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**PRIVATIZATION OF LAND AND
INDIGENOUS COMMUNITIES IN LATIN AMERICA:
TENURE SECURITY OR SOCIAL SECURITY?**

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Abstract

This working paper summarizes the discussions and findings of a recent study of the impacts of contemporary land privatization processes and individual titling programs affecting indigenous communities in Latin America, with particular emphasis on indigenous economies and production systems. The study was informed by case studies from Peru, Bolivia and Honduras and Mexico, with the main focus on the indigenous peasant societies of the highlands, where individualization schemes apply. The neoliberal policies of the 1990s promoted market based legal and administrative reforms, with a strong emphasis on developing a dynamic land market that would eventually have an impact on indigenous communal land tenure systems, whether they were the direct target or not. From the present study it can be seen that there are significant contradictions between indigenous communal land arrangements and tenure systems, and the market-based land and agricultural policy reforms being promoted by the multilateral donor agencies. In the conventional economic development discourse land tenure security is considered a prerequisite for economic growth. The study shows, however, that in relation to indigenous communities the question of tenure security is much more complex and closely related to the security of social reproduction, safeguarding of communal control and of the communal decision-making authority. It shows that privatization and individualization of land tenure *per se* has not generated the expected results.

1. Introduction

This paper summarizes the findings of a recent land tenure policy study carried out for the Inter-American Development Bank (IDB) of the impacts of land privatization processes and individual titling programs affecting indigenous communities in Latin America, with particular emphasis on indigenous economies and production systems.

The study “*Land Privatization, Titling, and Indigenous Communities in Latin America*,” was carried out between 2006 and 2007 by a team of three Danish consultants, Aage Jørgensen, Thomas Skielboe and the author (Hvalkof et. al. 2008), on the basis of three empirical country case studies in Bolivia, Peru, and Honduras respectively and a desk study of a the land reform process Mexico.¹ Each country had its own team of skilled Latin American consultants and scholars, elaborating a detailed country report of each case. (cf. annex 1) The main comparative study was submitted to the IDB in early December 2007, a presentation workshop was held in Washington, D.C. in July 2008 and revised version of the main report and the country studies finalized in September same year. It is the intention, however, that the study reports will be published by the IDB as an edited volume.

2. Historical context

A neo-liberal land reform paradigm emerged when the Washington Consensus still governed development policy during the late 1990s, before the Argentinean economy accelerated its descent (1999-2002) and eventual collapse, supporting a growing critique of the neo-liberal structural adjustment policies (cf. Birdsall and de la Torre 2001, de Ferranti and Ody 2006, de Soto 2000). In the pro-market discourse emerging, state-led agricultural and land reforms were seen as highly inefficient and counter-productive to economic development, and the great land reforms that took place in several Latin American countries in the 1950s, 60s and 70s were aggressively criticized for being coercive and expropriatory, distorting land price formation, being not demand but supply driven, making way for inefficient users or non-interested beneficiaries,

¹ The study was executed under contract with the IDB by the Danish consultancy company NORDECO. The author was “borrowed” from the Danish Institute for International Development, and worked as team leader and anchor person on the study. The study is a sequel to an earlier study: “Land Titling and Indigenous Peoples”, carried out by the Indigenous Peoples and Community Development Unit of the IDB’s Sustainable Development Department in 1999

being state-centralized, slowly implemented and undermining private investments and land markets... to name but a few common points in the pro-market criticism of state-led land reform processes. The neo-liberal answer to this was land privatization, individualization and allotment, allowing land markets to develop, claimed to foster more productive land use, better access to financial markets and credits, increased employment and thus improved living standards for the rural poor.²

Prompted by these ideas and promises, several of the countries in the region liberalized their indigenous collective land tenure arrangements, opening them to privatization and individualization, a process that had already started “spontaneously” as collective indigenous landholding were increasingly being put under pressure by a series of different processes. Furthermore, land tenure regularization models in the region had not seriously taken customary land tenure practices into account, which were merely seen as static systems, relicts of feudal regimes that were now standing in the way of modernization and liberal agricultural development. Historically, indigenous peoples have had to choose between two models: collective or private individual property. Indigenous customary laws establish a variety of land access and management rules that differ from region to region according to cultural tradition, adaptation to the ecological landscape and local historiography, and which do not easily correspond to planned blueprints for private or formalized collective land tenure models.

