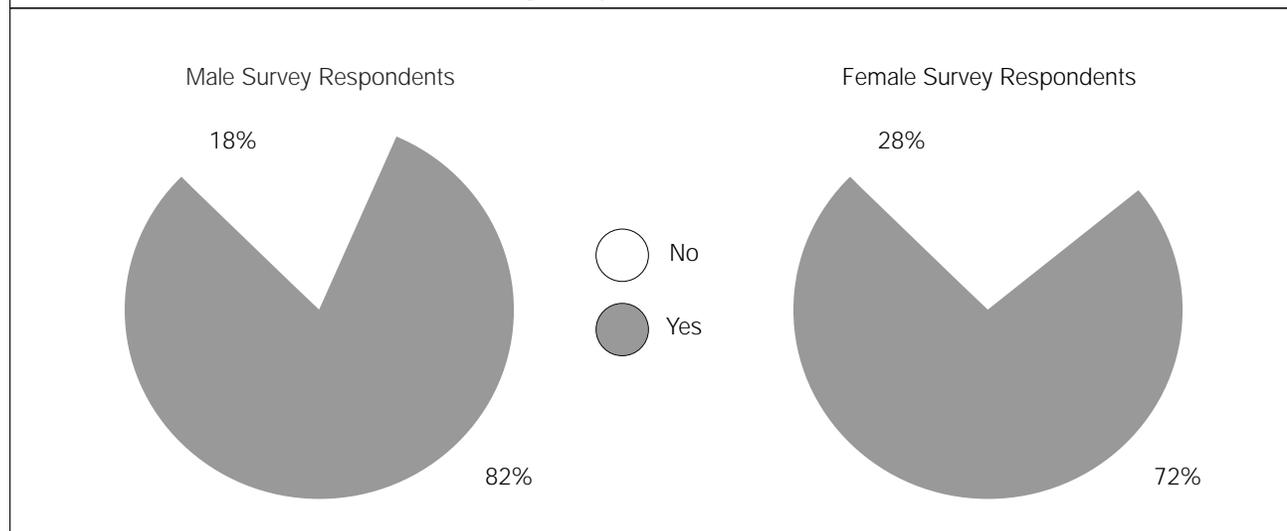
The Bolivian case study pointed out the need for community-level training, and a variety of training and communication media were used to raise awareness of rights to land. The main issues for such campaigns include literacy and language issues; creating neutral environments for open discussion; and the need to address specific barriers to participating in the projects, such as scheduling of activities and access to government offices. The Bolivia study also pointed out the fact that when the community is involved, disputes arising from adjudication are more easily resolved. However, under the *saneamiento interno* (internal community adjudication) process, advocated for by smallholders to overcome delays with the more

formal titling processes, the ad hoc nature of the process led to undertrained field support teams and no effective rules for safeguarding women's rights.

In Azerbaijan, educational sessions at the community level were largely attended by men. Women who attended were usually heads of households, and most women learned of the impacts and procedures through their spouses. There was no specific training regarding gender issues or women's rights. Similarly, in Ghana, where the project did not have any gender component, no specific attention was given to communicating information on issues related to gender or to a gender-specific audience. The fact that in both of these projects women's names were included on titles was indicative of the legal foundation. In Ghana, the project included mostly higher-income urban landholders, which was also indicative of its voluntary nature.

An example of successful information campaigns that include gender issues at the local level is the case of Cambodia's land titling project. This education activity includes both men and women and is careful to ensure that illiterate women are provided with appropriate information. All related materials are posted in a public place in the villages, literature on land rights and titling procedures is provided in pictorial form, meetings are held in local schools or community centers, and titles are issued locally. Involvement of both female and male field staff helps emphasize gender inclusiveness.

**FIGURE 8 Participation in Information Meetings, by Gender, Lao PDR Land Titling Project**



**FIGURE 9 Information Campaign in Peru**



## Other Considerations

One of the main considerations in education and training arising from this study is the need to address different groups in different manners. For example, in Bolivia, the gender media campaigns that accompany the titling efforts consist of printed materials, videos for women, posters, and calendars. All of these materials are customized for the geographic zone, the local language, and cultural norms. In Lao PDR, these differences have been addressed by the use of community-level leaders (that is, members of the Lao Women's Union and district land administration staff). In Ghana, the geographic differences are recognized (that is, differences in customary law and socioeconomic status) and will probably be addressed in future extensions of the project into periurban and rural areas.

The content of the community training and communications will vary, but at a minimum they should include

1. the legal rights of women specifically, including inheritance and divorce;
2. special problems encountered by women (for example, documentation, location of registration offices, access to credit);
3. the involvement of women and men in the adjudication process and in registration of rights;
4. potential benefits of participation.

Media for delivery of the messages should be tailored to regional and socioeconomic variations. This will include considerations of language, literacy, and access to such mass media as radio, television, and

In Lao PDR, the meetings with communities included two sessions—one with both women and men, and one with women alone. The mixed sessions were generally male dominated, but they gave everyone a better understanding of the land rights of both women and men.

newspapers. In many rural areas, pictorial materials, radio, or even video (for example, in Bolivia) are appropriate options to overcome educational barriers. An example from Lao PDR is given in figure 10.

Informing both men and women of their rights is essential for mutual understanding of any differences. Sessions with both men and women also allow each group to understand potential barriers to full participation (for example, scheduling of adjudication, traveling to registry offices, obtaining documentation), and may encourage households to overcome these barriers together. However, it is also often important to hold separate sessions for women to provide a non-threatening environment for discussion and to provide feedback to the land administration processes. Having public meetings in which younger people can participate is also a way to ensure that the next generation of landholders better understands its rights.

Another issue in adjudication is the scheduling of field visits that may be inconvenient for either men or women who work away from home, or for women

**FIGURE 10 Participation in Land Adjudication in Lao PDR**



Source: Lao Women's Union training materials, August 2004.

who have both productive and reproductive work responsibilities. Scheduling also affects the provision of public notice (often 30–90 days from the time of publication of the adjudicated titles and parcels). In countries where some landholders may be absent for long periods of time (for example, when they are

working outside the country), there is a necessity to have family or friends monitor titling claims. In sporadic titling, as in Ghana, this involves checking the national newspapers at least weekly to determine if any claims have been made against a property.

## Lessons Learned and Recommendations

Probably the most important lesson and recommendation that can be made regarding the integration of gender in land administration projects is to make gender an integral part of the project *from the beginning and in all of its phases and components*. This chapter is organized around the implementation of a land administration program, including (1) the legal foundation, (2) the identification of property holders, (3) the research and data collection activities, and (4) the adjudication processes; and the training and communication components. As each section will emphasize, gender issues will not be adequately and appropriately addressed if they are not an integral part, beginning with the initial design and continuing through long-term impact assessment.

### Legal Foundation

One underlying lesson from all four land projects considered and from the literature review relative to legislation is that formal law that requires gender equity in property rights is mostly ineffective in the face of customary or religious law that does not recognize equitable property rights for men and women. That is to say, although it is necessary that formal law requires equity in property relations, it is not sufficient and is often only a first step that enables a small group of well-educated and often wealthy women to take advantage of their rights. Moreover, some legislative and social changes may be more readily accepted than others, by both men and women, and part of the process

The most important lesson learned is to make gender an integral part of the project *from the beginning and in all of its phases*.

needs to involve listening to women to understand what legal rights are most valuable to them.

In many instances, land projects that include women and strive for gender equity are dealing with cultural change. Changing culture and customary norms is hard, and it is possible that, if norms related to women's land rights do not change in the broader society, some of the ground gained during a gender-inclusive registration project may be lost subsequently. This highlights the need for public education of both men and women relative to the importance of women having registered land rights.

Another key finding is that land legislation may conflict with family or personal law, and both types of legislation must be reviewed for their impact on women. Family law is rarely considered as part of land administration projects, and yet family law has a major impact on women's right to use or own property.

When land is passed through ancestral lines that exclude women, women may be more likely to gain rights to land within a marriage, and provisions mandating joint titling of marital property will provide the best protection for women. This is especially true in patrilocal societies. However, in many instances,

rural women are not legally married, although they are married under customary or religious law. Legal rules that require joint titling for conjugal couples, whether legally married or not, can be an effective solution to this issue.

Gender-neutral language in land legislation may really not be gender neutral because of the cultural understanding of the words used. For example, “head of household,” although gender neutral, most often means “man” in a cultural context. Women have the best chance of gaining rights to land in a land reform program where state land distributed to households is understood to include both spouses, not just one household head (for example, in Azerbaijan and Bolivia). In this instance, legal rules that require that women and men receive an equal share of land and/or have both of their names listed on the title can be extremely effective, even in the face of customs to the contrary.

The four main recommendations that can be applied in all land administration projects in relation to legislation and gender equity are process-related and are as follows:

1. In the planning stage of the project, do qualitative and legal research related to family laws that affect women’s property rights and their relationship to customary land law to understand how a titling or privatization project will affect women.
2. Solicit women’s input into necessary changes in legislation, especially related to family or personal laws.
3. Include women who are knowledgeable about women and property rights in legislative working groups.
4. Have respect for local culture, custom, and religion.

