

Gender, Land, and Water: From Reform to Counterreform in Latin America¹

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ABSTRACT

Rural women did not fare very well in the land reforms carried out during the Latin American "reformist period" of the 1960s and 1970s, with women being underrepresented among the beneficiaries. It is argued that women have been excluded from access to and control over water for reasons similar to those adduced for excluding them from access to land during these reforms. The paper also investigates the extent to which women have gained or lost access to land during the "counterreforms" of the 1980s and 1990s. Under the neoliberal agenda, production cooperatives as well as communal access to land have largely been undermined in favor of privatization and the individual parcelization of collectives. Significant land titling efforts are also being carried out throughout the region to promote the development of a vigorous land market. This latter period has also been characterized by the growth of the feminist movement throughout Latin America and a growing commitment by states to gender equity. The paper reviews the extent to which rural women's access to land and, thus, water has potentially been enhanced by recent changes in agrarian and legal codes.

INTRODUCTION

The 1990s may well be called the decade of "counterreform" in the Latin American agriculture sector. The rise and predominance of the neoliberal model throughout the region—with its emphasis on free markets, comparative advantage, and a reduction in the role of the state in the economy—have resulted in a fundamental restructuring of land tenure, and potentially other property rights, such as over water, throughout the continent (Kay 1995).

Most Latin American countries undertook some form of agrarian reform—redistributing access to land to landless, land-poor, and tenant farmers—from the 1960s to the 1980s. In many countries the large latifundia or haciendas were expropriated, eroding the power of

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the traditional landlord class. The "reformed" sector which emerged from these expropriations was quite heterogenous, but usually consisted of various forms of collective ownership and production, in addition to family farms.

Agrarian reforms were accompanied in most countries by growing state control over water rights. Most Latin American states declared water resources to be either the ultimate domain of the state and/or assumed state regulation of access to and control over this resource. Thus, along with agrarian reform agencies, these decades saw the proliferation of water or hydraulic agencies throughout the continent. The latter were also charged with overseeing the large-scale investments in hydroelectric and irrigation development that characterized this period.

The explicit aim of most of the counterreforms has been to invigorate the land market to generate a more competitive agriculture sector that can compete in international markets. Most counterreforms have thus aimed to secure individual property rights in land so that, subsequently, following market signals, land may be transferred from less- to more-efficient producers. Similarly, in the context of reducing the role of the state in the economy and the search for efficiency, regulatory agencies are being dismantled and water rights are being privatized or such laws are under discussion.

This article assesses women's land and water rights during both periods—that of agrarian reform and counterreform. The subsequent discussion gives more attention to women's land rights than it does to women's water rights for two reasons. First, since women's access to and control over water often depend on whether they are property owners, we consider women's land rights to be, analytically, the prior issue. Second, there is much less information available on women's access to water in Latin America than that on access to land.

Another factor differentiating the two periods—of reform and counterreform—is that in the latter period, gender and development issues have become an international concern. Most Latin American governments are now formally committed to the goal of gender equality, at least as parties to the United Nations convention to end the discrimination against women (Krawczyk 1993). This raises the question of the extent to which state intervention in the agrarian sector in the latter period has been influenced by three decades of feminist research and activism, resulting in more favorable terms with respect to rural women's access to crucial resources.

It is important to reiterate here why women's access to land and water are important issues. We focus on two arguments: the 'productionist' and the empowerment arguments.⁴ The stereotypical view of Latin American peasant agriculture for too many decades was that it was based on the family farm, with a division of labor whereby the male head of household was the principal agriculturalist, and the spouse, the "helper." This view was perpetuated by the Latin American agricultural censuses and by researchers who relied upon such for cross-cultural analysis (Boserup 1970).

Several generations of feminist researchers have amply deconstructed this vision, illustrating that the gender division of labor is most heterogenous, varying by region, principal

⁴See Agarwal's (1994a; 1994b) detailed analysis of why women's independent control over land is critical to women's well-being in the case of South Asia. She develops four arguments: for welfare, efficiency, equality, and empowerment. Our 'productionist' argument includes welfare and efficiency considerations while our empowerment argument also assumes considerations regarding equality and equity.

crop, the inherited structure of land tenure and the labor market, peasant social differentiation, and race and ethnicity, among other variables (Deere 1995; Deere and Leon 1982, 1987; Campana 1990). In many situations, women are the primary agriculturalists. In others, they have become so over the decades of the 1970s and 1980s, related to the growing number of female-headed households in rural areas, a phenomenon partly related to increased male seasonal migration, particularly among smallholders.