The liberalization of land tenure was followed up by the multilateral development banks supporting several large scale land privatization and cadastre programs, most noticeably in Peru and Mexico, some of which are still active. It is the empirical foundation of the mentioned neo-liberal suppositions in the context of indigenous communities our impact study wanted to challenge (Deininger and Binswanger 1999).

3. The study

As mentioned the study covers Bolivia, Peru, Honduras and Mexico, reviewing cases of land privatization and titling programs and assessing their impact on

i. credit access through the development of mortgage markets;

² The empirical basis of several of these criticisms has been questioned by several scholars and some have argued that the large state-driven land reforms of the first half of the 20th century were in fact quite efficient at redistributing property and reforming the agricultural sector, e.g. Saturnino M. Borrás 2005.

- ii. land markets; and
- iii. improvements in living standards.

Additionally, the study has identified the scope of social capital-related impacts on customary law, governance and food security, and specifically on;

- iv. cultural land-use management;
- v. access rights to natural resources;
- vi. inheritance rights;
- vii. women's access to land;
- viii. traditional production and exchange systems (traditional economy); and
- ix. communal control and decision-making processes.

It is beyond the scope of this working paper to discuss the selection criteria of the countries, the case studies and the methodology in any detail, but a few general traits merits attention: In the first place, it is important to look for cases and places where such individualization processes are relevant at all, and secondly, of course, where such processes have *de facto* taken place. This excludes the vast majority of tropical lowland indigenous communities in the Amazon and most tropical forest areas of South and Central America, including humid coastal zones. This can quite easily explained by the character of the tropical forest production systems (cf. Plant and Hvalkof 2001; and Hvalkof 2006), but we will have to skip that for now. In the tropical lowlands typically, the concept of the collective territorial rights of indigenous groups or communal tenure of larger areas has been applied, and to our knowledge no systematic attempt at privatizing or individualizing such communally titled areas has been made, although exceptions do exist.

One of the more aggressive of these is the recent attempt (2008) by the Peruvian President Alan García and his government by decree to issue a package of several legislations targeting indigenous communities, and particularly opening for privatization and colonization of titled indigenous community territories in the Amazon, and free access for extractivist enterprises. The implementation of these laws will have disastrous effect on tropical forest environments, indigenous production systems and not least lead to violent conflicts between community

members and encroaching settlers, land speculators and logging entrepreneurs.³

What can be seen in many tropical regions, particularly in colonization frontiers (often referred to as the “agricultural frontier”, which is a misnomer (cf. Hvalkof 2008)) is that aggressive colonization and titling programs targeting neighboring non-indigenous beneficiaries may also have a notable impact on the indigenous tenure system and governance.

The present study has thus primarily focused on the indigenous peasant societies of the Andean highlands of Bolivia and Peru, and indigenous peasant societies in Mexico. However, to exemplify the indirect impact of large non-indigenous development projects on neighboring indigenous communities, a case study from Garífuna communities in the coastal lowlands of Honduras was included.

- The case study from Peru was undertaken in five Quechua peasant communities in the District of Pucyura, Anta Province, which is situated in Cusco department.
- In Bolivia, the case study took place on the Altiplano, in seven Aymara peasant communities in the municipality of Sica Sica, in Aroma Province, department of La Paz.
- In Honduras, two case studies were undertaken: one in the Garífuna communities of Tornabé and San Juan, on the Atlantic coast, and the other in San Francisco de Opalaca, a Lenca municipality in the Western region of the country.

In Peru the survey included 216 households, in Bolivia 220 households, and in Honduras 58 households in the Lenca region⁴. In the case of Mexico, a desk study was produced on the basis of existing studies on the impact of the 1992 constitutional reform and the 1993 PROCEDE land reform program in Mexico. It was considered essential to compare the experiences from the present case studies with those from the Mexican *ejido* reform program, which has been one of the most thorough, targeting communal peasant communal landownership.

³ The laws were passed as presidential decrees, (D.L. 1015 and D.L 1073) circumventing the normal democratic legislative procedures in the congress, using special powers given to the president in the context of free trade agreement negotiations with the U.S., as a pretext. This attack on communal landownership and control, led to widespread mobilizations and protest from indigenous organizations, NGOs and other civil society actors, and the decrees were rejected by broad majority vote in the congress, and act which President has refused to acknowledge, although he admits that applying such measures in the Amazon was an error as it originally was intended to target peasant Andean communities (sic).

⁴ During the field study, we found that it was not possible to undertake a household survey in the two Garífuna communities due to an ongoing conflict related to the IDB-supported tourism project.

