

Gender and the formalization of native communities in the Peruvian Amazon

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Key messages

- Indigenous women are affected not only by the tenure security of their collective land but also by their status as women; hence, both national law and community norms are of paramount importance.
- Peruvian law protects women and promotes equity in general terms, but not specifically in laws regarding land tenure or for native communities.
- Interviews with government officials responsible for formalizing land in Peru demonstrate less awareness of gender-related concerns than similar officials in Uganda, Indonesia and Nepal.
- Household survey results show important gender differences in forest use, forest management and decision-making, and in perceptions on the fairness of rules, tenure security and drivers of insecurity related to titling and formalization processes.
- Ways forward include capacity building for women to better participate in formalization processes as well as gender awareness for mainstreaming women's perspectives; gender training and reflection for government, indigenous federations and communities; and greater articulation between government officials and communities, with the support of NGOs and women's organizations and federations.

Introduction

It is widely recognized that women's rights to land and forests have not been sufficiently protected by national governments. Goal 5 of the Sustainable Development Goals (SDGs) specifically mentions women's access to property and control over land as one factor for ensuring equal opportunities and full and effective participation for women. Indigenous women are often 'doubly marginalized' due to their ethnicity and their gender (Keene and Ginsburg 2017). Their rights to collective lands are dependent on an added layer of complexity, as indigenous women are subject to both national law and local customs and norms.

Peru has recognized indigenous peoples' collective rights to land and forest in the Amazon for over four decades. More than 1300 'native communities'¹ have been titled, and some 600 remain (SICNA-IBC 2016); almost a dozen titling projects are currently in process (Monterroso and Larson 2018). This Infobrief takes stock of women's

collective land rights in Peru as part of CIFOR's Global Comparative Study on Forest Tenure Reforms. This project combined multiple research methods over a 5-year period to understand the history, context, implementation and outcomes of tenure reforms in Peru's native communities, focusing in particular on the regions of Loreto and Madre de Dios. This brief summarizes the gender-related findings across these multiple arenas.

Data collection and analysis

This brief draws on the multiple methods applied in this study in order to compile and synthesize some of the key gender-relevant data obtained from 2014 to 2017. This includes (1) a survey of government agents in charge of implementation (32 people identified as key actors along the steps to reform, see Monterroso et al. 2018 and Notess et al. 2017), and a companion set of interviews with non-governmental organizations (NGOs) and other actors involved in implementation (23 people, unpublished data); (2) field data and site reports compiled from 43 key informant interviews and 44 focus groups – half with women and half with men – in 22 communities studied in Madre de Dios and Loreto, 18 of which have

¹ This is the legal term used most frequently in the Amazon in Peru for indigenous communities recognized and titled as collective entities under the law.

been titled; (3) household surveys with equal numbers of men and women (1006 participants in total) from these 22 communities; and (4) Participatory Prospective Analysis (PPA) scenario-building workshops with multiple actors (Bourgeois et al. 2017), but with an emphasis in this brief on a PPA workshop specifically held with 38 women representatives of different indigenous associations from around the country (Zamora and Monterroso 2017). We also draw on some secondary resources, a legal review and a number of project publications.

The brief is organized by theme more than by method. It begins by analyzing how gender is considered in national law then moves to how it is approached from the perspective of government (and some non-governmental) implementers of titling processes in Peru. The following sections draw mainly on village level results to discuss gender with regard to community membership, women in forests and women in decision-making. The next section looks at gendered perceptions of tenure security, drawing from the PPA workshop and village surveys. The brief focuses mainly of Peru but mentions some points of comparison with the other countries studied when this helps to deepen the analysis.

Gender considerations in collective formalization under Peruvian law

Peruvian regulations have adopted international instruments and incorporated gender justice and equity considerations as principles under national regulations. Peru signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and adopted the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT), which states that women and girls should have equal tenure rights and access to land and forests independent of their civil and marital status. Peru has also ratified the 2030 Agenda for the SDGs, which aims to empower indigenous peoples and secure tenure rights to land for women.