The research effort of the 1970s largely focused on making women's work in agriculture visible. Not until the 1980s was attention directed to women and land rights (Deere 1985) and not until the 1990s to women and water rights (Lynch 1991; Zwarteveen 1994, 1997; Roeder 1996; Arroyo and Boelens 1997). The result of this effort has been to demonstrate that for the growing number of female farmers throughout the continent, formal land and water rights are critical. Moreover, land and water rights are intimately linked, since in most of Latin America membership in an irrigation system largely depends on being a landowner in addition to having participated in the system's construction and maintenance. In addition, without property rights in land, women cannot join credit and service cooperatives or otherwise have access to credit or technical assistance. We term this the productionist argument since these constraints limit women's productivity or most effective use of the productive resources to which they have access.

Further, it has been demonstrated that women's formal rights over land influence their bargaining power position within the household and community (Deere 1990; Agarwal 1994a, 1994b). Women who own land not only find it easier to find a spouse, but also to terminate an unacceptable relationship, since they have their own independent means of support. Within marriage, women landowners tend to play a greater role in decision making, particularly over the intra-household distribution of labor and income. Also, women's ownership of land is important in assuring them security in old age, since the possibility of designating inheritance shares encourages grown children to assist them. Thus, even in cases where women are not the principal agriculturalists, ownership of land is very important to their status and well-being (Roquas 1995). This is the empowerment argument.

A similar argument is now being made in terms of water rights (Zwarteveen 1997; Arroyo and Boelens 1997). Water rights constitute a social relation and thus control over water is an important source of bargaining power within both the household and the community.

Drawing on the available data for nine countries (Chile, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Mexico, Nicaragua, and Peru), this paper examines the changes that have taken place in the region's agrarian laws in terms of women's potential access to land and water. It also examines whether rural women's organizations and the growing feminist movement in the region have had an impact on the generation of more gender-equitable agrarian and civil legislation.

In the next section, a brief summary is presented of the manner in which women were excluded from the Latin American agrarian reforms. The subsequent section focuses on the main neoliberal policies adopted in the nine countries. Then, the main changes that have taken place with respect to gender-equitable agrarian legislation are reviewed. While it is still too early to assess the full impact of many of these recent changes, some tentative conclusions are put forward on the likely impact on women's access to land and water.

THE LATIN AMERICAN AGRARIAN REFORMS

Previous research on the Latin American agrarian reforms demonstrated that most reforms directly benefited only men (Deere 1985, 1986, 1987; Leon, Prieto, and Salazar 1988). Table 1 provides the most recent data available on the extent to which women were beneficiaries in nine of these agrarian reforms. It shows that women fared quite poorly, ranging from only 4 percent to 15 percent of the direct beneficiaries.

Table 1. Share of female beneficiaries in nine Latin American agrarian reforms.

Country/Years	Female beneficiaries
Chile (1964-73)	None/Low
Colombia (1961-86)	11.2% (1986)
Costa Rica (1963-88)	11.8% (1988)
Ecuador (1964-93)	Low
El Salvador (1980-91)	Cooperatives: 11.7% Individuals: 10.5%* (1991)
Honduras (1962-91)	3.8% (1979)
Mexico (1920-92)	15% (1984)
Nicaragua (1981-90)	Collectives: 11.0% Individuals: 8.0% (1990)
Peru (1970-91)	Low

Note: *In the case of El Salvador, this value does not take into account that women represented 35.9 percent of those whole lands which were expropriated in favor of their tenants in Phase III of the 1980 agrarian reform. In other words, women incurred a net loss in the "land to the tiller" phase of the reform.