In spite of many structural similarities, the empirical reality in all four areas is very different and there has never been any uniform, extensive privatization process of indigenous collective territories in the four countries. Only Mexico and Peru have recently carried out large-scale land reforms involving privatization of indigenous communal lands. In consequence, the aim of the study has not been to make a full quantifiable comparative study in the strictest “statistical” sense of the term, but rather to analyze, compare and discuss the findings from the four areas, and describe and illustrate indigenous experiences of both collective and individual land titling. While the cases reveal the complexity and diversity of experiences, they also point to common patterns and solutions. (Detailed descriptions can be found in the full IDB study report, Hvalkof et. al. 2008)

4. Findings and conclusions

A. THE AMBIGUITY OF THE STATE

It is evident, both from the present country studies and from the complementary literature on indigenous tenure issues, that the indigenous peoples and communities and their organizations have a very ambiguous relationship with the State. Although the role of the State over time has changed, along with its policies, there is a deep-rooted mistrust of the State and its institutions, and an entrenched suspicion towards new policies and programs targeting the indigenous communities and, particularly, their land rights and tenure situation. This mistrust is of course based on notoriously bad experiences throughout modern history with the implementation of land policies in general. Either the policies aimed at dissolving communal tenure resulting in loss of territory and control or, when agrarian reform legislation was eventually supposed to benefit the indigenous peasantry, it was often not implemented, as in the case of Bolivia, or implemented at a pace that took decades, as in the case of Peru, or it ended up being privatized through different market-related maneuvers, or the legislation was so unclear and badly regulated that it left crucial questions of land administration and decision-making power open to venturesome interpretation, generating latent local conflicts as in the cases of Honduras and Mexico. There are innumerable versions of the same story of bad governance and hidden agendas, always with the result of the poor indigenous peoples being left carrying the can.

On the other hand, indigenous communities and organizations also have great expectations of the State and its institutions, anticipating that sound policies will eventually be developed in favor of the indigenous populations and extended to the indigenous poor to improve their situation.

The fact that the State does not seem to recognize indigenous peoples' special situations does not mean that the indigenous peoples do not recognize the State.

This ambiguity becomes crystal clear when indigenous communities and organizations appeal to national governments to safeguard indigenous rights and implement legislation and reforms that would improve their tenure security. In the absence of adequate state institutions and policy guidelines, indigenous communities have for many years had to rely on their own customary systems of governance and tenure regulations and, have in fact, very loyally attempted to adapt and modify their traditional customary systems to new legal structures introduced by governments often more concerned with legal pettifogging.

The indigenous communities and organizations have recognized that they need the State to guarantee their territorial and socio-cultural integrity, now constitutional rights in several "multi- or pluri-cultural" states. So, although indigenous communities and their organizations may seem to be in accord with neoliberal arguments regarding the inflated and incompetent bureaucracy and (cost) inefficient state obstructing the development of decentralized competitive markets, they are at the same time fierce defenders of strong State regulations and efficient control institutions safeguarding their rights and equal access to land and financial and productive resources and, as such, absolutely against de-regularizing the State and its instruments.

B. INDIVIDUAL VS. COLLECTIVE LAND TITLES

The study unquestionably reveals that the problem of formalizing land tenure in indigenous communities is not a simple choice between collective vs. individual land rights. At least, not when it comes to the majority of peasant societies, whereas in the case of indigenous horticultural societies in tropical forest economies, allotment and individual titling is entirely contradictory to a sustainable indigenous production system (cf. Plant and Hvalkof 2001). For the very same reason the study concentrated on indigenous societies where individual allotment and privatization has been an ongoing process.

In all of the cases studied in the three countries, there were both communal titles and individual (family) allotment present in different forms simultaneously. The same is extensively documented in the Mexican country study too. In most of the communities studied there were *de facto* allotments to individual families inside the communal territories and, sometimes, even formalized individual titles as in Peru and, in others such as Bolivia, there were competing community models whereby some communities had only communal titles (but still distributed specific lots to specific families internally) while others had opted for allotting the entire communal territory, as

in the case of the *ex-haciendas* in Bolivia, although they still maintained the community as the governing and decision-making body.

It is quite clear that there is an interest among many community members in acquiring an individual land title, an extra tenure security, but it is equally obvious that they at the same time are acknowledging the communal title as legitimate and, not least, the community authorities as a lawful governing body at par with any State institution. Individual land titling is thus seen rather as a complement to already existing communal and customary tenure arrangements, and not necessarily as an alternative. The conventional economic discourse on how to alter a skewed rural development has as a premise that tenure security is the key to liberating the economic dynamic (Deininger 2003, Ellickson 1993) but, as we have seen in the study, it is definitely not the silver bullet that kills the monster of economic stagnation in rural areas.