At the national level, equal protection is guaranteed by the National Constitution, and some relevant laws, such as the Forestry and Wildlife Law and the Organic Law of Regional Governments, adopt equity and social inclusion as important principles. Like several other Latin American countries, Peru formally recognizes equal inheritance for women (daughters, widows and women in accredited consensual unions) (Keene and Ginsburg 2017). Nevertheless, legislation on land tenure does not have any specific provisions regarding gender (Soria 2017). Women's membership is guaranteed in specific laws on peasant communities, but no such guarantee exists for native communities (Keene and Ginsburg 2017).

Gender in the implementation of titling for native communities

The Peruvian Government has recently reinitiated titling for native communities after little progress over more than a decade (Monterroso et al. 2017). By 2014, a number of projects, particularly those supported by climate change initiatives, had begun to finance titling (Monterroso and Larson 2018). This analysis draws on the survey, mentioned above, of government implementers at national and subnational levels, and of non-governmental organizations and other entities involved in some of these initiatives.

Although the sample is not random, the survey of national and subnational government officials involved in the implementation process suggests that formalization is dominated by men: 72% of those interviewed were men compared to 28% women. When asked to state the main objectives of reforms (more than one response was possible), only one respondent from the government implementers survey (3% of all government officials) stated that the main objectives of the reforms included the recognition and strengthening of the rights of vulnerable groups, including women and indigenous peoples. For comparison, this is far fewer than in Nepal (38%) and Uganda (23%), but similar to responses in Indonesia (where only 4% of respondents considered this option). Among Peru's NGO respondents, five mentioned this objective.

With regard to activities supporting access to forests, only 14% of government officials involved in such activities (3 out of 21) stated that they gave special consideration to women. When asked about special reform targets, only 9% (3 out of 32) implementers considered women. Similar results were obtained in Indonesia (7%), but results were better in Uganda (90%) and Nepal (62%). Only one government official mentioned the exclusion of women and other vulnerable groups as being among the top four obstacles to implementing formalization (one NGO respondent also mentioned this). No government officials reported being involved in gender mainstreaming, compared to four NGO respondents.

When asked about the specific needs or demands of the communities in which they work, weak rights for women or women's exclusion were not mentioned among the top four by any government officials, but they were mentioned by two NGO respondents.² For 15 officials who stated that it was their responsibility to protect and guarantee the rights of communities recognized by reforms, none stated that guaranteeing rights of women, youth or other vulnerable

² It is not clear from this point whether government officials fail to hear such concerns, or whether 'communities' – or more specifically the people with which officials communicate from communities – fail to express them.

groups was among the activities undertaken to do this. NGOs were not asked this question, but they were asked what measures should be taken, and one replied that guaranteeing the participation of women, youth and other vulnerable groups in decision making constituted such a measure.

Gender differentiation at the village level: Membership in the collective

One of the most important issues in tenure reforms for forest communities is who is the subject of reform. In the countries studied, this varies based on the type of reform. For example, in social forestry reforms in Indonesia, the 'head of household' represents the family participating in the initiative. In Uganda's community forestry initiative, in contrast, the individual joins, hence women have sometimes organized their own forest user groups, and others are mixed. As defined in Peru's Native Communities Law (No. 22175), the entire community is the subject of reform. In this case, then, the way in which women's rights are recognized as members of this collective is paramount – regarding membership in the community, and in collective decision-making bodies.

While key informants often state that norms establish equal rights between men and women to participate in decision-making processes with both voice and vote in community assemblies, community bylaws often refer to members without specifically clarifying the rights of women and youth in decision making. The rural indigenous women's NGO ONAMIAP reports that formalization processes have sometimes allowed for discussion and clarification of membership in community statutes (Bolaños 2017).

Women's right to land. In some villages in Peru, land is granted to both husband and wife, and in others, they hold separate plots. In a native community in the Napo river region³ (Loreto), women spoke with pride of working beside their husbands. According to key informants, there is a generalized perception that women and men have equal rights to land in the village regardless of their marital status. In one community in our study, in the Piedras river region (Madre de Dios), informants explained that the communal statutes adopted during the formalization process permitted single women to have access to land; before this, they had to have a family.

These local norms affect women's rights to manage the family land after their husband's death or separation. When mentioned, interviewees reported that rules of inheritance permitted widows and male and female children to be equally eligible to inherit land, because the land is, in

any case, communal. This is somewhat misleading, however, because there is both communal land, and land assigned to families. In most communities interviewed, informants suggested that decisions about inheritance rights regarding land distribution between sons and daughters should be managed at the household level.