## Identification of Property Rights Holders

The importance of identifying property holders on the ground before starting a land administration program cannot be overstated. That is, who has what rights in the bundle of rights associated with land? More than one person may hold rights to a particular parcel of land. Or, if there is more than one parcel, different people may have rights to different parcels. Wives, for example, often have clearly recognized

Land administration projects need to be made inclusive by recognizing that there may be more than one property holder per parcel and more than one rights holder in a household.

and legitimate use rights to household land but not to land in a distant field. A primary lesson learned from the four case studies is that titling guidelines must call for the identification of more than one property-rights holder in the household.

Land administration programs should consider ethnic and cultural variations that influence norms and practices regarding land rights. These include access rights across different ethnic groups, inheritance practices in patrilineal and matrilineal societies, and marriage practices. In addition, customary norms and practices tend to change as populations move from rural to urban areas. These different norms and practices will influence who are considered legitimate landed property holders, and these norms and practices may conflict with formal legal norms.

Here are the two primary recommendations that flow out of these lessons learned relative to identifying property rights holders:

1. Conduct field research to identify all property rights holders within a household, in both rural and urban areas and among various ethnic groups. Include this information in the design of the land administration program.
2. If there is a basis in law for doing so (direct, vague, or permissive language), ensure that rules regarding titling and registration allow for indicating more than one property rights holder on the registration forms, and that the forms themselves facilitate inclusion of women.

## Research

Lack of information can lead to policies and projects that either limit or reduce women’s economic and social opportunities. Few, if any, projects gather gender-disaggregated information at the beginning of a project and then throughout the project’s life. Understanding the situation on the ground for women—urban and rural, wealthy and poor, literate and illiterate, wives, daugh-

Few projects gather gender-disaggregated data at the beginning and throughout the project cycle, and that lack of information can lead to policies, projects, and procedures that either limit or reduce women's economic and social opportunities.

ters, widows, and single women—takes time, effort, and research. But a land project that does not sort out women's rights as separate from the household's rights risks disempowering the most vulnerable, but often most economically active, members of society. Recommendations for gendered research include baseline studies and data collection.

The case studies show that a lack of baseline data before the project interventions makes rigorously assessing the impact of those interventions impossible. Without an initial survey, it is difficult

- to know what are the gender-related issues that need to be addressed;
- to measure the gendered effects of the project at a later date;
- to raise awareness of the need for gender-disaggregated data.

In addition to the baseline studies, the collection of gender-specific data over the course of the project and over the longer term must be explicitly addressed in land administration projects. This data collection should not be simply a count of how many titles have women's names or of the number of women involved. There is a need, for example, for more extensive data on registration, on subsequent transactions (formal and informal), inheritance, and credit. This information is essential not just during the project for mid-stream adjustments to correct flaws in design, but also for longer-term monitoring of the effects of World Bank projects.

There are two main recommendations that flow from these lessons learned in relation to research. They are

1. Conduct a true baseline study with carefully considered metrics and methodologies to capture the gender issues and potential impacts before project interventions take place, and preferably before critical project methodologies and

targets are determined. This should be seen as the first step in monitoring for problem areas in the project implementation and in measuring the impacts over the longer term.

2. Collect and analyze gender-disaggregated data throughout and after the project to be able to adequately adjust methodologies and targets and to measure what the project has achieved.

Gender-disaggregated data is more than the number of titles bearing women's names; the data need to capture the actual situations within the household and within the community.

## Adjudication and Registration Processes

The most important lessons to be learned regarding the adjudication and registration processes are that all project staff have to be well informed about and well equipped to address gender issues throughout the project. Also all stakeholders (households, neighbors, community leaders, financial institutions, and so forth) need to be informed of their rights and any gender concerns. It is important that gender be considered, for example, in site visits, field methodologies, location of public meetings and registration offices, and in efficient access to registration processes.

There is a need for project officers and all staff to have familiarity with local customs and practices affecting gender, as well as with legislation, which may affect the design and implementation. Gender issues related to secondary interests (for example, rights to resources but not land) and not merely marital status need to be addressed in future projects, especially where customary rights are being formalized. Issues related to documentation, illiteracy, and lack of transportation need to be considered at the project design stage.

There is also a need to ensure that land administration projects and organizations open opportunities for both women and men through employment, career paths, education, and training. Often large projects provide an opportunity to ensure that there are role models and mentors (for example, foreign technical assistance and project staff) and incentives to in-

Gender equity is not a secondary issue to be relegated to the care of a few female staff members. It should be integrated throughout the project and should be everyone's responsibility.

crease not only the number of women but also their roles in the organization. A lesson learned is that in the adjudication, dispute resolution, and registration processes, the participation by female staff is an asset to the project, not only in dealing with gender issues but also in their interaction with stakeholders.

The following recommendations can be made for future projects:

1. Ensure that gender issues are mainstreamed and not seen as an extra project or the responsibility of only female staff or women's organizations; make gender programs cross-cutting; make them everyone's responsibility.
2. Carefully consider special issues, such as scheduling of adjudication activities, requirements for documentation, and location of services (such as registration offices) that may act as barriers to women's full participation.
3. Consider the local and regional variations in custom, religion, and law when designing and implementing projects.
4. Where appropriate, try to resolve disputes and uncertainties at the local level to provide equitable access to the processes.
5. Coordinate titling with support services, such as credit and training, to ensure the maximum benefits of the process.
6. Increase gender equity in land administration organizations at all levels and in all aspects of the project, including education and training, so as to produce sustainable project results.
7. Ensure that foreign technical assistance and senior staff also have gender-equity awareness and policies so they can act as role models and mentors.

## Education, Training, and Communication

The design and implementation of the land administration project itself must include gender awareness at every stage, including training, education, and communication.

Moreover, throughout the life of the project, it is critical to evaluate whether these activities are having the desired effect. The projects in both Bolivia and Lao PDR were greatly improved in their impact on women after midproject corrections included training, education, and communication activities that focused on reaching women.

The greatest means of ensuring sustainable gender equity and gender-related impacts are training, education, information, and awareness.

## Recommendations for Project Designers and Implementers

The following are recommendations and strategies for gender-sensitive training, education, and communication for project designers and implementers:

1. Have a plan for communicating the importance of gender issues from the early project design phase.
2. Design that plan to address different levels of target audiences (for example, senior administrators, technical assistants, project implementers) with appropriate messages and formats.
3. Include both men and women in any training, education, or study visit opportunities.
4. Provide project managers and implementers with guidelines and best practices that may be adapted to suit specific country experience.
5. Involve men and women as role models and mentors throughout the project.

## Recommendations for Project Beneficiaries

The following are recommendations and strategies for gender-sensitive training, education, and communication for project beneficiaries:

1. Use local expertise in project communication and community training. Local NGOs, other ministries, and universities often have local-level resources and an understanding of local cultures and traditions.

2. Target groups that include men and women, but also allow for separate women-oriented sessions to create a neutral environment.
3. Use a variety of media and messages to ensure that all potential beneficiaries are included, especially considering constraints of literacy, language, and access to mass media.
4. Ensure that local and regional variations in cultures, socioeconomic conditions, and traditions are included and respected within any information campaign.
5. Include gender as part of the program from the initial stages forward.
6. Assist women in establishing community organizations focused on their needs and interests. These might include access to microcredit, education and training, or development of industries suitable for and desired by women.



# Appendixes

Appendix 1 includes summaries of the four country studies: Azerbaijan, Bolivia, Ghana, and Lao PDR. Appendix 2 describes the methodology used for these country case studies. Appendix 3 consists of a set of guidelines for the social assessment mentioned in chapter 4. Appendix 4 offers a sample questionnaire that could be used for collecting gender-disaggregated data in a baseline and impact evaluation household survey. Appendix 5 provides a list of sample indicators that might be used to monitor and evaluate gender-specific project effects.

## Appendix 1: Summaries of Country Case Studies

### Azerbaijan: Farm Privatization Project (1997–2003)

#### *Background*

Azerbaijan is a former republic of the Soviet Union that declared its independence in 1991. Azerbaijani is the official language, although Russian is still used to some degree, especially in the capital city of Baku. The majority religion is Muslim (90–95 percent). Azerbaijan is located in the southern Caucasus region on the Caspian Sea. It is bordered by Russia, Georgia, Armenia, and Turkey, and is alternately described as Europe and as Asia.

*Land Tenure Systems:* Prior to independence from the FSU, most of the agricultural land was held by state and collective farms. Until 1991, there were 983 collective farms and 820 state farms, cultivating a total of 1.46 million hectares (Venkataraman and Askerov

1999). In 1996 the Land Reform Law was passed to enable privatization and distribution of state and collective farmland. The rules set out in the 1996 law are extremely general, with no detailed procedures for implementation.

*Project Background:* The objective of the Farm Privatization Project was to assist the Government of Azerbaijan in accelerating land privatization and in restructuring state and collective farms by developing a model for the process in pilot areas that could serve as a basis for replication of privatization. The goal was to devolve full ownership of land rights and formal title to individuals. By mid-1998, one year into project implementation, formal land titling was complete in the six pilot farms. Titles were distributed to household heads of families, although all names of adult family members were included on the land certificates and titles (6,645 families).

#### *Legal Framework*

*Land Legislation and Policies:* The 1996 Land Reform Law allowed land to be transferred to citizens and legal entities of Azerbaijan only (there can be no foreign ownership of land). The law defined generally who is eligible to receive land in private ownership and how the land should be divided. The size of the land share was to be based on the area of the farm, the quality of the farmland, and the number of people who have a right to obtain a share. The law did not specifically state that the land must be divided equally; rather it stated only that the “average size” of a land share would be determined by dividing the whole of the land by the number of people to receive land. Land was transferred to citizens free of charge.