Sources: Chile: Garrett (1982)
Colombia: Leon, Prieto, and Salazar (1987: 49)
Costa Rica: Brenes Marin and Antezana (1996: 2)
Ecuador: Phillips (1987)
El Salvador: Fundacion Arias (1992: 34)
Honduras: Callejas (1983)
Mexico: Arizpe and Botey (1987: 71)
Nicaragua: INRA/INIM (1996: 10)
Peru: Deere (1985: 1040)

Legal, structural, and ideological mechanisms all contributed to women's exclusion from these agrarian reforms.⁵ With the exception of the Mexican and Nicaraguan agrarian reform laws of 1971 and 1981, respectively, the majority of the reforms required beneficiaries to be household heads. Restricting beneficiaries to only household heads discriminated against women since throughout Latin America custom dictates that if both an adult man and woman reside in a household, the man is considered its head. Even in those cases where beneficiaries were defined as individuals, it was usually assumed, if not explicitly stated, that only one individual per household could be designated a beneficiary and that was the household head.

⁵This section is based on Deere 1985, 1987. Table 1 updates the tables presented in these earlier works.

As a result, the only women who could potentially be reform beneficiaries were either widows or single mothers.

The requirement that beneficiaries be household heads served not only to exclude women from the agrarian reforms, but also to exclude them as direct beneficiaries of irrigation projects and from participating on equal terms with men in irrigation associations. This has been amply demonstrated in the case of eight irrigation projects sponsored by the Dutch Technical Cooperative Service (SNV) in Peru and Ecuador (Roeder 1996; Vattune 1996; van der Pol n.d.; Arroyo and Boelens 1997). In these and other projects in the Andean region the only women who could participate as full members of irrigation associations were widows or single mothers who, in addition, were landowners (Lynch 1991; Krol n.d.).

A related structural problem is that many agrarian reforms benefited only the permanent agricultural wage workers employed on the estates at the moment of expropriation and excluded the large, seasonal labor force from cooperative membership. In Chile, El Salvador and Peru, for example, the permanent agricultural wage workers were generally men, although women were often an important component of the seasonal labor force. The inability of the agrarian reforms to accommodate the vast majority of seasonal agricultural workers was prejudicial to both men and women. However, whereas men are found in both categories of workers—permanent and seasonal—the structural characteristics of women's labor force participation resulted in women being excluded as a social group. The few women permanent workers, and thus potential beneficiaries, were then subject to an additional criterion: that they be household heads. This requirement, of course, reduced their participation still further.

In a number of the reforms carried out during the US-sponsored Alliance for Progress period of the 1960s, besides prioritizing landless workers and tenants, potential beneficiaries were selected on the basis of a point system. In Colombia, for example, the point system favored those with more education, larger family size, good reputations, and farming experience. Women were at a disadvantage compared to men in terms of educational attainment. Moreover, female heads of households suffered under the reputation criterion since nonconformity with the patriarchal nuclear family norm lowered their status in the eyes of the community. Women were also disadvantaged by the farming experience criterion since men in the Andes are considered to be the primary agriculturalists and women are generally regarded as their "helpers," irrespective of the amount of time they might dedicate to farm activities.

Ideological norms governing the proper gender division of labor—that a woman's place is in the home while a man's is in the fields—often appeared in the content of agrarian reform legislation, particularly in inheritance provisions that explicitly assumed that beneficiaries would be male and that women would acquire land only if they were widowed. Ideological norms also constituted a significant barrier in practice to the incorporation of women as beneficiaries in reforms that explicitly provided for the inclusion of female-headed households, such as in Honduras.

Ideological norms have played an equally important role in excluding women from access to and control over water. First, it should be noted that in the Andean region, the division of labor by gender with regard to irrigation tasks is most heterogenous, ranging from where it is considered a normal female task to where it is embarrassing for a woman to be seen irrigating a field (Vattune 1996; Valcarcel 1997). Women's greater participation in irrigation appears to be associated with the smallholding sector and male temporary migration (Lynch 1991; Krol n.d.). Uniformly, however, men are assumed to be the irrigators by project

administrators and community leaders in an ideological version of the "proper" gender division of labor (CICDA-CESA-SNV-CAMAREN 1996; Arroya and Boelens 1997). Thus irrigation systems are designed for men and primarily men receive training in the use and upkeep of these systems.

Ideological norms also govern women's participation in irrigation associations and meetings. Any dealing with the outside world must be mediated by men, for to attend meetings is not considered a woman's proper role, much less to speak up or defend her rights. Moreover, if a woman replaces a man it is seen as diminishing a man's self-esteem (Roeder 1996).