In practice, some of these rules vary in relation to external land pressures – for example, smaller populations in large, remote areas (as is common in communities in the Napo river region) tend to have fewer restrictions than larger populations near roads (as is more common in the native communities in the Bajo Madre de Dios river region). These differences are particularly important with regard to marriage.

Marriage. Important differences among communities were found with regard to marrying people external to the village. According to key informants, in most cases, new community members must go through a trial period, ranging from 6 months (native community in the Pebas region⁴) to 8 years (native community in the Alto Madre de Dios river region). One village allows outsiders to incorporate without a trial period; the only requisite is to work in the community (native community in the Piedras river region). In some cases, women can become members faster than men after marriage without a trial period, although participation in decision making might need communal assembly approval.

In two villages (one in the Bajo Madre de Dios river region and another in the Alto Madre de Dios river region), however, if a woman marries a man from outside the village, she has to give up all her rights (Quaedvlieg 2017). These two communities are subject to greater external land pressure compared to the others in the study. The justification for this extreme measure, which only applies for marriage to non-indigenous outsiders, is to prevent *colonos*⁵ from taking over community land, as has been witnessed elsewhere. Nevertheless, this rule does not apply to men who marry a woman from outside, and the women consider this differentiated treatment unjust.

Gender and forests

Women and men use forests differently (see Figure 1). In Loreto, women are more involved in forest product extraction than in Madre de Dios. Data from focus group interviews suggests that women extract non-timber forest products (NTFPs) such as *aguaje*, *chonta*, *tamishi*, *ungurahui* and *leche huayo*⁶; while men are also engaged in these extractive activities, they tend to be more involved in hunting and fishing. In Madre de Dios,

4 According to the site report, outsiders that are under the trial period need to participate, although without decision-making rights, in all of the *mingas* (communal work), assemblies and meetings.

5 A *colono* is usually a non-indigenous person from outside the indigenous territory.

6 These are palm fruits and plants extracted from forests.

3 We have chosen not to use community names for reasons of privacy.

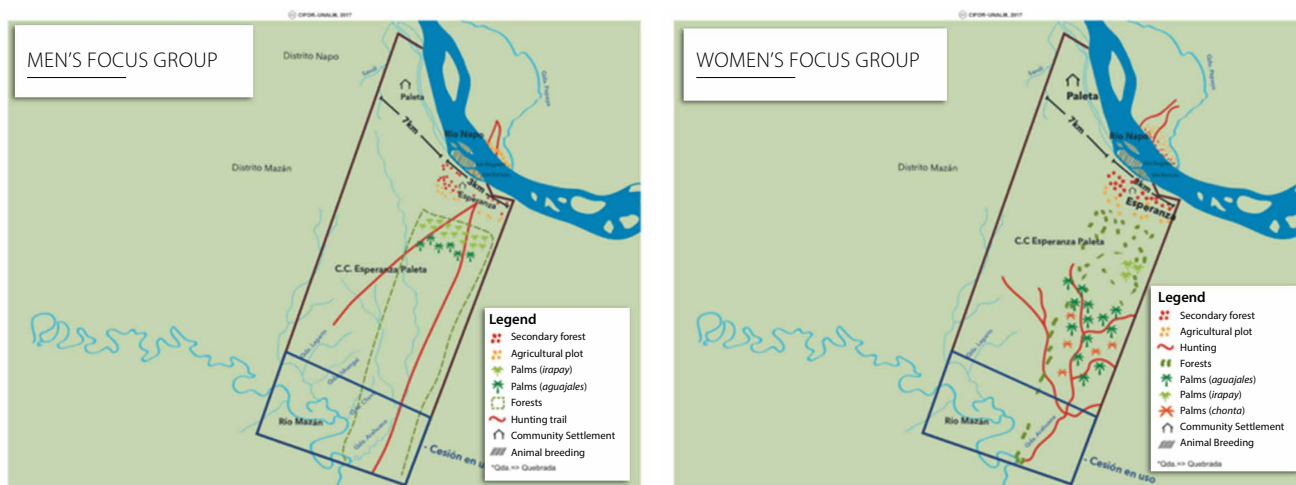


Figure 1. Participatory maps analyzing land uses (produced during Focus Group Discussions in one community in the Napo River region, by CIFOR and Universidad Nacional Agraria La Molina in 2015)