The newly created farms (household farms) were guaranteed the right to decide what management form they would take, whether they would combine with other farms, and so forth. The law also gave landowners the right to transact with their land.

*Gender and Land Rights:* Marital property is to be held jointly unless the matrimony contract establishes another agreement. The law recognizes succession by will and by operation of law. The intestate law provides that surviving children, spouses, and parents take first in equal shares. When one spouse dies, the deceased person's share of common joint property, including land plots, is defined and subtracted from the total amount or value of the property. A surviving spouse is able to keep her or his share of the common joint property.

Under customary law, the inheritance scheme is entirely different than it is under formal law. Customary law provides that all children get a share of the household's wealth, and a daughter's share is given in the form of a dowry. Even though daughters have a legal right to the land they received during the initial privatization and distribution, when they marry they very infrequently ask to continue using a portion of the family's land.

### *Assessment of Issues and Interventions*

In regard to women's rights to land, there is little variation among the rayons (districts). According to focus-group interviews and data collected from the household survey, both men and women in all households received rights to land in the Farm Privatization Project. Women who were interviewed knew they had both access rights and ownership rights to land. Community leaders report that women are able to purchase and inherit land in all districts. Women may also sell and bequeath land in all rayons, with the exception of the Xetai municipality in Salyan Rayon. In Xetai, women are restricted from selling and bequeathing land.

Of the 180 households across six farms that were surveyed in Azerbaijan, 150 households (72 percent) reported a male head of household and 30 households (27 percent) reported a female head. By farm, the distribution of male and female household heads is fairly consistent.

*Project Participation:* Participation in the farm reorganization process by male and female farm heads varied by farm, but fewer female heads of household participated than did male heads of household on all

farms and in all activities. The focus-group interviews indicated that general meetings related to farm privatization, commission meetings about division of land, and educational seminars concerning private ownership of land were all attended almost exclusively by men; the only women who attended were heads of households, not women whose husbands were the heads of the household. Attendance at the general meeting prior to farm reorganization averaged 85 percent among male household heads and 50 percent among female household heads. In focus groups, women said they knew nothing about their rights to land—only that they *had* a right.

According to focus groups with both women and men, if there were men within a family, only the men participated in the lottery, in choosing land, in registration of the land, and in signing the State Akt (title document). Some female heads of household also participated. Only the names of heads of household were registered, although all family names were listed on the State Akt.

Both male and female household heads received advisory services on Gulaband-Hatai farm (Ujar Rayon). Female household head participation on Shafag farm (Salyan Rayon) and on Pusyan farm (Sharur Rayon) was significantly lower than was male household head participation.

*Distribution of Landholdings:* Two focus groups of women stated that land was not distributed evenly during privatization. The quantitative survey indicated that the per capita landholdings vary from farm to farm, with female-headed households receiving on average from 0.4 to 0.1 hectare per capita less than households headed by males. On all farms, except Gilinchl (Barda), the per capita distribution was less than 1 hectare (0.12–0.95). On the Gilinchl farm, males received 2.99 hectares and females received 1.91 hectares. The community-level survey indicated that women were dissatisfied with the land distribution primarily because the quality of land was worse for them, or because of the distance between their lands and their homes.

*Parcel Inputs:* Although there are some variations in types of inputs used by male-headed and female-headed households in all of the farms, the most interesting case is Mamusta (Lenkoran). Approximately the same number of both household types report using irrigation and fertilizer, but only male-headed households report using other inputs, except pesticide.

*Household Decision Making:* In focus groups, a few men and women stated that the entire family makes decisions about what to do with family income. For the most part, however, both men and women said that men primarily make all decisions in the family.

*Credit:* Many families took credit, but usually only men were involved. Most women stated that their husbands signed all the documents, and they did not know that their husbands had taken credit until the documents were signed.

*Water User Associations:* All families are members of the water user associations, but only men are listed on the contract.

*Positive Aspects of the Land Reform for Women:* Women stated that, with land rights, many families are in a better position after the loss of the head of the family because women do not have to be dependent on their fathers and brothers.

*Negative Aspects of the Land Reform for Women:* Growing crops is very hard labor, and women without husbands suffer a great deal and must work very hard. Most women agreed that the reforms increased their workload.

*Divorce:* Men refused to discuss divorce, saying that it did not occur and was a question not even worth discussing. In many cases, women also refused to discuss divorce. Some women said that divorces are rare, but when they occur, men initiate them. If there is a divorce, the property is divided by the court and children go with the mother back to her family. In court, women will get half of the property. Out of court, women receive nothing when a divorce occurs.

*Inheritance:* All groups stated that everything is divided among the children unless they are young, in which case the wife receives the inheritance. Equal division of property did not mean equal division of land. No one knew what the formal law was regarding inheritance; they strictly followed custom.

## **Bolivia: National Land Administration Project (1995–2001)**

### ***Legal Framework***

Bolivia's basic legal framework is very positive with regard to women's land rights; this includes the Constitution, Civil Code, Family Code, and the 1996

Land Law (Ley INRA). Customary norms and practices, however, show a strong bias against women owning land. Husbands control household land and, if that land is formally titled, generally only the husband's name appears on the documents. At the time of inheritance, the land usually passes from father to sons, although widows are permitted to remain on the property. Daughters may inherit a small share of the land.

One of the distinguishing features of the 1996 Ley INRA is the explicit recognition of women's and men's equal rights to land, stating that equity criteria will be applied in the distribution, administration, tenure, and use of land in favor of women, independent of their civil status.<sup>29</sup> The provisional (1997) and final (2000) regulations for the Land Law, however, were not specific with regard to gender issues, nor did they provide guidelines for procedures that would safeguard the land rights that women have under Bolivian law. As a result, the first three to four years of the regularization process (*saneamiento*) were implemented by the Instituto Nacional de Reforma Agraria without regard for women's land rights and without monitoring of the titles being issued to women either as individuals or as joint owners.

### ***Land Administration Program***

The World Bank and other international donors have provided financing to Bolivia to modernize and update its land administration records and institutions. The original National Land Administration Project was implemented from 1995 to 2001; the current project (Supplemental Land Administration) was approved in 2001 and ends in 2005. The objective of the regularization program is to legalize the land rights of the many rural families who received land through the land redistribution program in the highlands and valleys and through the resettlement program in the lowlands. In addition, people engaging in land transactions, particularly among smallholders, have neither completed the legal transfer of land rights nor recorded the transactions in the land registry.

### ***Regularization Procedures***

Initially, gender concerns did not guide or influence the design of regularization procedures. The *saneamiento* forms did not include a place for more than one name as titleholder. Personnel were not instructed to correctly identify all landowners within the household. Women were not encouraged to attend

public meetings and workshops regarding *saneamiento*, nor were they sought out when the titling brigade visited their land for adjudication and parcel measurement.

After several years and after critiques by civil society that the *saneamiento* process was dispossessing women of their land rights, INRA began to design and implement procedural changes to increase the participation of women. Changes were made in the fieldwork carried out by titling brigades to ensure that women, particularly wives, were being included in the titling documentation. That office also contracted with a gender specialist to organize and implement gender-training workshops (for INRA personnel, titling brigades, and beneficiaries) and to develop gender-oriented informational materials.

These changes, however, have been done ad hoc and apparently with little monitoring. If these procedures had been in place from the beginning and had formed an integral part of the program, the opportunity to train INRA staff and titling brigades would have been greater and possibly more effective.

The Bolivia case seems to indicate that when too few resources are allocated to gender concerns (in this case, one person was placed in charge of gender issues for the whole program), these gender initiatives are at risk and easily dropped. Where gender training has taken place, either with INRA staff and titling brigades or with beneficiaries, there does appear to be a positive impact on women's knowledge and assertiveness with regard to their land rights. Gender training, however, has not reached all areas of the *saneamiento* program. It seems that the most effective gender training is one that results in a titling brigade becoming proactive in implementing standards that (1) include women (such as a verbal and written campaign that greatly emphasizes women's rights and the importance of their participation at all levels of *saneamiento*), (2) include a female technician in each *saneamiento* brigade, and (3) request that all internal *saneamiento* community committees include at least one woman.

### ***Land Titled to Women***

A review of the statistics prepared by INRA reveals that men as individuals have received more than 50 percent of the titles issued since 1999, whereas women as individuals have received only 17 percent. If joint titles are included, the percentage of women

who received legal title to land increases to 37 percent; on the other hand, the percentage of men also increases to 76 percent. Breaking down this information by year, the percentages of joint titles particularly and titles issued to individual women have increased significantly in the last few years. However, it is also evident that individual men continue to receive more than 50 percent of titles. Taking into consideration inheritance practices and Bolivia's marital property regime, these statistics appear to demonstrate that women may be more successful at acquiring land as spouses than as daughters through inheritance.

If we disaggregate the information by type of farm, it appears that women are more likely to obtain title to smaller parcels of land: 23 percent of small homestead parcels were titled to women and 47 percent were jointly titled. As parcels increase in size and/or commercial nature, the percentage of women receiving titles either as individuals or jointly with their spouses decreases. Except for the small homestead parcels, individual men obtain the great majority of land titles, and women obtain a small percentage (between 10 percent and 18 percent) of titles for agricultural (small and medium) parcels and legally registered commercial farms. Joint titles for agricultural parcels also decrease greatly. The amount of land being titled to men also far exceeds the amount titled to women as individuals and to women in joint titles. Tentative conclusions are that (1) a great number of individual and joint titles being issued to women are for homestead parcels, not for agricultural parcels; and (2) the amount of land being titled to women is even smaller than the number of titles suggests.