THE COUNTERREFORMS

The Chilean counterreform represents the prototype of neoliberal agrarian policies, these having commenced in the 1970s. Whereas the Peruvian counterreform was a product of the 1980s, the other cases studied here are more recent, commencing in Nicaragua, Honduras, El Salvador, Mexico, and Ecuador in the 1990s. The two exceptions to the counterreform trend in the countries examined here are Costa Rica and Colombia. While they share a commitment to neoliberal macroeconomic policies and have opened up their external sectors, for various reasons they have pursued different sectoral policies with regard to agriculture (see table 2).

Table 2. *The Latin American counterreforms.*

Country	Restitution	Parcelization of cooperatives/collectives	End of state redistribution	Land titling	Privatization of water
Chile	X	X	X	X	X
Colombia				X	
Costa Rica				X	
Ecuador		X	X	X	*
El Salvador		X	X	X	
Honduras		X	X	X	
Mexico		X	X	X	X
Nicaragua	X	X	X	X	
Peru		X	X	X	*

* = Under discussion.

Agrarian reform is now officially over in Chile, Peru, Ecuador, Mexico, and Honduras, and has recently come to a close in El Salvador and Nicaragua. In Chile and Nicaragua, the counterreform included restitution of land to former owners as well as the privatization of collectives. In Peru, Ecuador, Honduras, and El Salvador the counterreform has centered on this latter process, the parcelization of former production cooperatives. In Mexico it has been based on the privatization of the ejidos, collectively held land; in Peru and Ecuador, as well, ancestral landholdings of peasant communities may now be divided up and sold. In all seven countries the top priority of the state now centers on land titling in order to organize land

tenure in a more orderly fashion in the hope that security of title will then invigorate the land market.

El Salvador and Nicaragua represent somewhat special cases since land redistribution continued into the 1990s as a condition of securing peace and of the pressing need to reinsert ex-combatants and resettle thousands of people displaced by a decade of civil war. At the same time, the agrarian reform production cooperatives have largely been dismantled and individual land titling is moving vigorously ahead.

Of the countries examined here, agrarian reform efforts continue only in Colombia and Costa Rica. While Costa Rica never implemented a thorough agrarian reform resulting in a major redistribution of landed property, the state continues to be involved in the purchase of properties voluntarily offered to it for sale, for the purpose of redistribution. In Colombia, political considerations have also outweighed economic or ideological precepts with respect to the implementation of the neoliberal model in agriculture. The continuing rural violence promoted by guerrillas, drug lords, and paramilitary groups have forced the state to continue to play a role in land redistribution, although the acquisition of land by peasant groups increasingly relies on market mechanisms.

In terms of water, the Chilean case again constitutes the prototype in the region with respect to its privatization (Baer 1997; Tala n.d.). Mexico has also initiated the transition from government-managed irrigation systems to farmer-controlled irrigation districts. In Peru, the 1991 Law to Promote the Modernization of Agriculture opened up the way to treating water as private property; a new Water Law which would allow full privatization has been under discussion since at least 1994 but has not yet been approved (del Castillo 1994). Ecuador is the other case where a law privatizing water rights has been considered, but rejected (in 1994) by the legislature (Navarro, Vallejo, and Villaverde 1996).

MOVES TOWARDS GENDER EQUITY

The main accomplishments in recent years with respect to gender equity are summarized in table 3. In seven of the nine countries included in this survey, important legal changes have taken place enhancing women's land rights. The most frequent accomplishment has been that in five countries—Colombia, Costa Rica, Honduras, Nicaragua, and Peru—land rights are no longer vested only in household heads. In all of these countries women and men now have explicit and equal rights before the law to own and inherit land in their own names. While land redistribution efforts continue only in Colombia and Costa Rica, explicit gender equality before the law could prove beneficial to women in land titling programs in Honduras, Nicaragua, and Peru. Recent changes in the Civil Codes of Chile and Ecuador, giving married women the right to administer their own property, could also prove beneficial to women in the land titling projects of these countries.

Ironically, Mexico—which in 1971 was the first country to establish equal gender rights to land—has now effectively disenfranchised rural women with the reform of Article 27 of the Mexican constitution under the Salinas government. Family usufruct plots in the ejidos can now become the individual private property of the ejidatario (Stephen 1996: 289; Esparza, Rocio and Bonfil 1996: 8; Botey 1997: 170). Moreover, women are no longer guaranteed that

Table 3. Gender progressive changes in land rights.