both women and men are involved in Brazil nut production⁷ (collection, drying and shelling), and in a few communities, women are involved extensively in handicraft production, often with the support of an NGO (which also varies by region and by community). Market access is, of course, higher in some communities, such as the Bajo Madre de Dios river communities, than others. Key informants stressed that women are playing a greater role in forest management activities than in the past. Household survey results show that more men (60%) than women (40%) in titled communities perceived that forest conditions have worsened, which could be explained by men relating forest conditions to the availability of timber species of commercial value.

The survey results also found differences between men and women with regard to forest rules and norms (see Figure 2), which tend to undergo formalization after titling, as the elaboration and registration of community bylaws is part of legal requirements. Though there are some differences between the two regions, the most important differences are between men and women in titled communities. Disaggregated by gender and reform status, the data indicates that men in titled communities⁸ perceive rules of resource use and forest access as clear and easy to understand (66%) in comparison to only 43% of women respondents. With regard to whether these rules are fair, 58% of male respondents in titled communities perceive rules as fair, compared to only 36% of women. In general, larger gender differences are evident in Madre de Dios, where all the communities studied were titled and a much larger portion of men perceived that rules were well known (62% men vs. 38% women), clear (74%

men vs. 30% women) and fair (64% men vs. 18% women). This difference was not apparent in Loreto, where gender seems to be a less important factor influencing perceptions.

Across all communities studied, men participate more than women in communal forest management activities, with significant differences in the proportions participating in rule-making (43% men compared to 22% women) and in forest monitoring (28% men compared to 14% women) (Cruz-Burga et al. 2018). In titled communities, participation is higher for both, but the differences remain: 55% of men report participating in rule making versus only 37% of women. In untitled communities the level of participation is low for both men (14%) and women (15%).

Interestingly, women report participating more than men in monitoring rule compliance in titled communities (30% of women, 24% of men), and the difference is even larger in untitled communities (41% women, 13% men). With regard to arbitrating disputes, participation is higher for women than men in both titled (40% women, 29% men) and untitled (40% women, 21% men) communities. The reasons for these differences require further research.

Women in decision making

In focus groups and interviews, both men and women stated that women's participation in decision making has increased markedly over the past two decades. One community in the Napo region of Loreto mentioned that they currently have a female community head and also had one previously, both in the past 10 years; this is still quite exceptional. Progress is attributed in part to community formalization processes and in part to a decline in 'macho' culture, with greater respect for women, which may be related to church organizations and NGOs in the region introducing new perspectives on

⁷ About half of the communities studied in Madre de Dios have Brazil nut trees.

⁸ Data are from 835 respondents in total (men and women) from titled communities in both Loreto and Madre de Dios regions.