### ***Major Problems Encountered***

A review of the procedural modifications over the last five years reveals the difficulty that the titling brigades experienced in carrying out the instructions to include women in the *saneamiento* process—difficulties caused by both government agencies and community members. Among the former, the Land Registry, for example, refused to register co-ownership titles (as community property) to consensual couples, insisting that only legally married couples were recognized as legitimate spouses. As a result, the Land Registry refused titles to couples without an accompanying marriage certificate, so titling brigades were reluctant to issue such titles. Titling brigades also met resistance from some male household heads and from some community authorities when

they attempted to include women in the *saneamiento* process and on the land titles.

Another potential problem is the lack of training for a recent procedure called *saneamiento interno*. In this titling method, the community does the parcel measurements (that is, INRA or the titling brigades measure the perimeter of the community) and determines who are the legal owners of the parcels. While *saneamiento interno* is potentially important in that it involves community members who are then more invested in the *saneamiento* process, it has been adopted without adequate training for titling brigades and for the community facilitators. Focus-group discussions revealed that community members, including women, who believe they are being denied ownership rights to their land, are anguished because they feel that they have no other recourse (right to appeal). It would appear that communities that decide to do *saneamiento interno* are not informed of how the appeal process works and that, consequently, community leaders are able to ultimately determine the outcome of contentious land conflicts.

## Ghana: Urban II Project— Titling Component (1994–1997)

### *Background*

Ghana is a densely populated country (about the size of Great Britain) with 18.8 million people. Of these, 44 percent are Akan, which includes the Ashanti. The Akan are matrilineal, although most of the other tribes are patrilineal.<sup>30</sup> Approximately 70 percent of the population is Christian (predominantly in the south) and approximately 15 percent is Muslim (predominantly in the north). Traditional religions are practiced exclusively by some people, and in conjunction with other religion by others.

Ghana has a pluralistic legal system, which consists of statutory and constitutional law as well as common law principles, including judicial decisions, and customary laws and practice. Under customary law, the chiefs control and administer stool/skin land. Before colonialism, the north did not have a chieftain system, but rather had seven priests who controlled land.

The chieftain system is interrelated with the government structure. For dispute resolution, often the chief is approached first, before the case goes to civil court, although this is not mandatory. The civil courts

can hear customary law cases, and increasingly, chiefs are ignored and people go directly to civil court.

*Land Tenure Systems:* Land ownership in Ghana falls into two main categories: state or public land, and customary or private land. Approximately 80 percent of the land is held in customary tenure. Such land can be held by individuals, families, stools or skins (communities), and *tendamba* (the first clans in a community). All public lands in Ghana (20 percent) are vested in the president in trust for the people of Ghana. Public lands are managed by the Lands Commission, in coordination with relevant public agencies and governmental bodies.

Under customary law, the titleholder holds the land in absolute, or allodial, ownership, in trust for the well-being of the whole community for the present and future generations (Kotey 2004). This title is called the “stool” in many parts of the south, and the “skin” in the north (Kotey 2004). Subchiefs or family heads may also play a role in managing stool land. In some instances, subchiefs are more powerful than the main chief because they receive funds from land transactions. The coexistence of customary and formal land tenure creates both overlap and gaps in the legal framework.

*Gender and Development:* Women in Ghana are disadvantaged, compared with men, in education, literacy, and land ownership. Women farmers, on average, cultivate plots that are about half the size of those cultivated by men (Fenrich and Higgins 2001). Women’s ability to own and control land is very much a part of the intrahousehold distribution of wealth. The most important issue related to family land is that it must stay in the family lineage. For this reason, marital property has not traditionally been community property, but rather has been separate property.

*Project Background:* The Ghana Urban II Project (June 14, 1990–June 30, 1999) had two primary objectives: local government sector rehabilitation, and housing sector reform. The land titling pilot was part of the component to set up a home-financing company, and it ran from approximately 1994 to 1997. The World Bank titling pilot assisted the already existing sporadic titling system.

### *Legal Framework*

*Land Legislation and Policy:* The legal regime for land management in Ghana is pluralistic, based on

the coexistence of statutory law, customary law, and Islamic law. Under customary law, rights in land derive principally from a person's lineage, not from the marital family.

Under Law 152, co-owners can register as joint owners or owners in common; where they are owners in common, the registration must state what portion of land each common owner holds<sup>31</sup> Either party can request that the land be partitioned. However, there may be a minimum plot size prescribed by law, in which case one party would receive the value of his or her land, not the land itself.

*Gender and Land Rights:* There are major variations, in the number of women who own land in Ghana—variations primarily based on tribal affiliation. One source estimated that 50 percent of land owners are women in the Ashanti region, and only 2 percent to 4 percent of women own land in the northern and upper west regions, respectively (Fenrich and Higgins 2001).

The 1992 constitution requires the parliament to enact legislation regulating the property rights of spouses,<sup>32</sup> and it provides that spouses must receive a reasonable provision from the estate, regardless of the existence of a will. The constitution also requires that assets jointly acquired during marriage be distributed equitably in case of divorce.

Law 111 (1985) was intended to provide security to a surviving spouse and children, and it notes the growing importance of the nuclear family (Fenrich and Higgins 2001). Under the law, the surviving spouse and children are entitled to one house and the household belongings. Beyond that, the spouse is entitled to a share of the residual estate, along with others under customary law (Dowuona-Hammond 2003). However, Law 111 only applies to property not disposed of by a will; and does not apply to lineage property, but only to “self-acquired” property. Whether land is self-acquired or lineage property is not always clear, and the term *self-acquired* is not defined in the law (Dowuona-Hammond 2003). Law 111 does not address polygamy, so multiple wives may be forced to share the spousal allotment.

The Customary Marriage and Divorce Law 112 (1985) was published the same day as Law 111 (inheritance). Law 112 required marital registration and limited application of Law 111 to marriages that were registered. Ignorance of the law, illiteracy, and men's unwillingness to register meant that many marriages

were not registered, and this limited the scope of Law 111. Law 112 was amended (1991) to address this problem by allowing either party to register the marriage, not imposing a timeline for registration, and allowing oral or documentary evidence of a customary-law marriage instead of registration for application of Law 111.

### *Assessment of Issues and Interventions*

A major drawback of the Urban II Project was the fact that the actual title application process was voluntary and sporadic. Applicants were primarily those with wealth and education, and many applicants actually lived abroad. The Urban II Project had no gender component.

The World Bank interventions did not specifically address women, and fewer women were found to be titleholders. In a 1,440-entry survey, 65 percent of registered owners were male, 25 percent were female, and 10 percent of the entries were to joint owners (Dowuona-Hammond 2003). Of the joint owners, 91 percent were spouses. The Dowuona-Hammond study indicated that the majority of those who registered land were from first- and second-class neighborhoods (the wealthiest neighborhoods).

As stated above, marital property is customarily separate property in Ghana. Our interviews found that most of those properties held in joint ownership were businesses, and there were very few. Quite often, both spouses had title to their own land plot.

*Land:* Women who were interviewed stated that there was no difference in the way men and women were treated in terms of title registration or land purchase. All who were interviewed cited tenure security and/or legal requirement as the reason they had registered their land in the title registry. More than gender, wealth seemed to be a determining factor of who had land registered in her or his name.

*Inheritance:* No specific inheritance pattern emerged. Both sons and daughters inherited land, and members of both matrilineal and patrilineal tribes showed only a slight preference for following custom.

*Process of Titling Land:* All people interviewed stated that the process took a long time, often years. They had heard about the need to register from radio broadcasts and newspaper articles, or by word of mouth.

*Divorce:* None of those interviewed were divorced, although several lived independently from their spouses.

## Lao PDR: Land Titling Project 1 (1997–2003)

### *Legal Framework*

In Lao PDR, even though the state is the ultimate owner of all categories of land, individuals and groups have use rights to land. The state has the responsibility for managing land and allocating it for use to individuals, families, and organizations (Constitution, article 15). The 1991 constitution also affirms the rights of private parties to use land, and the Law on Land (May 1997) reaffirms the state's responsibilities (article 3) and the rights of private parties (article 5) to protection, use, usufruct, transfer, and inheritance of land (articles 53–58). The state assigned land management responsibilities, including land allocation, to relevant line ministries, including the Ministry of Agriculture and Forests for rural land and forest land (Law on Land, articles 8–9). The Law on Land also provides temporary and permanent rights to land to private parties. A land certificate provides provisional or temporary legal use right for agricultural or forest land (article 48). Land certificates are inheritable (article 18), but they cannot be sold or used as collateral. Permanent land use rights are assigned and recorded with a land title (article 49), and they include the right to pass on their use rights to heirs, the right to sell their use rights, and the right to use them as collateral for credit. Land certificates can be converted to land titles after 10 years through an application for land title process (article 36).

### *Gender and Land Rights*

Lao PDR legislation, including the 1991 constitution, acknowledges gender equity with regard to family, inheritance, and property laws. Daughters and sons are to inherit equally. Land acquired by a couple is supposed to be issued a joint land use certificate or title (Law on Land, article 43; Family Law; and Property Law). Property acquired before marriage and land inherited from parents are not generally included in marital property, and land title would therefore be issued to the individual owner.

