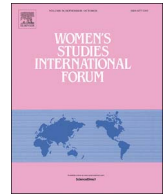


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## Land tenure and forest rights of rural and indigenous women in Latin America: Empirical evidence

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*Independent Researcher and Filmmaker at Landing Together*

## ARTICLE INFO

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## ABSTRACT

Latin America's land-use and communal forests needs a better understanding through a lens of women. This research article aims to examine Latin America's secured individual land tenure legal reforms and communal rights in indigenous territories. Two empirical case studies are presented to assess the current dynamics of rural women's land title rights in coffee agroforestry under Colombia's new *Formalización Propiedad Rural* program, and indigenous Quechua women's communal forest land rights for indigenous foods like kañawa and quinoa farming in highland Bolivia. In doing so, it also gives an introduction to the five empirical research papers that are part of this Special Section edited by the author. The specific case studies are from the Brazilian Amazon, Bolivia's Gran Chaco area, Nicaragua's indigenous territories and two studies from Mexico – one from Oaxaca's central valley and the other is based on smallholder farming in Calakmul rural area. In conclusion, the author discusses the need to prioritise women's role in individual land rights and communal forest tenure in Latin American countries.

## Dedication

This Special Section of Women's Studies International Forum journal is dedicated to all indigenous and local communities and to the environmental human rights defenders – particularly women who are guardians of the forests and natural resources all around the world. Berta Cáceres, the Honduran indigenous and environmental rights campaigner and the Goldman Prize recipient, was murdered in her home in Honduras in March 2016. Latin America emerged as the most dangerous region of the world for people defending their land, forests and rivers against destructive industries. According to the Global Witness Report, a record of 153 environmental defenders has been murdered since January to October 2017. 2015 was one of the worst years on record with 185 killings of land and environmental defenders across 16 countries. Hundreds of environmental defenders continue to inspire us to recognize land and forest tenure rights of indigenous and rural communities in Latin America and across the globe.

## Background

In the recent years many developing countries in Asia, Africa and Latin America, have introduced legal frameworks and targeted policies to recognize rural agricultural land and communal forest tenure rights (Blackman, Corral, Santos, & Asner, 2017; Bose, 2017). Some of them

were introduced in the country for the first time to recognize and protect the rights of indigenous peoples and local communities (ILC, 2011). This year, 2017, marks the 10th anniversary of the United Nations Declaration on the Rights of Indigenous Peoples. The UN Declaration was adopted as a tool to set an important standard for the treatment of indigenous peoples towards eliminating human rights violations. The UN Declaration assures the right to own, use, develop and control the lands, territories and resources and stresses that states are obliged to give legal recognition and due respect to the customs, traditions and land tenure systems of indigenous peoples concerned.

It remains to be seen how these otherwise well intended reforms have direct impacts on the governments to achieve the United Nation's Sustainable Development Goals such as poverty reduction, environmental goals and gender equity. In some countries these promising legal frameworks are either yet to be fully implemented and/or contradict with other policies that are detrimental to environmental and human rights goals denying international human rights obligations, including women's land rights (Global Witness, 2016; Inter-American Commission on Human Rights, 2015).

Land rights discrimination of women is regarded as a violation of human rights by the United Nation's Economic and Social Council Commission on the Status of Women. Equitable access to land is a human rights issue and, improving gender and social inclusion in land and forest administration is considered to be effective in improving

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sustainable management of resources (Robinson, Holland, & Naughton-Treves, 2014). The women's rights to land and forests are dependent on various social, education, economy, culture, legal and political dynamics at the micro (household), mezzo (regional) and macro (national/ international) levels (Bose & van Dijk, 2013). Access and property rights of women are dependent on many aspects. These include, for example, formal legal systems such as land use control, divorce, death and marital property rights, and inheritance; religion, culture and custom such as customary laws, division of labour, family support and identity in community/household; and local administrative set-up such as national land administration, laws and empowerment.

Globally, property rights and access to forestland and land tenure for smallholder farms is most often gender biased (RRI, 2017). Women and men have different access and property rights, which in turn impact their ability to participate in sustainable management of natural resources and land-use management (Bose & van Dijk, 2013). Guatemala, for example, has about six million indigenous inhabitants, which is about 60% of the country's population. Yet, according to IWGIA report (2017), the country lacks a differentiated statistical base on indigenous peoples, especially on indigenous women. According to the Committee on the Elimination of Discrimination against Women (CEDAW), gender disparity in Argentina and Honduras is due to the lack of women's participation in decision-making processes or policies related to recognition and protection of indigenous lands (IWGIA, 2017).

During the 2017 Land and Poverty Conference of the World Bank, a book by Segura, Fernández, Smyle, and Springer (2017) was launched. This summary report is based on lessons from six countries in Latin America that are currently being assisted by the World Bank to formulate and implement national REDD + (Reducing Emissions from Deforestation and Degradation in developing countries) strategies. In brief, the report points out that insecure or unclear communal forest and individual land tenure are underlying causes of deforestation, which is an obstacle to REDD + implementation. This study, by Segura et al. (2017), however, fails to elaborate the status of women within rural and indigenous communities with regard to their participation and access to various elements in the 'bundle of rights'.