Country	Household head dropped	Joint titling	Priority to female heads	Priority to women	Civil code
Chile					1994
Colombia	1988	1988	1988	1991	1990
Costa Rica	1990	1990			
Ecuador					
El Salvador	1993*		1993*		1989
Honduras	1991	1992			1994
Mexico	1971-1992				
Nicaragua	1981	1995	1993		
Peru	1991				1984

*Refers to reinsertion program only.

they will inherit the family parcel upon the death of their husbands; ejidatarios who have received land certificates may designate any heir they please.

The Mexican case is also important in reminding us that legal changes do not necessarily translate into de facto changes in customary practices. While between 1971 and 1992 men or women over the age of 16 could become agrarian reform beneficiaries and ejidatarios, in fact, social custom, based on patriarchal ideology, continued unchallenged and resulted primarily in only male household heads usually becoming ejidatarios. Most women ejidatarias were widows who inherited ejidatario status upon the death of their husbands (Arizpe and Botey 1987).

A second accomplishment in four countries—Colombia, Costa Rica, Honduras, and Nicaragua—is the provision for joint titling of land, whether a couple is married or in a consensual union. Joint titling is mandatory in Colombia, Costa Rica, and Nicaragua, but applies only to land distributed through the agrarian reforms. In Honduras, where joint titling could be potentially important in the current land titling program, not only must a couple request it but, if they are in a consensual union, the relationship must be officially registered—a process that is both costly and goes against customary practice (Acosta and Moreno 1996:3).

Only three countries have prioritized female heads of household in recent land distribution efforts: Colombia, El Salvador, and Nicaragua. The Salvadoran case is limited to the reinsertion program for ex-combatants and their supporters (squatters in the zones of conflict), which resulted from the 1992 Peace Accords (Fundacion Arias 1992: 67-68; Luciak 1996). Whereas the government only intended to benefit household heads (i.e., families), the former female combatants of the FMLN argued that priority should be given to female household heads and that, in addition, in the case of couples, each individual should receive his or her own parcel of land and title. Moreover, they demanded that women should be the same proportion of beneficiaries as they represented in the guerilla forces. Women comprised 29.1 percent of the FMLN combatants at the time of demobilization and they represent 26.2 percent of the FMLN beneficiaries of the land transfer program. All told, women represent 33.4 percent of the total number of beneficiaries (Luciak 1996: 10).

In the Nicaraguan case, the priority given to female household heads and joint titling of land to couples was largely a response to the demands of the Women's Commission of the Sandinista-affiliated national peasant organization (UNAG, Union Nacional de Agricultores y Ganaderos) that since the late 1980s had been pressuring for a more gender-equitable agrarian reform. Their efforts combined with the lobbying of the National Women's Institute (INIM, Instituto Nicaraguense de la Mujer), resulted in (mid-way through her term) President Violeta Chamorro instructing the National Agrarian Reform Institute (INRA, Instituto Nicaraguense de Reforma Agraria) to begin giving preference to joint titling of land and to promote the titling of female heads of households (INIM 1996: 5). Joint titling of land to couples (whether married or in consensual unions) was made official by Law No. 209 of December 1995. During the Chamorro government, from 1992 to November 1996, women constituted 25 percent of the 35,545 persons benefited by this government's land redistribution and titling program (ibid.: 3).

Here we will examine in more detail two other cases of proactive moves to increase women's access to land: Colombia and Costa Rica.

Costa Rica

One of the most remarkable events of all in Latin America was the adoption in Costa Rica of the 1990 Law to Promote the Social Equality of Women, passed at the end of the Arias administration.⁶ This law established that land and housing were to be considered family property, giving both spouses equal rights over them; similarly, men and women were to have equal access to agricultural credit; finally, the law gave legal recognition to consensual unions for the first time (Guzman 1991: 199, 208; Campillo 1995: 360-61).

Article 7 of this law merits special examination: "All property distributed through social development programs should be inscribed in the name of both spouses in the case of married couples; in the name of the women in the case of consensual unions, and in the name of the individual in any other case, be it male or female" (in Madden 1992: 55).