Customary norms with regard to land rights and gender are principally applied through inheritance practices. Lao PDR is a multiethnic country with both matrilineal and patrilineal traditions, but the great majority of its society is matrilineal. With regard to land rights, in practical terms this means that

both daughters and sons can inherit land, and that there are no cultural restrictions on women owning land. Inheritance practices are not rigid, and parents usually decide which children will inherit what family property. Often this is done on the basis of need and the relationship between parent and child. The traditional practice is for the youngest daughter to remain in her parents' home after marriage to take care of them in their old age; she therefore inherits the family homestead.

In the patrilineal ethnic groups, such as the Khumu and the Hmong found mostly in the midland and upland areas, men are the owners and administrators of land, and land is transferred from one generation to another through sons when they marry and leave the house or when the parents become too old to work the land. Marriage practices are patrilocal, so women move to the husband's house and receive gifts of money or animals from their birth families. Women do not generally inherit land from their parents.

In spite of positive legal, political, and cultural conditions for recognition of women's rights in Lao PDR (with exceptions in some regions), there are problems in issuing land documents to women. This is the case in the land allocation program in rural areas where land use certificates are being issued, and it was also the case during the first years of the titling program in urban areas. A 1998 study by the research arm of the Lao Women's Union, the Gender Resource Information and Development Center (GRID), revealed that the names on land documents did not always reflect the actual landholder. Although more women inherited land than did men, many more land use certificates and titles were issued only in the husbands' names. In addition, both husband and wife acquired over half of the land parcels, but only a small percentage of these couples received joint certificates and titles.

Among the reasons for the discrepancy between actual landholder(s) and the name placed on land documents are these: (1) the certification or titling process itself; (2) previous land documentation, such as tax receipts that had only the name of the household head; and (3) cultural norms whereby women defer to the traditional head of the family, particularly in public situations. The results of this study heightened awareness on the part of the different actors in the land administration project (such as government agency officials, NGOs, and donor agencies) that women's rights to land were not being protected in the process of legally assigning property rights to land.

### ***Land Administration Project***

The Land Titling Project (LTP), begun as a small urban pilot project in 1994–95, issues permanent land use titles to land in urban and periurban areas. This program was extended to include periurban areas during the First LTP (LTP1), and is projected to include irrigated (lowland) paddy land in the Second Land Titling Project (LTP2).

The titling carried out has been characterized as systematic—that is, an entire district was to be targeted and all land in the area was to be adjudicated. Systematic titling facilitates such processes as information campaigns, dispute resolution, and use of titling resources. The Lao Women’s Union was asked to play an important role in communicating to landholders the benefits of title and the rights that would ensue to men and women. The procedures developed included

- training of local field staff (facilitated in later years by the Department of Land’s inclusion of more women at the district level);
- meetings to which both men and women were invited;
- separate meetings for women;
- general awareness raising on the rights of women to land within the project.

Village information meetings were by far the most important means by which beneficiaries became aware of the titling program. In the 2005 household study implemented for the Lao PDR case study, more than 75 percent of all respondents (70 percent of men and 92 percent of women) reported learning of the project through such meetings. Both men and women reported high incidence of having interacted with project personnel when they came to survey the property. Eighty-four percent of men and 75 percent of women indicated that they were interviewed or consulted during the survey process, most often in the form of “describing the property information to project personnel.” In contrast to the survey phase of project implementation, fewer than half of the respondents reported active participation in the adjudication of title phase, with no significant difference between men and women.

The 2003 socioeconomic baseline study indicates that the LTP1 process has been more successful in providing women with legal documentation to land rights than have other land programs. A comparison of households that received title and those that received another type of official document, such as land certificates, reveals that LTP1 has a higher percentage of women titled and joint titles. Because LTP1 has focused on urban land, and other official land documents are more likely to be for rural and agricultural land, some of the explanation for this gender disparity may be urban/rural and ethnic differences.

The land administration project has been a learning process with respect to gender issues and land. The Lao Women’s Union has been an effective participant in the titling process because of its institutional structure: There are union offices at the national, provincial, and district levels, and at least representatives at the village level. However, nearly all of the gender focus was delegated to the Lao Women’s Union. The disadvantage of this arrangement is the minimal internalization of gender issues and responsibility by the project staff and implementation agencies.

Another problem related to the involvement of the Lao Women’s Union is the level of resources for their activities allocated from the titling program. Key informants from both the union and the donor agency sector mentioned that budget funds set aside for Lao Women’s Union activities are minimal, and that administrative obstacles often prevent the union from being reimbursed for its expenses. The union is enthusiastic about its role in the land titling program, but lack of resources may hamper its activities and limit its effectiveness.

A further issue for land titling in Lao PDR is the fact that LTP1 dealt primarily with urban land tenure, where social issues are less influenced by customary law and where land has a market-determined value. In future, as the titling moves to periurban and rural areas during LTP2, the gender issues will be much more complex and there will be significant regional variations that will have to be included in the program.

## Appendix 2: Case Study Methodologies

### Azerbaijan

A number of study methods were used to collect data and information regarding the gender aspects of the Farm Privatization Project.

#### *Collection of Documentation*

Project documentation and relevant studies were collected prior to the trip to Azerbaijan in October 2004. Legislation was collected during the October trip. This information was supplemented by interviews and observations of the registration process.

#### *Key Informant Interviews*

The team met with (1) World Bank staff in Baku, (2) former staff of the Farm Privatization Project, (3) current staff of the follow-on credit project, (4) specialists on gender issues, (5) the State Committee on Statistics, (6) regional registration officials, (7) the Ministry of Agriculture gender focal point, and (8) the State Committee on Women's Issues.

The quantitative component consisted of a cross-sectional household and community survey conducted in six sites (rayons, or districts: Barda, Lenkoran, Salyan, Sharur, Ujar, and Xachmas). Nine community interviews and 180 household-level interviews were conducted.

#### *Household Surveys*

All interviews were conducted in person. In each of the six pilot farm villages, 30 households were interviewed. Each third house on the right side of the street and each third house on the left side of the street were selected for interviews. Within households, 50 percent of the interviewees were women and 50 percent were men. The surveyors were trained and the instrument was pretested.

#### *Community-Level Surveys*

Community-level interviews were conducted with the chiefs of local villages (*baladiya*). The distribution of interviews was related to the number of villages on each pilot farm as follows:

- Gilinjili (in Barda)—1
- Gulaband-Hatai (in Ujar)—1
- Narimanov (in Lenkoran)—1

- Pusyan (in Sharur)—1
- Shafag (in Salyan)—2
- Yerguch (in Xachmas)—3

#### *Focus-Group Discussions*

The general objective of the qualitative study was to determine some of the impacts, from a gender perspective, of the farm reorganization and titling/registration program.

Information on short-term impacts regarding the titling/registration/farm privatization process were obtained, such as level of gender consciousness with regard to property rights, attitudes of women and men with regard to women's land rights, and social status of women and men. Focus groups were held on the territory of each of the six farms. The survey group conducted nine focus groups—three in each of three rayons: one focus group of men only, one focus group of young women, and one focus group of elderly women. The three farms were Gilinjili farm in Barda; Shafag farm in Salyan; and Pusyan farm in Sharur, which is in Nakhchivan Autonomous Republic. The international expert and a local gender expert conducted one focus group with women only or mixed groups on the territory of each of the three other farms: Narimanov farm in Lenkoran; Gulaband-Hatai farm in Ujar; and Yerguch farm in Xachmas. A focus-group protocol was used. The survey group taped and transcribed the interviews.

### Bolivia

The Bolivia country study used several data collection methods, including secondary data and information, key informant interviews, and focus groups. A random-sample household survey of titled and control group households, using a gender-disaggregated questionnaire, is scheduled to be completed by June 30, 2005; data were therefore not available for inclusion in this report.

#### *Secondary Data and Information*

Various sources of information were reviewed to collect data on formal and customary land rights and gender. Legislation consulted includes the 1994 Constitution, the 1975 Civil Code, the 1973 Family Code,<sup>33</sup> the 1996 Ley INRA, and the 2000 INRA Regulations. Previous studies on women's rights to land were also consulted. And within INRA, administrative documentation on how gender has been in-

corporated into the land administration project, as well as statistics on the levels of titled women, were collected.

### ***Key Informant Interviews***

During visits to Bolivia in July and September 2004, interviews were carried out with INRA directors and officials at both national and provincial levels, with titling brigade personnel, and with research centers and scholars.

### ***Focus-Group Study***

Five focus-group discussions with women and men (separately) in two different sites were undertaken in September with a Bolivian social scientist, Rosario Salazar. The sites chosen are in areas where INRA has recently made increased efforts to carry out its gender-sensitivity training program with titling brigades and with the titling population. The focus-group discussions took place in

1. Ichilo (Santa Cruz): a lowland, resettlement (*colono*) area where smallholders migrated from the Quechua-speaking highlands, but are now mostly also Spanish speaking;
2. Pocona (Cochabamba): an ex-latifundio area in an inter-Andean valley (midlevel in altitude, 2,500–3,000 meters above sea level) where smallholders received their land from the 1953 agrarian reform, and are mostly Quechua speakers, particularly the women.

## **Ghana**

### ***Collection of Documentation***

Project documentation and relevant studies were collected during a visit to Ghana in December 2004. We were able to obtain some documentation of the land administration component of the project, as well as laws pertaining to land rights, marital property, inheritance, and registration. In addition, a recent survey, funded by GTZ (Deutsche Gesellschaft für Technis-

che Zusammenarbeit), focused on disaggregating title registration data by gender, which was extremely helpful in our understanding of the situation in Accra, Ghana's capital. This information was supplemented by interviews and observations of the registration process.