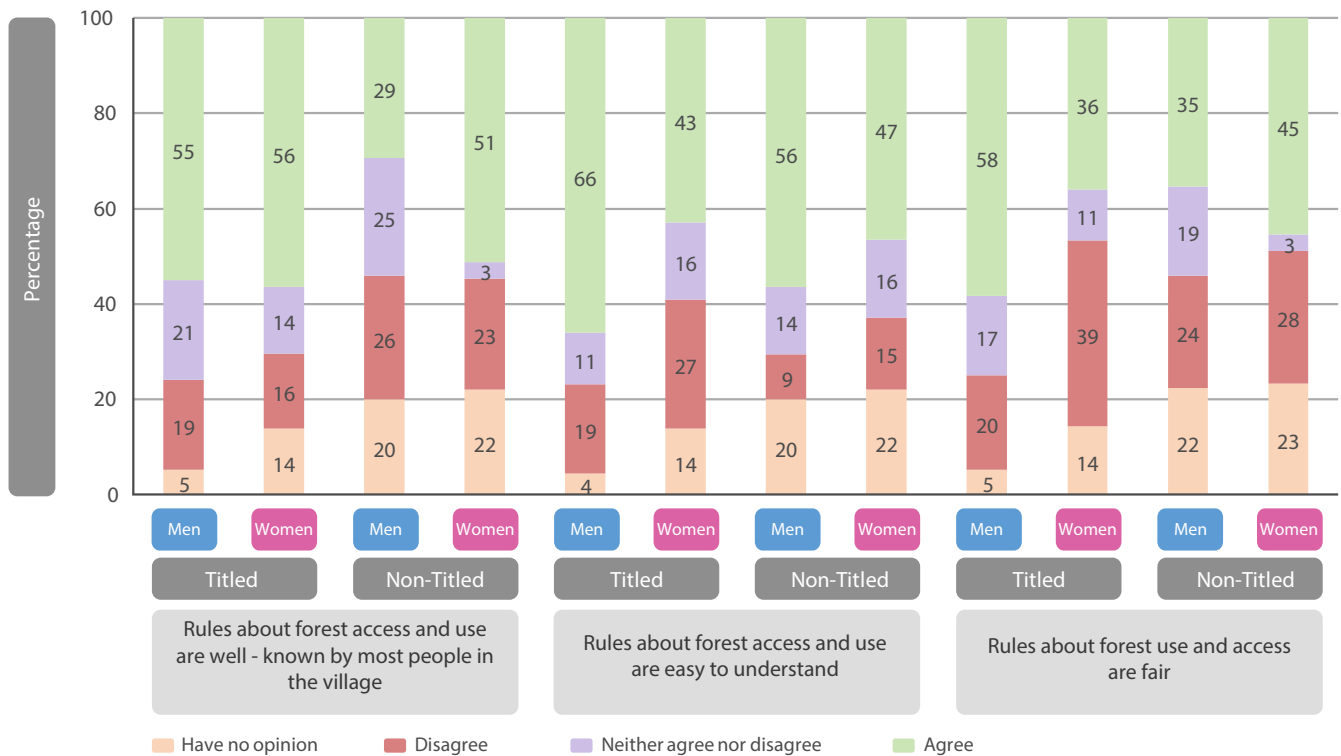


Figure 2. Perception of rules about forest access and use in titled and untitled communities (n = 1006)

participation and equity; however, women’s participation in leadership positions is usually based on stereotypes of household reproductive activities traditionally associated with women (Durán et al. 2018).

Results from the household survey show that, in titled communities, 93% of men have participated in meetings related to forest use and management, while 77% of women indicated participating at least once. This was lower for both in untitled communities: 82% of men and 51% of women participated. Regionally, there is greater participation in forest management activities in Madre de Dios (95% of respondents reported some level of involvement) than in Loreto (75% of respondents).

Tenure security and insecurity

In participatory prospective workshops analyzing future scenarios for tenure security with indigenous women from around the country, women identified a number of key factors, or driving forces, that influence tenure security. Some of these forces were similar to those obtained in mixed workshops that were dominated by men, such as lack of funding, capacities and skills regarding the empowerment of community organizations; legal requirements to access natural resources in titled areas; lack of political will regarding indigenous concerns; and development priorities that do not coincide with indigenous perspectives.

Other priorities were distinct and mentioned only by women: (1) the need to incorporate gender equality in the implementation of national and regional policies, through mechanisms that gather the perceptions of both men and women about their territory; (2) the strong impact of prevailing violence in communities, especially from extractive activities in indigenous territories; (3) the need to strengthen indigenous identity and morale within the family and community as a central aspect to strengthening management and governance of their territories; and (4) the need to strengthen mechanisms to adapt to climate change. The discussion of women’s empowerment and spaces for participation pointed out the need to allocate funds to activities that specifically address women’s interests, including capacity building and empowerment for women. Additionally, women argued for the need to include gender awareness discussions and activities at the communal level and for mainstreaming indigenous women’s perspectives in agendas at the regional level, including the enforcement of gender quotas in political participation.

These differences in priorities may explain some of the results regarding tenure security from the intra-household survey, although, in general terms, the majority of men and women in titled communities felt reasonably secure about their rights on two out of three questions (see Figure 3).