First, as in several other countries, the law establishes joint titling for land distributed by the state; however, for the first time in the history of agrarian legislation in Latin America, women were given priority over men in the titling of land when the family was characterized by a consensual union. This historic piece of proactive legislation was apparently taken quite seriously by agrarian reform functionaries because they began handing out land to women whether or not they had previously filed a land request (Madden 1992: 80). In 1990, women constituted 38.7 percent of those titled that year (Brenes Marin and Antezana 1996: 2).

The constitutionality of Article 7 was soon questioned by groups of peasant men who subsequently brought suit against the agrarian reform institute, IDA. The suit was settled in 1994 by the Supreme Court in the men's favor. Subsequent land distributions to consensual unions are to be titled in the names of both partners (ibid.: 9).

⁶This law seems to have been the result of demands of urban women's organizations that the state implement its 1984 pledge to end the discrimination against women. It was also strongly supported by the President's wife, Margarita de Arias, who was quite involved internationally in promoting women's issues. Interview with Fabiola Campillo, former FAO and IICA expert on women's issues, by Magdalena Leon, January 22, 1997, Bogota, Colombia.

It is also worth noting that Costa Rica developed such progressive legislation with respect to rural women's land rights in the absence of a strong rural women's association. While local rural women's groups have proliferated, particularly in the context of income-generating projects, only in 1996 was a National Association of Peasant Women formed with the explicit objective of empowering rural women (Viquez Astorga 1996: 8).

Whether Article 7 will significantly increase women's access to land—through joint titling of couples—depends on a number of factors. First, it is unclear how much land is available for redistribution. Under the current neoliberal model, which favors economic efficiency over social justice—it is doubtful that a thorough redistribution of landed property will soon be on the agenda. Second, the law was apparently not made retroactive to cover previous agrarian reform beneficiaries, thereby reducing its potential impact.

A recent report by the Coordinator of the Women's Office of the Agrarian Development Institute was quite pessimistic in terms of large numbers of women gaining access to land (Viquez Astorga 1996). Besides the above factors, she notes that few rural women are aware of their rights and hardly ever apply for land, a factor she attributes to the fact that they do not see themselves as farmers. And despite a good number of "gender sensitizing" courses that have been held in that country, government functionaries in the agriculture sector do not perceive women to be agricultural producers. It is worth noting that no mention can be found in the literature on Costa Rica on women's rights with respect to water.

Colombia

As can be seen in table 3, Colombia stands out as the gender-progressive leader in terms of legal measures facilitating women's access to land. This is partly explained by the growing organizations of rural women during the 1980s, which led in 1985 to the creation of the first national association of rural women, ANMUCIC, the National Association of Peasant and Indigenous Women (Gomez-Restrepo 1991). ANMUCIC drew attention to the discriminatory aspects of the existing Agrarian Law 135, whose provisions largely led to the titling of land only in the name of men, although it was presumed that all household members benefited. Their demands were to play an important role in shaping Agrarian Law 30 of 1988, which for the first time explicitly recognized the right of women to land.

Among the main provisions of the law was that, henceforth, agrarian reform titles were to be issued in the name of couples, whether the woman was the legal spouse or the permanent companion. In addition, special provisions were made for female heads of household over 16 years of age, such as prioritizing their access to unutilized public lands. Peasant women's groups were also to be given equal participation with those of men in regional and national committees of the national agrarian reform agency, INCORA.

In terms of the advances introduced by Law 30, the total number of agrarian reform beneficiaries on a per annum basis increased dramatically between 1986 and 1991, as compared with the previous 25 years. Notwithstanding the provisions favoring the incorporation of women introduced by the law, the proportion of women beneficiaries nationally remained the same, 11 percent (Duran Ariza 1991, Appendix 3). Unfortunately, the available data for this period do not report the extent of joint titling.

A series of dispositions were subsequently enacted to strengthen the possibility of achieving gender equity. In 1991, a new resolution was issued giving priority to land distribution

efforts to women who were in a state of "lack of protection" due to the situation of violence characterizing Colombia, associated with increasing widowhood and abandonment (Medrano 1996:7).