### ***Key Informant Interviews***

The team met with (1) World Bank staff in Accra, (2) government employees in the Land Titles Office and the Lands and Surveys Department, (3) specialists in socioeconomic issues (a small gender-and-land workshop sponsored by GTZ was held during the course of the visit), and (4) a selected sample of 12 titleholders in Accra to establish a small number of case studies on gender-related impacts.

### ***Household Survey***

A small household sample survey (60 households) was conducted in Accra.

## **Lao PDR**

To explore the gender impact of the Lao PDR titling program, several data collection techniques were used. Interviews with key informants were done by two of the study team members in August and October of 2004. These key informants came from a variety of institutions, including government, donor agencies, and NGOs. A focus-group meeting was also held with a village in the Saithany District (Vientiane Municipality) that had undergone systematic titling. A random-sample survey was administered to 300 households during December 2004 in two administrative units: six villages in Vientiane Municipality and six villages in Savannakhet Province. Secondary information on a number of issues, including land legislation, tenure systems, land programs, and gender issues, was collected from previous studies, project documentation, and NGO and donor agency reports. Secondary information was used to guide this study and to complement its findings.

## Appendix 3: Sample Template for Gender-Specific Baseline Social Assessment

This sample template is for a baseline social assessment of gender-specific land rights, mentioned in chapter 4. The following open-ended questions can be adapted for use in the planning stage of a land project. They can be asked both of key informants at the community level, and of potential beneficiaries in individual interview or focus-group settings.

### Land Acquisition

1. What are the different ways in which men acquire land (for example, inheritance, purchase, rental, local allocation, state allocation)?
2. What are the different ways in which women acquire land (for example, inheritance, purchase, rental, local allocation, state allocation)?

### *Inheritance*

1. From which parent(s) or other relative(s) do men most commonly inherit land (for example, mother, father, uncle, brother)?
2. From which parent(s) or other relative(s) do women most commonly inherit land (for example, mother, father, aunt, sister)?
3. When do men usually receive their inheritances (for example, at marriage, at death of parents)?
4. When do women usually receive their inheritances (for example, at marriage, at death of parents)?
5. Are inheritance transfers usually legally recorded or registered? If so, when is this usually done (for example, at the time of the transfer, upon the death of the original owner)?
6. Do all sons inherit equally or unequally from their parents?
7. Do all daughters inherit equally or unequally from their parents?
8. If daughters inherit land from their parents, do they normally keep this land themselves? If not, what usually happens to this inherited land?
9. Do sons inherit more, less, or the same as daughters?

### *Market Purchase*

1. How common is it for men to buy land?
2. How do men generally pay for the purchase of a new parcel of land (for example, savings, loan)?

3. What are the difficulties that men might have in buying land?
4. How common is it for women to buy land?
5. How do women generally pay for the purchase of a new parcel of land (for example, savings, loan)?
6. What are the difficulties that women might have in buying land?

### *Market Rental*

1. How common is it for men to rent land?
2. What are the difficulties that men might have in renting land?
3. How common is it for women to rent land?
4. What are the difficulties that women might have in renting land?

### *Local Allocation*

1. How and when is land allocated to men by local authorities?
2. How and when is land allocated to women by local authorities?
3. Approximately what proportion of households receive land allocated by local authorities?

### *State Distribution*

1. Have men in this community received land from the government (for example, land reform, farm privatization, leasehold, resettlement)?
2. Have women in this community received land from the government (for example, land reform, farm privatization, leasehold resettlement)?

### *Other*

1. Are there other ways that men in this community might obtain land (for example, borrowing, gift, exchange)?
2. Are there other ways that women in this community might obtain land (for example, borrowing, gift, exchange)?

## Marital Property Practices

All questions should distinguish between formally married and cohabiting couples.

1. When couples first marry/cohabit, where do they establish residence (for example, with the husband's family, with the wife's family, independently)?

2. Do women generally bring a dowry to marriage/cohabitation?
3. If so, does this dowry often include land?
4. Do men generally bring land to a new marriage/cohabitation?
5. Once a couple is married/cohabiting, do they keep separate control over the land they brought to the marriage (for example, decisions over use and transfer, control over proceeds)?
6. If new land is purchased while a couple is married/cohabiting, is it considered to belong to the husband, the wife, or both?
7. If a couple separates or divorces, what happens to the land?
8. If a husband dies before his wife, what happens to the land?
9. If a wife dies before her husband, what happens to the land?

## Gender-Specific Land Use

### *Male Land Use*

1. What crops do men most commonly grow on their land?
2. Of the crops grown by men, which are most commonly used for consumption by the family?
3. Which crops are most commonly sold?
4. How common is it for men to rent out their land?
5. Which family members most often help men in the cultivation of their crops?
6. How common is it for men to hire labor to help out in the cultivation of their crops?
7. Do men in this community receive loans to purchase inputs (seed, fertilizer, pesticide, hired labor) for agricultural production?
8. What are the most important sources of agricultural loans for men?

9. Do any of these sources regularly require that men use their land as collateral (guarantee) for the loan?
10. What are the most important sources of nonagricultural loans for men (for example, consumption, small business)?
11. Do any of these sources regularly require that men use their land as collateral (guarantee) for the loan?

### *Female Land Use*

1. What crops do women most commonly grow on their land?
2. Of the crops grown by women, which are most commonly used for consumption by the family?
3. Which crops are most commonly sold?
4. How common is it for women to rent out their land?
5. Which family members most often help women in the cultivation of their crops?
6. How common is it for women to hire labor to help out in the cultivation of their crops?
7. Do women in this community receive loans to purchase inputs (seed, fertilizer, pesticide, hired labor) for agricultural production?
8. What are the most important sources of agricultural loans for women?
9. Do any of these sources regularly require that women use their land as collateral (guarantee) for the loan?
10. What are the most important sources of nonagricultural loans for women (for example, consumption, small business)?
11. Do any of these sources regularly require that women use their land as collateral (guarantee) for the loan?

## **Appendix 4: Sample Gender-Specific Indicators for Monitoring and Evaluation of World Bank Land Administration Projects**

### **Project-Level Indicators**

1. Staff composition, by gender (especially field-level public information, training, and survey/adjudication teams)
2. Information meeting attendance, by gender (distinguish head of household from non-head of household)
3. Training meeting participation, by gender (distinguish head of household from non-head of household)
4. Titles issued, by gender (individual, joint)
5. Post-titling land transfers (sales, bequests), by gender

### **Beneficiary Household-Level Indicators**

1. Land use and investments/improvements, by gender
2. Agricultural (for example, crop sale) income, by gender
3. Nonagricultural income, by gender
4. Land collateralization/credit receipt, by gender
5. Outmigration, by gender
6. Food and nonfood expenditures

7. Child school enrollment, by gender
8. Incidence of divorce/separation
9. Division of land assets upon divorce/separation
10. Division of land assets upon death of the head of the household

### **Beneficiary Community-Level Indicator**

1. Participation in community organizations and decision-making bodies, by gender

## **Appendix 5: Sample Questionnaire for Data Collection for Baseline and Impact Evaluation**

This sample survey instrument consists of nine modules (pages 60–81). It can be adapted and modified as needed to establish baseline information and to monitor project impact over time. The modules are

1. household roster
2. parcel information
3. wealth
4. credit
5. community participation
6. nonfarm employment
7. household enterprise
8. expenditures
9. community-level data.









# Wealth

<p>1. How many rooms does this dwelling have?</p>	<p>2. What are the major construction materials of this dwelling?</p> <p>BRICK-1 CONCRETE-2 ADOBE-3 WOOD-4 TIN/ZINC-5 MUD-6 BAMBOO-7 TILE-8 THATCH-9 LINOLEUM-10</p>	<p>3. What is the main source of lighting?</p> <p>ELECTRICITY-1 KEROSENE, OIL, OR GAS LAMPS-2 CANDLES OR FLASHLIGHTS-3 NO LIGHTING-4</p>	<p>4. What is the principal source of water for drinking and cooking?</p> <p>PRIVATE CONNECTION TO PIPELINE-1 PRIVATE WELL-2 PUBLIC TAPS/STANDPIPE/WELL-3 WATER VENDOR-4 RIVER, STREAM, LAKE, POND, SPRING, OR RAINWATER-5 OTHER (specify) _____-6</p>	<p>5. What is the main type of fuel used for cooking?</p> <p>GAS-1 ELECTRICITY-2 WOOD-3 COAL-4 KEROSENE-5 OTHER (specify) _____-6</p>	<p>6. What type of toilet does the dwelling have?</p> <p>FLUSH TOILET-1 LATRINE-2 OTHER (specify) _____-3</p>	<p>7. Does your household own any of the following items?</p> <p>YES-1 NO-2</p>	<p>WALLS</p>	<p>FLOOR</p>	<p>ROOF</p>				<p>STOVE</p>	<p>REFRIGERATOR</p>	<p>TELEVISION</p>	<p>BICYCLE</p>	<p>MOTORCYCLE/ SCOOTER</p>	<p>CAR/TRUCK</p>
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# Credit