All communities, disregarding their different tenure arrangements, whether collective or individual, have unequivocally given higher priority to the reproduction and safeguarding of communal control and the decision-making authority. It therefore seems quite evident that the key parameter, rather than tenure security, is social security, in the broad sense of the term. As long as the State continues to demonstrate that it is both unable and uninterested in guaranteeing any form of social security to the indigenous communities, closing agricultural extension services, giving up market guarantees etc., radically downsizing the presence of public service institutions, then there are no alternatives to *la comunidad*. It is the community that guarantees its members access to productive land, it is the community that regulates access to natural resources, and it is the community that reconfirms the social recognition of its members, the cultural identity, and gives meaning and social cohesion. The State cannot give such guarantees to the indigenous peoples. On the contrary, it has placed its integrity in the market, a market which is controlled by totally alien forces and interests. This will not convince any averagely intelligent human being. You cannot pawn your future on such a market without guarantees. Particularly not if you are poor, indigenous and of another world of logic. History has shown that the State is not trustworthy, and legislation alone will not do the trick, nor isolated land tenure reforms.

C. ACCESS TO CREDITS

All country studies showed there was a general interest in accessing appropriate credit options among the community members. A majority of the people interviewed would like to invest in improvements in their production if possible. It was also clear that the lack of mortgage possibilities, due to a lack of individual land titles, was used by lenders to justify the absence of lending options. But, at the same time, there was a general fear among the community members

of incurring debt, particularly if their land was used as collateral in any institutionalized form. The history of debt bondage to local *hacienda* owners and other patrons is still quite vivid in people's memories of not so distant times, and the understandable aversion to risk losing the land you have struggled for over generations shows that even where families have obtained individual titles, as in the case of Peru, only a fraction use such titles as collateral in loans and credits.

One reason is, of course, that there are very few rural credit institutions in general that will work with indigenous communities, but also that the type of credits and loans sought are very small and short-term production credits, in which even the term micro-finance seems a big word. In the Peruvian case, which is the most prosperous region of the three study areas, and where some communities have succeeded in individualizing a part of the most productive communal lands, the credits were typically used for converting cash crop production on one plot into the production of guinea pigs, i.e. adapting to market fluctuations and changing demands. We are talking on a scale of few hundred dollars at the most. Such a scale will never justify the transaction costs of a real certified mortgage procedure. Both here and in cases from the other country studies, when people indicate that they have used their title as guarantee, it is almost never a real mortgage in the official sense, processed in the registry of deeds with the title as collateral. Most often the individual title is merely used as a kind of proof or pledge that the land, as a means of production, is available and at hand, rendering it probable that the lender is capable of producing sufficient surplus to pay back the credit or loan (see also Deininger 2003: 28-29).

In all communities studied there was a great interest and desire in alternative credit institutions and development banks, in the small sense of the word, developing adequate financial instruments tailored to the small-scale indigenous producer, who will never turn into a prosperous capitalist agribusiness enterprise but who is hard-working and has the potential for growth, which all adds up, particularly with additional technical assistance and innovative niche productions. The studies from all four countries revealed that privatization of land tenure and individual titles do not resolve the credit problem. This requires the involvement of several other sectors. Again, the multilateral development banks could be at the forefront of developing such financial instruments and credit products specially tailored to tackling the problem of small-scale production credits for indigenous and similar rural communities. As argued above, it is improbable that individualization of land tenure will in any way solve the fundamental problem of credits and investments. Hence, the development of financial models that dissociate rural credits from land tenure arrangements should be considered, seeking other forms of guarantees and security of the investment. Here it would also be relevant to begin thinking about cultural and social capital as spheres of collateral interest. Financial innovation is much needed, and cross-

disciplinary inputs necessary, but this must take its starting point in the communal reality and specific relations of production.

D. LAND MARKETS

One of the central theses in liberal land reform is that a thorough privatization process, with demarcation and individual allotment, cadastre and registry, and issue of official title documents, will rapidly lead to the generation of a transparent land market and land rental dynamic which, if supported with proper institutional services, will engender more efficient land use and productivity, and growing investments, all in an upward spiral. This may be the ideal case in rural settings where individual tenure already exists in different informal structures, but it can be said with certainty that this is not the case in settings dominated by indigenous communities and customary systems of tenure control. Generally speaking, in all three case studies, no open and booming land markets have developed. Similar observations on the effects of market friendly reforms have been made in Honduras and Nicaragua by other scholars (Boucher et. al. 2005). It could be argued that this is obvious in the Honduran case, where individual sales and tenure arrangements are prohibited for communal lands, except for internal sales and rental agreements between community members.