The expression 'bundle of rights' refers to different rights often obscured by used of overarching concepts like 'property'. These different rights include access, withdrawal, management, exclusion and alienation to the same piece of land (Schlager & Ostrom, 1992). In other words, it includes rights to use the land through a lease or communal access, the right to make decisions or control and the right to transfer the land in terms of selling or mortgaging the land. Land tenure is often categorized broadly as private, communal, open access and state property. Private properties are those with exclusive rights to residential or agricultural parcels, communal access is wherein each member within a community has a right to use, and open access refers to specific rights often without anyone excluded to have free access to the resources.

Open access is different from communal systems in a way that under a communal system inclusion and exclusion happens based on membership or pre-identified rules. Most states attempt to bring the scope, content and recognition of property rights under the power of the law and administrative supervision either at a central or more decentralized level. In many instances the indigenous and traditional rural communities contest the state monopolisation of property rights invoking their traditional ancestral management rights, for example, with regard to rangelands, forests, rivers, etc. Therefore, in practice both statutory and customary laws govern land and forest tenure in many communities. Conflicts exist between traditional norms and national laws, which is the direct result of failure of the state to ensure effective and informed consultation as we have seen in the case of Dakota Access Pipeline in the United States and more recently the land rights protest by the indigenous tribes in the Brazilian Amazon (Bose, 2017).

Often, attempts to assert women's rights through reservation quotas can turn violent with male-dominated traditional tribal bodies

regarding it as an infringement of the customary laws. Bose (2017) illustrates the case of India's tribal dominated state of Nagaland, which has a special constitutional status, but an attempt to introduce 33% of women's reservation quota in political participation was faced with resistance and debate about traditional values and women's empowerment. In many countries, statistical information about land titling is incomplete and, in places where it exists, lack of uniformity in understanding concepts like ownership, co-owner, joint-title holder complicates as to what extent women may actually hold control, use, access, transfer and management rights of land and the natural resources than men.

According to Lastaria-Cornheil (1997), in Gambia, Africa, even when formal title to land is registered in women's name the household heads, often male, designated the land as *maruo* land i.e. family-cleared farm land farmed by the family under the control of the male household head. Moreover, the quantitative data of statistical information provides no understanding about the extent to which women have control and say over the land use and management. The same argument extends to the communal rights where women may be present in the meeting, but may not necessarily have decision-making power. Though quantitative measures are valuable, but using the numbers without in-depth ethnographic or other qualitative measure cannot provide accurate understanding of women's access to, ownership of, and control over property. In other words, the value questionable of quantitative indicators such as number of land titles, joint titling, or even participation in meetings determine women's access to resources. Such data may even act against actualisation of women's secured land rights.

#### Aim of this Special Section on women and land in Latin America

There is an increasing trend in examining women's access and property rights and participation (Deere & Leon, 2001; Lastaria-Cornheil, 2006), yet this is comparatively miniscule in the face of the scope and urgency of the issue in Latin America and the Caribbean. As a focal lead (2013–2015) of the Forest, Trees and Agroforestry – Gender of the CGIAR Research Program at the International Center for Tropical Agriculture (CIAT), one of my roles was to provide a platform for scientists and researchers working in Latin America. I coordinated and facilitated two scientific writeshops in Cali, 2013 and in Bogota, 2014 with the aim to share knowledge and to generate on-the-ground primary data on forest and land tenure through the gender lens. In addition, capacity building of Master degree students was an integral part of this research program, which was done through a number of internship projects that I co-supervised together with the staff of Universities in Bolivia, Colombia and the Netherlands.

The collection of articles in this Special Section is one of the process outputs of writeshops that were part my gender and tenure research project in Latin America. Out of nine research articles, five were accepted through the rigorous peer-review process of the journal to be part of this Special Section. Two empirical case studies included in this article are outputs of the internship of this research project conducted in Colombia (2014–15) and Bolivia (2013–14). These two studies bring additional evidence about how joint titling and access to farm and forest land matters for rural and indigenous women in Latin America. Our key objective of this Special Section is to share empirical evidence and the current scenario about women's land and forest tenure rights in rural areas and indigenous territories in Latin America.

This research article is divided into five parts, including this background. Next, I briefly introduce Latin America's communal forests in indigenous territories and land tenure through the lens of women. The third part presents the key concepts and approach, and highlights the five empirical research studies that are part of this collection: two from Mexico, and one each from Nicaragua, the Brazilian Amazon and Bolivia. I present two brief case studies, Colombia and Bolivia, in the fourth part as a supplement to the empirical evidence research of this Special Section. The case study on Colombia analyses the role of a

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