1. Please record the name and household ID code of any household member who has borrowed money from any source (individual or institution) in the last 12 months	2. In the last 12 months, how many times did this household member borrow any money, that he/she had/had to repay, from any <b>friends or family members?</b>	3. What was the total amount borrowed from friends or family members in the last 12 months?	4. What kind of guarantee did the borrower provide the lender(s) for this/these loan(s)?	5. What was the main reason for borrowing/obtaining this/these loan(s)?  AGRICULTURAL INPUTS-1 FARM EQUIPMENT-2 ANIMALS-3 LAND-4 NONFARM BUSINESS-5 CONSUMPTION-6 HOME REPAIR/IMPROVEMENT-7 CONSUMER DURABLES-8 CEREMONY-9 MEDICAL OR OTHER EMERGENCY-10 OTHER (specify) _____-11	6. In the last 12 months, how many times did this household member borrow any money, that he/she had/had to repay, from any <b>moneylenders, employers, or landlords?</b>	7. What was the total amount borrowed from moneylenders, employers, or landlords in the last 12 months?	8. What kind of guarantee did the borrower provide the lender(s) for this/these loans?
NAME	HOUSEHOLD ID CODE FROM ROSTER						
1							
2							
3							
4							
5							
6							
7							
8							

# Credit

<p>9. What was the main reason for borrowing/obtaining this/these loan(s)?</p> <p>AGRICULTURAL INPUTS-1                      FARM EQUIPMENT-2                      ANIMALS-3                      LAND-4                      NONFARM BUSINESS-5                      CONSUMPTION-6                      HOME REPAIR/IMPROVEMENT-7                      CONSUMER DURABLES-8                      CEREMONY-9                      MEDICAL OR OTHER EMERGENCY-10                      OTHER (specify) _____-11</p>	<p>10. In the last 12 months, how many times did this household member borrow any money, that he/she had/has to repay, from <b>banks, credit unions, cooperatives, or NGOs?</b></p>	<p>11. What was the total amount borrowed from banks, credit unions, cooperatives, or NGOs in the last 12 months?</p>	<p>12. What kind of guarantee did the borrower provide the lender(s) for this/these loan(s)?</p>	<p>13. What was the main reason for borrowing/obtaining this/these loan(s)?</p> <p>AGRICULTURAL INPUTS-1                      FARM EQUIPMENT-2                      ANIMALS-3                      LAND-4                      NONFARM BUSINESS-5                      CONSUMPTION-6                      HOME REPAIR/IMPROVEMENT-7                      CONSUMER DURABLES-8                      CEREMONY-9                      MEDICAL OR OTHER EMERGENCY-10                      OTHER (specify) _____-11</p>
1				
2				
3				
4				
5				

# Community Participation Module

TYPE OF ORGANIZATION	NAME OF ORGANIZATION (MAY CONSULT WITH COMMUNITY QUESTIONNAIRE TO CONFIRM/PROBE)	1. Among the adult members of your household, who participates in any of the following community groups/activities? (List up to 4 household members per community group)		2. How actively does the person participate in this group?  LEADER-1 ACTIVE MEMBER-2 DOES NOT PARTICIPATE IN DECISION MAKING-3		3. Among the adult members of your household, who participates in any of the following community groups/activities? (List up to 4 household members per community group)		4. How actively does the person participate in this group?  LEADER-1 ACTIVE MEMBER-2 DOES NOT PARTICIPATE IN DECISION MAKING-3	
		NAME #1	HOUSEHOLD ID CODE	NAME #2	HOUSEHOLD ID CODE	NAME #3	HOUSEHOLD ID CODE	NAME #4	HOUSEHOLD ID CODE
Farmers' group/cooperative									
Other production group									
Traders or business association									
Labor union									
Neighborhood/village committee									
Religious group									
Political group									
Credit or savings group									
Education group									
Health group									
Water or waste management group									
Ethnic-based community group									
Other									







# Household Enterprise Module

1. Over the past 12 months, has anyone in your household operated any nonagricultural enterprise? (Give relevant local examples)  YES-1 (continue with this module) NO-2 (skip to next module)	2. What kind of enterprise(s) does your household operate?			3. Who is most informed about or in charge of day-to-day operations of the enterprise?
ENTERPRISE ID	DESCRIPTION	CODE	NAME	ID CODE
	1			
	2			
	3			
	4			

# Household Enterprise Module

ENTERPRISE ID	ENTERPRISE ID	NAME	HOUSEHOLD ID CODE	During the past 12 months, for how many months was the business in operation?	MONTHS	During the months that the business was in operation, how many days per month did this business usually operate?	DAYS	In an "average sales" month, what is your level of sales per month?	AMOUNT	In a month with "average sales," how much have you spent in total on the purchase of inputs (labor, raw materials, items for resale, transport, electricity, water, fuel, rental, and so forth)?	AMOUNT
1											
2											
3											
4											

# Expenditure Module—Food

## WEEKLY FOOD EXPENDITURES

1. Which household member has primary responsibility for doing the food shopping? (Enter household member's code from the roster)

2. During the past 7 days (one week), did your household purchase any of the following foods?

ITEM	YES-1	NO-2	IF YES, HOW MUCH DID YOU SPEND ON THIS ITEM?
Maize			
Beans			
Sugar			
Bananas			
Coffee			
Pasta			
Fruit			
Vegetables			
Potatoes			
Eggs			
Chicken			
Fish			
Meat			
Milk			

# Expenditure Module—Non-Food

## NON-FOOD EXPENDITURES

1. During the past 12 months (one year), has anyone in your household purchased any of the following items?

ITEM	YES-1	NO-2	IF YES, HOW MUCH DID YOU SPEND ON THIS ITEM?	IF YES, WHICH HOUSEHOLD MEMBER PURCHASED THE ITEM? (ENTER CODE FROM HOUSEHOLD ROSTER)
Women's clothing				
Men's clothing				
Children's clothing				
Women's footwear				
Men's footwear				
Children's footwear				
Medicines and health services (e.g., doctor fees, hospital charges)				
Small kitchen appliances (e.g., blender, mixer)				
Kitchen utensils (e.g., pots, pans, buckets, tools)				
Small electrical items (e.g., radio, Walkman, watch, clock)				
Large appliances (e.g., stove, refrigerator, washing machine, sewing machine)				
Home entertainment (e.g., television, radio, video or music player)				
Vehicle (e.g., bicycle, motorcycle, car, truck)				

# Community-Level Data—Community and Informant Information

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## COMMUNITY INFORMATION

Community name

Community code

Municipality name

Municipality code

Department name

Department code

## INFORMANT INFORMATION

		MALE-1 FEMALE-2	ELECTED/APPOINTED LEADER-1 TEACHER/SCHOOL PRINCIPAL-2 HEALTH CARE PROVIDER-3 OTHER (specify) _____-4
NAME	AGE	SEX	POSITION IN COMMUNITY
1			
2			
3			
4			
5			

# Community-Level Data—Demography and Land Use

1. How large is the land area of this community?	<input type="text"/>	HECTARES
2. How would you describe the topography of this community?	<input type="text"/>	TOPOGRAPHY CODE
COASTAL PLAINS-1    MOUNTAINS-4 INLAND PLAINS-2    DESERT-5 HILLS-3              OTHER (specify) _____-6		
3. Does this community contain land that is owned by the community itself, rather than by individual owners?	<input type="text"/>	YES-1    NO-2
4. How many people live in this community?	<input type="text"/>	INDIVIDUALS
5. How many households are found in this community?	<input type="text"/>	HOUSEHOLDS
6. What are the principal ethnic groups found in this community?	<input type="text"/>	1ST
DEFINE COUNTRY-SPECIFIC ETHNIC GROUP CODES HERE	<input type="text"/>	2ND
	<input type="text"/>	3RD
	<input type="text"/>	1ST
7. What are the major religions practiced by residents of this community?	<input type="text"/>	2ND
DEFINE COUNTRY-SPECIFIC RELIGION CODES HERE	<input type="text"/>	3RD
	<input type="text"/>	1ST
8. What are the major languages spoken by residents of this community?	<input type="text"/>	2ND
DEFINE COUNTRY-SPECIFIC LANGUAGE CODES HERE	<input type="text"/>	3RD
	<input type="text"/>	CODE
9. Do individuals in this community trace their descent through their fathers, their mothers, or both?	<input type="text"/>	
<b>CODES FOR QUESTIONS 9-11:</b> FATHER-1 MOTHER-2 BOTH-3 OTHER (specify) _____-4		
10. Do individuals in this community receive inheritance from their fathers, their mothers, or both?	<input type="text"/>	CODE
11. When a man from this community gets married, does he go to live with his wife, or does she come to live with him?	<input type="text"/>	CODE
12. In this community, can women . . .	<input type="text"/>	YES-1    NO-2
. . . purchase land?	<input type="text"/>	YES-1    NO-2
. . . inherit land?	<input type="text"/>	YES-1    NO-2
. . . sell land?	<input type="text"/>	YES-1    NO-2
. . . leave land as a bequest when they die?	<input type="text"/>	YES-1    NO-2

# Community-Level Data—Services and Infrastructure

1. Does this community have the following services and facilities?  YES-1 NO-2 (continue with questions 2-4)	2. How far is the nearest [ . . . ] from the community, in kilometers?	3. What is the most common mode of transportation from the community to the [ . . . ]?	4. How long does it take to travel from the community to the [ . . . ], using that mode of transportation?		
		COUNTRY-SPECIFIC TRANSPORTATION CODE	HOURS	MINUTES	
Electricity					
Telephone lines					
Piped drinking water					
A paved road					
A primary school					
A secondary school					
A health clinic					
A hospital					
A marketplace					
A store					
A post office					
A public telephone					