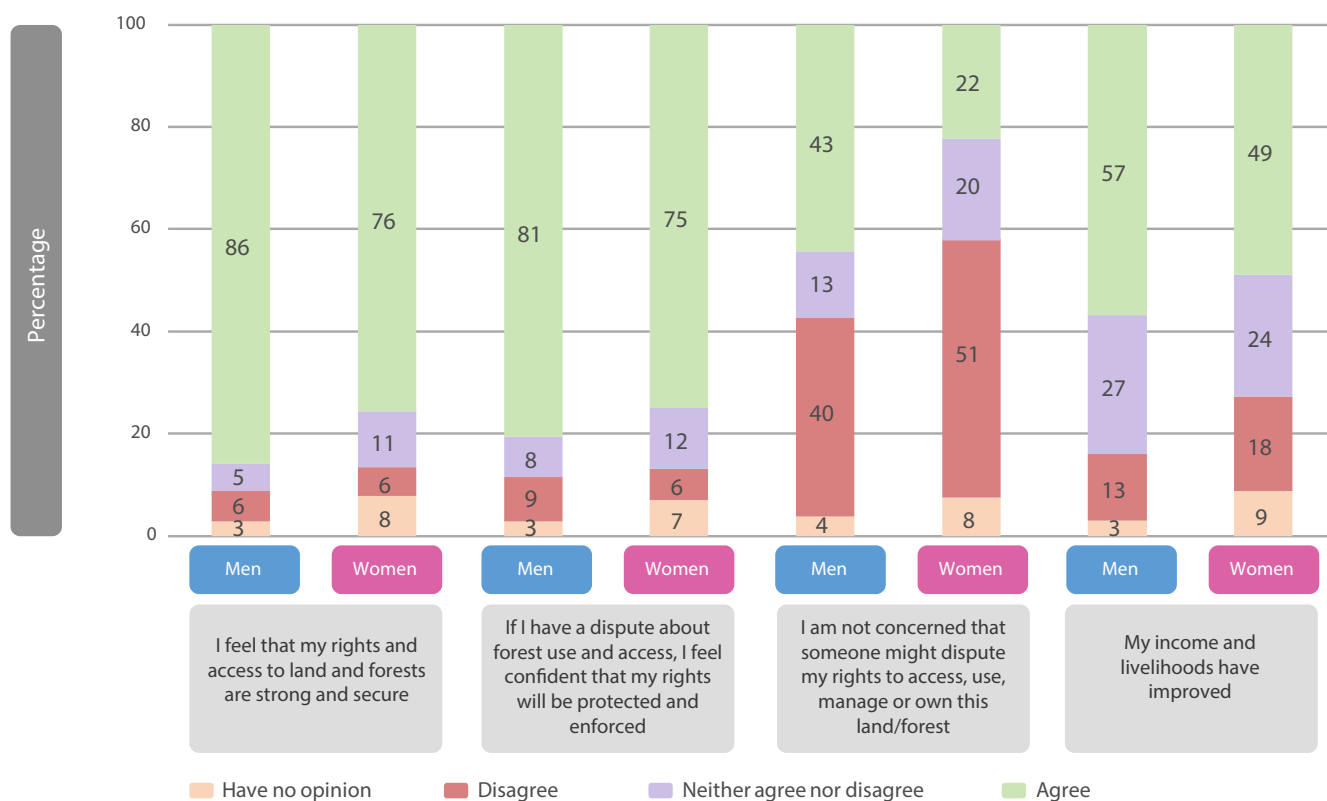


Figure 3. Perceptions of tenure security and livelihoods in titled communities (n = 835)

Across study countries, Peru reports the largest proportion of respondents (80%) agreeing with the statement, “Ever since my community was titled I feel my rights and access to land and forests are strong and secure”. In titled communities, the proportion of men that perceive their rights as strong and secure (86%) is larger than women (76%). Statistical tests (Pearson’s chi-squared) show that this difference is significant ($p < 0.01$). There are also important regional differences to note: 82% of respondents in Madre de Dios agree with the statement, “Ever since my community was titled I feel my rights and access to land and forests are strong and secure”, whereas only 55% of respondents in Loreto agree.

Results from the analysis of whether respondents consider “tenure security conditions have improved during the last 20 years” are also in line with these results. In titled communities, while 56% of male respondents report tenure security conditions have improved, only 39% of women respondents do. The difference is statistically significant ($p < 0.01$). Although across titled communities there is a fairly positive perception that “rights will be protected and enforced”, for 81% of men and 75% of women, when asked about their “concern that someone might dispute their rights to access, use and manage communal land and resources”, 43% of men responding indicated they are not concerned, compared to only 22% of women. This gender difference is also statistically significant ($p < 0.05$).