But in the other end on the continuum we find the Peruvian case from Cusco, a rural zone with productive lands, irrigation systems, good road infrastructure, market access and a growing economy, - and with the most recent allotments and privatization program actively involved. Nonetheless, only a limited and incipient land market has emerged there. The most noticeable effect is higher prices for land with a title, meaning that improved tenure security is seen as an asset. But in the Cusco case study there is an external conditioning factor that may be the underlying determinant of this tendency, namely a booming tourist industry with increased interest in buying land for tourist infrastructure investments and holiday cottages, generating an increasing land speculation that disregards the title status. However, the relatively low density of individual allotments in the area and other factors impeding the development of an open land market keep the transaction costs so high that it most often is not feasible to enter into formal transactions.

While this could be explained as an atypical case, the Mexican country study clearly indicates that this is in fact the general pattern. Even the very comprehensive PROCEDE program has not succeeded in creating efficient and transparent land markets. What seems to be the case in all countries is that there has been an increase in informal and internal transactions in the communities, and in the *ejidos* in the case of Mexico. In the Bolivian case, 90% of all land

transactions were internal community sales, mostly related to the expansion of the dairy industry in the area. On the other hand, internal land rentals and land access agreements based on sharecropping are widespread in all areas studied. These are all informal systems as seen from the perspective of the State, and yet from the local point of view they are well-established systems of land access and distribution, sanctioned by the “communal society”.

In general, the formal titling process seems to boost internal and informal rental transactions, not always however with a positive result, as commons and marginal lands in several cases have been seized to allotment. In Mexico the commons, often marginal grazing lands, have in many cases been apprehended by the *ejido* authorities for allotment to agricultural purposes, putting pressure on the ecosystems and increasing the population of the agrarian unit. Several studies show that a widespread land fragmentation has taken place in the *ejidos* as part of the PROCEDA process.

The conclusion is that formalized land markets and rental systems have not evolved, despite land ordering and private titling, but that local communities relate to the processes in innovative and reinterpretive ways, again attempting to benefit to a maximum from the situation while maintaining communal control.

It is evident that indigenous communal tenure systems, and internal markets and rental arrangements, are much more persistent than originally anticipated by the agrarian economists behind the privatization campaigns. However, communal tenure systems are also skewed in terms of access for all community members, with internal differentiation between poor and less poor community members becoming more visible, particularly when privatization programs change external market relations and pricing. Again the IDB, along with other involved institutional partners, may consider focusing on the development of the internal rental and transfer transaction systems, attempting to develop the existing customary system on their own premises by introducing equity criteria for all community members. As we have seen in several of the case studies, there is a call for a more equal land distribution inside the communities and a democratization of their decision-making processes.

E. IMPACTS ON PRODUCTION AND HOUSEHOLD ECONOMY⁵

One main driver behind individual titling initiatives is that it will help to create positive impacts on agricultural production and individual household economies. The general expectation is that secure tenure will be an incentive for the owner to increase his/her investments and innovation in the titled plot.

The Peruvian sample found that 83.5% of the households interviewed said that investments in land that had been titled had not increased. (Agreda and Mendieta 2007: 39). The study also found that the impact of titling on innovation and production changes was not significant and that the title itself was not the main determinant of these decisions. The opinion of 80% of the *comuneros* was that the level of innovation remains the same as before titling. These results are consistent with the perception of little impact of the title in relation to the intensity of use of the titled plots, where 79.8% believed that level of use remained the same as before the title. It is also consistent with the perception of a low impact on yield and income from the titled plots. 71.6% of those polled believed that the yield from titled plots had remained unchanged and 73.4% stated that revenues remained the same. Thus the titling itself was not sufficient to bring about an increase in investment, production or household income.

Likewise, the study found that there was no significant difference between the investments of those *ejidatarios* or *comuneros* with a title and those without. In the survey, 90.8% of the *comuneros* with a title believed that the titling had not generated significant changes in the production portfolio. The same scenario is also evident in Mexico. Here a World Bank study (2001), (also cf. Appendini and Torres 2007) found that there was a slightly higher level of economic income in Mexican *ejidos* that had been titled through the PROCEDE program than in non-titled *ejidos*. The study also found a significant relationship between households with a land title and non-farm activities. However, there was no significant relationship between the possession of a land title and income from agricultural activities.