# Community-Level Data—Employment and Migration

	MALE	FEMALE	
1. Which activities are the most important sources of employment for individuals in this community?	<input type="text"/>	<input type="text"/>	1ST
ENTER COUNTRY-SPECIFIC EMPLOYMENT CODES HERE	<input type="text"/>	<input type="text"/>	2ND
	<input type="text"/>	<input type="text"/>	3RD
2. Are there any small businesses in this community, with few employees and perhaps run out of people's homes?	<input type="text"/>		
3. What types of products/services do these small businesses produce/sell?	<input type="text"/>		1ST
ENTER COUNTRY-SPECIFIC PRODUCT/SERVICE CODES HERE	<input type="text"/>		2ND
	<input type="text"/>		3RD
4. On average, how many employees do these businesses have?	<input type="text"/>		AVERAGE NUMBER OF EMPLOYEES
	MALE	FEMALE	
5. Do some people in this community leave temporarily during certain times of the year to look for work elsewhere?	<input type="text"/>	<input type="text"/>	YES-1 NO-2
6. Where do most of them go?	<input type="text"/>		
ENTER COUNTRY-SPECIFIC MIGRATION DESTINATION CODES HERE	<input type="text"/>	<input type="text"/>	DESTINATION CODE
7. What type of work do they most commonly look for?	<input type="text"/>		
ENTER COUNTRY-SPECIFIC EMPLOYMENT CODES HERE	<input type="text"/>	<input type="text"/>	EMPLOYMENT CODE

# Community-Level Data—Agriculture

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1. Is agriculture an important source of income for some households in this community?  YES-1  
NO-2

2A. What are the three most important crops cultivated by residents of this community? (List in order of importance)

2B. Do some farmers hire laborers to work in this crop?

2C. For which tasks are they most likely to hire laborers?

2D. Are the laborers hired more likely to be men, women, or both?

2A: COUNTRY-SPECIFIC CROP CODE	2B: YES-1 NO-2	2C: TASK CODE	2D: MEN-1 WOMEN-2 BOTH-3
1ST			
2ND			
3RD			

3. In this community, is there any system of irrigation?  YES-1  
NO-2

4. In this community, how common is it for families to . . .

. . . farm land that they own?

. . . farm land that they rent from someone at a fixed price?

. . . farm land that others own in return for a portion of the crop (sharecropping)?

VERY COMMON-1  
SOMETIMES HAPPENS-2  
RARE-3  
EXTREMELY RARE-4

# Community-Level Data—Community Organizations

Please tell us if any of the following types of organizations exist in this community.

TYPE OF ORGANIZATION	NAME OF ORGANIZATION	ACTIVITIES OF ORGANIZATION (POST-CODE)	APPROXIMATE NUMBER OF ACTIVE MEMBERS
Farmers' group/cooperative			
Other production group			
Traders or business association			
Labor union			
Neighborhood/village committee			
Religious group			
Political group			
Credit or savings group			
Education group			
Health group			
Water or waste management group			
Ethnic-based community group			
Other (specify):			

## Community-Level Data—Credit

<b>1.</b> If someone in the community needed to borrow money, either for personal use or for their farm or business, from what sources might he or she get a loan?	<b>2.</b> For what kinds of activities does this source most often lend money?  FARM INPUTS OR EQUIPMENT–1 NONFARM BUSINESS–2 CONSUMPTION–3 MEDICAL OR OTHER EMERGENCY–4 OTHER (specify) _____–5	<b>3.</b> What interest rate might a borrower expect to pay for a loan from this source?	<b>4.</b> What type of guarantee does this source usually ask for? (For example: land, crops, wages)	
<b>LENDER CATEGORY</b>	<b>NAMES OF LOCAL INSTITUTIONS</b>		<b>MONTHLY PERCENTAGE RATE</b>	<b>COUNTRY-SPECIFIC CODE</b>
Family/friend				
Moneylender				
Community group/cooperative/NGO				
Private bank				
Government bank				



## Endnotes

<sup>1</sup>Although in fiscal years 1990 to 1994 only 3 stand-alone land projects were approved, this number increased to 19 (\$0.7 billion commitment) and to 25 (\$1.0 billion commitment) in the 1995–99 and 2000–4 periods, respectively. FY 2004 commitments on land-related projects (that is, stand-alones and those with a land component, but excluding adjustment operations) alone amount to \$1 billion (<http://lnweb18.worldbank.org/ESSD/ardext.nsf/11ByDocName/TopicsLandPolicyandAdministration>).

<sup>2</sup>The World Bank Land Policy and Administration Thematic Group maintains a project database at <http://lnweb18.worldbank.org/ESSD/ardext.nsf/11ByDocName/TopicsLandPolicyandAdministrationProjects>.

<sup>3</sup>United Nations 1999, p. 90.

<sup>4</sup>Lastarria-Cornhiel 1997, p. 1321.

<sup>5</sup>Izumi 1999, p. 14.

<sup>6</sup>Centre on Housing Rights and Evictions 2004, p. 56.

<sup>7</sup>Available at <http://www.db.idbproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wViewCountries>.

<sup>8</sup>This law has not yet been fully implemented, and in some cases readjustments are still occurring. Field research indicated that women in areas where land was scarce did not favor this new law.

<sup>9</sup>The Law on the Administration of Agricultural Land (2001, Kyrgyz Republic).

<sup>10</sup>Dirven (2001) argued that insofar as inheritance remains the principal form of land access in the region, significant amounts of land remain inaccessible to younger, potentially more innovative farmers until the deaths of their parents. In this context, inheritance to widows, which serves as a kind of “bridge” in a largely patrilineal inheritance system, further delays the passage of productive resources into the hands of rural youth.

<sup>11</sup>One example of a legal impediment to women’s land rights comes from Honduras, where joint titles can only be

issued to legally married couples or to couples in consensual unions who formally register their domestic partnerships. However, the costs involved in formalizing consensual unions are often prohibitive—or, at least, they act as a significant disincentive—for couples who might otherwise be willing to register their property in both spouses’ names.

<sup>12</sup>Article 6 of the constitution protects citizens’ rights and freedoms without distinction of sex, origin, economic or social condition, or any other condition.

<sup>13</sup>CEDAW, adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women, defining what constitutes discrimination against women and setting up an agenda for national action to end such discrimination.

<sup>14</sup>India is another country where land reform implementation is done at the state/province level within the parameters of the national land reform program.

<sup>15</sup>For example, until 2000, the agrarian reform registration form (*cadastro*) did not have space for writing in the names of two people. INCRA also insisted on naming men as beneficiaries—if a woman applied, INCRA officials would ask the whereabouts of the spouse, and in the absence of a spouse they would try to grant beneficiary status to a son.

<sup>16</sup>These constraints include higher levels of illiteracy, lower Spanish-language skills, and lack of personal identification documents.

<sup>17</sup>The Red Nacional de la Mujer Rural (National Network of Rural Women) is a program of the feminist NGO, Centro de la Mujer Peruana Flora Tristán.

<sup>18</sup>Deere and León (2001) reported that between September 1995 and May 1997 (21 months) only 26 titles for 689 hectares were jointly titled.

<sup>19</sup>The Guayape Valley Agricultural Development Project covers 220,000 hectares, of which 93,000 hectares make up the broad valley of the Guayape River.

<sup>20</sup>Information on titles issued at the national scale shows that between 1996 and 2000, 25 percent of total titles were issued to women (Secretaría de Agricultura y Ganadería, Honduras 2000).

<sup>21</sup>We are using the term *ownership* to broadly include ownership-like rights. These would include long-term-use rights, as in Lao PDR, or the long-term right to ancestral land that is held by a tribe, as in Ghana.

<sup>22</sup>For example, in rural Peru, 40 percent of women report living in consensual unions. In rural El Salvador, 63 percent of couples report living in consensual unions (Deere and León 2001).

<sup>23</sup>The three major ethnic groups are Lao Lum (68 percent of the population), Lao Theung (22 percent), and Lao Sung (10 percent). The major patrilineal ethnic groups are the Khumu and the Hmong.

<sup>24</sup>These communities and their titles are called Tierras Comunitarias de Origen.

<sup>25</sup>In Bolivia and Lao PDR, anecdotal evidence was heard from key informant interviews and focus groups regarding differences in norms and practices in rural and urban areas.

<sup>26</sup>An example was a land titling project in Yemen in the late 1980s, in which children ended up assisting demarca-

tion teams during the day because women could not participate and men were away working.

<sup>27</sup>Efforts to increase the productivity within the survey office by using computerized parcel mapping did not extend to the land titles office, where the drafting of the parcel index maps was reproduced again by hand

<sup>28</sup>It is important that benchmarks are given at the start. There are many instances of projects (for example, Mozambique land titling, land administration reform in the Baltic States) in which the gender-related expectations were imposed toward the end of the project.

<sup>29</sup>Ley INRA (1996), article 3, paragraph V.

<sup>30</sup>Other tribes include the Dagoma, Ewe, Ga, Gonja, Kase-na, Konkomba, Lobi, Marmprusi, Nzema, and Sisala.

<sup>31</sup>Law 152, section 88.

<sup>32</sup>Article 22.

<sup>33</sup>The Family Code was initially promulgated in 1973, but major amendments were enacted in 1977, 1988, and 1999, as well as more minor amendments in between those years.

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