These results are in line with the perception of whether the formalization of rights through titling has led to benefits, for instance whether livelihood conditions have improved (see Figure 3). In this case, only 57% of the male respondents and 49% of the female respondents agree that titling has led to increased income or livelihood improvement. These results highlight that while titling is an important source of tenure security, it does not automatically bring livelihood improvements, and that factors such as this may also influence the perception of security, including gender differences.

Discussion and conclusions

The results presented here raise important questions in relation to land and forest tenure for women, both in terms of the role of the state and the role of the community, and of the relationship between the two.

The results demonstrate that few women participate in the administrative process to formalize native community land rights. Few people in government see women’s rights specifically as a goal or see women’s exclusion as a problem that needs to be addressed. In fact, overall, gender awareness – or, specifically, awareness that women may have specific needs and expectations from reforms or require specific attention – among the government officials interviewed appears very low. The responses, on some measures, of NGOs in Peru and of

government officials in other countries, provide comparative evidence that permits this analysis. It may help to have more women in these technical positions in government (although these other countries have even fewer than Peru), but at least as important is generating greater gender awareness while also taking into consideration other sources of social differentiation, such as age.

Given that national laws protect equity and inclusion, including equal rights to land for women and girls, it would make sense that guarantees for community membership would exist not only for peasant but also for native communities. After all, if the state has an obligation to women under laws for the former, why not the latter?

The propensity to view native communities only as a collective leads to a missed opportunity in formalization processes – and to the failure to guarantee women’s equal rights under the law. This leaves women’s rights to be defined only by their communities. The case of native communities in the Madre de Dios region – where new statutes were adopted to permit single women to have access to land for the first time – provides a clear example of what formalization could do for women. Clear membership rights for women within these collectives has important implications for how women can participate in decision-making spaces to further strengthen their rights to access and use communal resources.

Based on community interviews, equal rights to land and to inheritance appear to be the norm, at least in theory. In the language used by informants, however, it was understood that this was an option, but not a rule. Marriage rules occasionally benefit women more than men but can sometimes be extreme for women, including their loss of all rights. Concerns over the loss of community rights, as well as customs and culture, due to the infiltration of outsiders are not without precedent (see, for example, Grann 2017). Nevertheless, there are solutions that could limit the power of outsiders without disenfranchising community women.

Important differences in forest use (including areas of use noted in the maps, as well as the perception and fairness of forest rules and norms), highlight the importance of gender analysis. Gender differences are sometimes ignored, or it is assumed that a household head can and will speak for the interests of all. History suggests this is not always the case and raises red flags for anyone working on land and resource tenure rights, including land demarcation, and rule setting and enforcement. Failing to clearly understand these differences can lead to loss of rights for women, and potentially other vulnerable groups, and to food insecurity for their families.

Based on analysis of results at the village level, there are few women in community leadership positions. This points

to the need to increase women’s participation in decision making and community governance. In practice, there is still substantial resistance to this and a long road ahead in terms of gender equity. When women are in meetings separate from men, such as in the workshop on scenarios of tenure security and insecurity, they often raise concerns that have not been brought up in gender-mixed forums. At the same time, it is noteworthy that women are often careful to clarify that the point is not to elevate women above men, or support individual formalization processes, but to bring out the perspectives of both men and women in the discussion of governance of native community lands.

Women are affected by the tenure security of the collective land but also their separate status as women (which also affects women differently based on other factors such as social status). By some measures, the vast majority of women in our study feel their tenure rights are secure, although significantly fewer than men. The results highlight the importance of disaggregating perceptions by gender. It suggests the need for further analysis to understand more fully how women and men perceive external threats, as well as their involvement in decision making, especially rule-making. This takes us back to the need to review rules about membership, which in the end act as the gatekeeper for women to engage. It raises the question of who bears the burden of monitoring and enforcement, whether or not women participate in making the rules.

Ways forward include capacity building for women, as well as gender training and reflection for government officials, indigenous federations and communities. Greater articulation between government officials and communities, with the support of NGOs and women’s organizations and federations, will be essential to improving formalization policies in ways that secure women’s engagement in these processes and protecting land and resource rights for the benefit of indigenous families and communities.

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