In general, non-farm activities are important for the rural population in Mexico. A recent study noted that 45% of producers in *ejidos* titled by PROCEDE did not consider agriculture as their main activity, while the 55% who responded that agriculture was their main source of income also listed a second occupation. (Appendini and Torres 2007: 32). These figures reflect the

⁵ There are no baseline data for the case studies which would permit to measure in detail economic changes in household economy and living standards before and after a titling program. The information and data in this section has mainly been collected through household interviews.

different strategies that rural families have to use to generate household income. In many cases agriculture is not sufficient to cover food security needs and household income will be supplemented through migratory work or other means of income.

F. EXCLUSION, FRAGMENTATION AND PROLETARIZATION

The conception of the indigenous community as reflected in conventional liberal land reform papers and privatization campaigns is as ambiguous as the indigenous relationship with the State. On the one hand communal tenure and control systems are seen as archaic, anachronistic relicts, impeding the economic progress and well-being of community members, doomed to extinction and, on the other, the structural adjustment policies are also rooted in an ideology that acknowledges the rights of indigenous peoples, and the right to choose a different lifestyle, particularly if it is self-sufficient, autonomous and does not stand in the way of the construction of the minimal State. It is thus accepted that the State should protect such different social formations, islands in the sea of modern capitalism, patiently awaiting such times when this phenomenon will eventually dissolve as reason triumphs. The land privatization option is seen merely as an incentive to subscribe to such change.

But it did not work like that. The indigenous systems not only survived but even adapted, developed and propagated. The constant demand for the establishment of new communities or to expand existing community lands proves this. However, the legal option for indigenous people is that they are either members of a community and hence must refrain from desires for individual tenure security, or they can join the market and be the happy landowner of an individual plot, renouncing their communal membership and mentality. But they cannot do both, which is seen as a contradiction in terms. The equation is something like: either you are an Indian with the right to remain under the yoke of communalism or you must renounce your identity and become one of us in the market of individual opportunity.

This kind of either-or condition is particularly evident in Peruvian legislation, where it is possible to privatize the peasant communities or parts thereof, and put them up for sale on the market, but the indigenous community members themselves are not allowed to buy their own privatized land, as long as they are members of the community. They must renounce their community membership first (as if it were a sports club). On the other hand, if the community decides to go along with an allotment of communal lands, there is no problem in selling it to third party mestizos or whichever outsider may be interested.

The message in this perverted legislation is that if you want to participate in the national economy and receive support, you must give up being indigenous. Such a mechanism of ethnically defined exclusion is highly discriminatory, bordering on racism, and is to be condemned. This is the operational basis of the famous PETT program in Peru, fully funded and supported by the IDB.⁶

In Honduras, we witness the extreme poverty in which many Garífuna community members are kept, preventing them from being able to participate in the new local economic boom induced by IDB-supported tourist development projects. The communities have been offered the opportunity to be partners and invest in the tourist development projects but, so far, the financial requirements are unrealistic, given the subsistence basis of the community economy. Here, a new distorted reality is being constructed, putting enormous pressure on the local Garífuna communities, which have few options to choose from. For many individuals, the attempt to cope with market forces fails, and they end up as proletarianized individuals, often as peons on what was once their own land. (cf. Travieso 2007)

Another well-known problem resulting from the individualizing of tenure in and around communities is the process of land fragmentation, the *minifundización*, a problem which is particularly conspicuous in the Bolivian Altiplano. Here, it is not a result of Bank financed land ordering projects but a spontaneous process of individualization; we could say, however, the result of not focusing on the development of communal systems as an alternative to individual privatization (cf. Péres 2007).

The problem is definitely accelerated by the increase in individual tenure arrangements in combination with low productivity and underemployment, resulting in massive labor migration towards the urban centers and the tropical lowlands, creating new social and ecological problems at “both ends”. Where communal tenure control is maintained this tendency is less prominent, but the pressure to allot is generally on the increase.

A new aspect of this process revolves around changes in the age and gender structure of the communities, whereby it is mostly the young men who migrate and move away. However, we also witness an increasing number of underutilized plots owned by absentee landowners, living away in urban settings or in the colonization frontiers to the east. The importance and effects of

⁶ The mentioned newly decreed legislations in Peru (see footnote 3), the D.L 1015 and the D.L 1073 opening for the possibility of privatizing communal lands, eventually will change this double bind situation, and allow the community members to become individual owners of former community lands. However, the procedures for such transactions are yet not regulated.

these new nexuses between the community and members living outside and far away from community life, still having claims to community lands, is generally neglected in the land reform programs, and much more emphasis should be put on understanding the dynamics and effects of these relationships. It is well-known from studies of indigenous peasant migrations to the US that remittances play a considerable role in local economies (and consequently the national economy) and that the communal control system, on the other hand, is being extended to the US urban environment, reproducing the cultural capital of the communal systems and maintaining the social responsibilities and duties of the migrant community members (e.g. Trans 2006).⁷

A similar process is taking place inside the countries too, as the communities struggle to maintain control and survive by adapting to the new conditions, thus attempting to optimize social security. The exchange of services and goods between the community and its urban diaspora is an aspect that should be given much more scrutiny, again proving that focusing on the entire system of communal life may prove much more rewarding when looking for new development options for the rural poor, rather than focusing on isolated tenure relations.

G. GENDER RELATIONS AND WOMEN'S ACCESS TO LAND

Statistics show huge gender-based differences in access to key productive resources such as land in Latin America. In a study of five countries where gender-aggregated data was available, the results show that women comprise between 11 and 27% of land owners (Deere and Leon 2002). There seems to be a positive relationship between women's land rights and household income. A correlation of women's land rights and household income in Nicaragua and Honduras found indications that, in cases where women have either individual or joint rights to land, the household income is significantly higher than in households where women have no formal claims to land. (Katz 2002). Land rights can also give women a stronger position inside the household. A recent review (Baranyi et. al. 2004) of land reforms in Latin America pointed to evidence from Africa and Asia, where women with land rights have a stronger say in the intra-household allocation of resources. Land rights have also been associated with women's empowerment, by enhancing their bargaining position both with husband and children (Deere and Léon 2001), and other positive results such as greater household expenditure on food and healthcare as well as children's schooling, agricultural productivity and diversification of household income-generating activities (Baranyi et. al. 2004).

⁷ This system has also long been common among migrants in European cities (cf. Philpot 1968)

With regard to women's formal rights to land in the present study, all four countries acknowledge the equal rights of men and women to inherit and own land. Notwithstanding, the analysis shows that the first generation land reform programs had a pronounced male bias whereas the recent reform packages introduced in several Latin American countries have succeeded in gaining a somewhat more balanced outcome between men and women when it comes to landownership and titling, through bilateral inheritance legislation. However, there still seems to be a strong male dominance in land allocations and inheritance in indigenous peasant communities. This was the case in nearly all of the present case studies apart from the Garífuna communities, where there is a traditional matrifocal organizational pattern.

The Peruvian case study found that indigenous women experience both exclusion and fewer rights to land. Only around 10% of the households in the survey had a female head, and most of these belonged to the poorest households. Moreover, women often felt that they receive less attention from communal authorities when resolving conflicts related to land. A generalized problem in all indigenous communities is women's lack of personal identification papers, i.e. not being registered as Peruvian citizens, thus not having voting rights or the possibility of inheriting or owning anything in formal legal terms. This is also expressed in the lack of registration of women's names on titles and other land possession documents, exacerbating the exclusion of women. Most women expressed an interest in formalizing their inheritance rights, based on their interest in securing their children's future.

In the Bolivian case, the majority in the survey (70%) had obtained their land through inheritance. Traditionally, many families have followed the practice of having the last-born son (*ultimogeniture*) inherit the land and this custom continues into the present, very much confirming the trend towards an absolute male bias in customary tenure arrangements. The interviews revealed that families also let their other sons inherit land and other types of property such as cattle, again excluding their daughters. A similar gender-biased development can be observed in Mexico. The 1992 PROCEDE reform introduced free choice so that the *ejido* land holder now can choose who will inherit his land. The inheritor will not necessarily have to be a family member. These changes make women more vulnerable since their father or husband may now exclude them from access to land, and a general male bias in rural society reinforces this tendency.

In this context, a new phenomenon of "feminization of the rural population" has been observed in the Bolivian case, related to the emigration of the young male population. Women and children are increasingly left behind to take care of production and the daily life of the communities. Having to undertake more responsibilities and double functions, the indigenous

women are thus carrying the heaviest burden of failed land policies. This tendency becomes particularly distorted when it is considered that women are also not allowed to inherit according to customary interpretations of the land legislation, and cannot participate in national political life due to deficient personal identification documents.

The gender situation in all case studies, including Mexico, once again corroborates the observations made in all other aspects that land reform programs have generally chosen to neglect the potential of communal arrangements. This must be addressed and developed to make it more compatible with contemporary rural development possibilities, instead of isolating and freezing it in time, leaving it to its own fate to survive. The gender approach must take the local community structures and local communal arrangements into account. In a gender approach, it is vitally important to take the local development possibilities of existing communal arrangements as a starting point, and these must at the same time be seen as a dynamic part of the contemporary rural reality and development and not as archaic and static structures, as so often perceived in tenure programs.

5. *Summa summarum*: From tenure security to social security

A trend running through all the country case studies in this study is that the focus on land tenure security as a stand alone premise for the development of the economies of the indigenous rural poor may be false, or at least insufficient. Tenure security is undoubtedly a very important aspect of any rural development process, and the theme has been at the centre of numerous social conflicts since the Spanish Conquest of the Americas but tenure security, and particularly individual tenure security, is not the panacea that will cure all ills in a rural setting dominated by indigenous communities.

The function of the community itself must be understood. The indigenous community is the only social institution that can and will guarantee the rights and access to land and resources of its members. The community is the social security system of the rural poor. During the presentation of the survey results to a group of community members in Anta, Peru, an elderly gentleman, living outside the community on his own private lot but still an active member of the community (sic.) stood up and emphasized to the Danish consultant that the community was much more than the land title:

“It is our life, our culture, our forefathers, our language. It is the future of our children. We will never abandon the community, titles or no titles.”

And this is where the short circuit of the conventional land reform rationale is to be found: equating communal tenure with the community *per se*. This is also why individualizing and privatizing tenure in rural areas does not make the communal control system disappear and consequently does not make the free market relations develop as a prerequisite for the expected investment capitalization and growth. As long as the State is not capable of establishing and guaranteeing sufficient social security for its people - social security in the most inclusive and multifaceted sense of the term – these people will establish alternative systems to the State, and here the indigenous community is one of the oldest, most renowned and well-tested institutions, with all the required functions and instruments at hand. It is thus also evidently logical, that when the State downsizes its public services and does away with its institutions, while at the same time launching large-scale land privatization programs as has been the case in Mexico and Peru without any ability to follow up or initiate all the economic, financial and technical extensions required to warrant the investments and the productivity increases expected, the community as an innate institution will be boosted and take over control.

The community is much more than the sum of the people. It is also capable of subsuming and absorbing individual tenure systems, particularly when individuality, expressed as single families detached from the collective, appears as the weakest and most vulnerable of all possible social organizations, and particularly for indigenous individuals in societies imbued with ethno-racist connotations.

The challenge now to any land reform initiative is to acknowledge the central importance of *la comunidad* and make it the focal point of any future initiatives, developing its potential and improving its functions and capabilities. This requires the State to assume its role of service provider and act as guarantor of the cultural, social and economic integrity of the indigenous community and its peoples, and that the focus of land reform shifts from tenure security to social security. But again, this calls for the presence of the State, with well-functioning and attendant institutions, and certainly not its withdrawal and substitution with the moral indifference of savage market mechanisms.

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Annex I.

Study: Land Privatization, Titling, and Indigenous Communities in Latin America.
Inter-American Development Bank. Washington, D.C.

Report Structure

Vol. 1: Main Report	Hvalkof, Søren, lead Aage Jørgensen & Thomas Skielboe	<i>Land Privatization, Titling, and Indigenous Communities in Latin America.</i> Draft report November 2007. Final version August 2008.
Vol. 2: Peru Case Study	Ágreda, Víctor y Claudia Mendieta	<i>Impacto de la Titulación Individual de Tierras en Comunidades Campesinas de Pucyura-Cuzco.</i> Informe Final, Julio de 2007. Revised version September 2008.
Vol. 3: Bolivia Case Study	Péres Arenas, José Antonio	<i>La Problemática de la Tenencia de la Tierra en Comunidades del Municipio de Sica Sica,</i> Informe Final, Octubre de 2007. Revised version September 2008.
Vol. 4: Honduras Case Study	Travieso, Jorge F.	Estudios de Caso de Honduras: Lencas y Garífunas. Consultoría: Privatización y Titulación de Tierras entre los Pueblos Indígenas de Latinoamérica. Informe final Abril de 2007.
Vol. 5: México Desk Study	Appendini, Kirsten	<i>Estudio de Gabinete Sobre los Impactos del Programa PROCEDE en Ejidos y Comunidades con Población Indígena en México,</i> Informe Final, Marzo de 2007. Revised version August 2008..

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