The situation of escalating violence and political crisis characterizing Colombian society in these years accelerated initiatives for national conciliation, leading to the constitutional assembly which resulted in the exceptionally progressive Constitution of 1991. The new Colombian constitution emphasizes equality of rights and opportunities between men and women and the prohibition of discrimination against women. In concert with the new constitution came important changes in Colombia's Civil Code favoring women. The full rights of consensual unions were recognized, elevating these to equal those of formal marriages in terms of joint patrimony and inheritance.

The new constitution of 1991 provided the context for the new Agrarian Law 160 of 1994, passed under the Gaviria government, which is both redistributionary and neoliberal. On the one hand, it seeks to broaden access to landed property while fostering a private land and credit market. On the other hand, it maintains the role of the state as the key intermediary in economic and judicial relations between the market and peasantry to assure at least a modicum of redistributionary justice.⁷

The main provisions which favor women are as follows: the beneficiaries are explicitly delineated as peasant men or women who are in conditions of poverty and nonowners of property. Female heads of household, and other women, especially, those considered to suffer from a lack of social and economic protection due to violence, abandonment, widowhood, and who lack or have insufficient access to land are given priority in the determination of beneficiary status. The provision enacted in the 1988 Agrarian Law promoting the joint titling of lands ceded to households of adult men and women was reaffirmed. A major victory for the rural women's organization, ANMUCIC, was that it is to be included in the membership of the executive committee of INCORA and in the regional and local committees charged with selecting the beneficiaries and executing the law.

The accomplishments of Law 160 in its first year (1995) of operation were mixed. First, land distribution proceeded at a pace only slightly above that of the late 1980s, 4,172 beneficiaries per year as opposed to 3,673 in the previous period.⁸ At this rate, it will be many years before the land hunger of the majority of Colombia's rural poor is satiated. Second, women are a higher proportion of the direct beneficiaries, at 19 percent, than they were in previous years, when they constituted only 11 percent of the total. Moreover, if the share of couples who have been titled land is taken into account, the percentage of households where a woman was a direct beneficiary increases to 37 percent of the total, a significant increase over past values. It is worrisome, however, that notwithstanding the provision of the law requiring joint titling, the majority of those receiving land under Law 160 are still male household heads.

⁷INCORA, Ley 160 y sus normas reglamentarias, Sistema Nacional de Reforma Agraria y Desarrollo Rural Campesino, Bogota, no date (law is of August 3, 1994). The main innovation in the law is that beneficiaries will receive a 70 percent subsidy of the value of the land to be purchased, with the remaining 30 percent to be negotiated in commercial terms. Also, beneficiaries are to negotiate the price of land directly with landowners, with INCORA intervening only as a mediator.

⁸These data are drawn from the Instituto Colombiano de la Reforma Agraria (INCORA), Gender Office, preliminary data as of June 1996.

The implications of Law 160 for the future of rural women's land rights largely depend on the extent to which women become aware of their rights in increasing numbers and begin to demand that these rights be fulfilled. That is, until effective demand for land is created by rural women themselves, it will be difficult to overcome the historical and cultural barriers that have restricted women's access to land. Here, the national rural women's association, ANMUCIC, has an historic role to play. And the state must assure that if women have access to land, they also have access to water, credit, technical assistance, etc., to assure that they have the means to be effective producers. To date, the discussion of women's access to water has largely been ignored, with the focus centered on women's access to land and credit.⁹

It must also be taken into account that Colombia's new agrarian reform, which holds such potential with respect to rural women's access to land, is taking place under most unfavorable circumstances. Over the last decade or so, Colombian drug traffickers have undertaken what is virtually a historically unique counter agrarian reform in the countryside. While they are accomplishing what the 1961 agrarian reform was never able to do—take land away from the landed oligarchy—the degree of land concentration which is being generated is alarming. Suffice it to note that an estimated three to four million hectares of land have been taken over by the drug traffickers,¹⁰ at least twice if not three times as much land as was redistributed by the Colombian state over the past 35 years.

The implication of this situation is that it is not a sufficient condition that the state be gender-conscious in terms of rural women's access to land and that it use all of the resources at its disposal to enforce the law. In addition, in order to make land available for poor rural women and men, the state must garner the political will to break the power of the drug traffickers and paramilitary groups. This will not be an easy task.

CONCLUSION

Agrarian reforms were carried out throughout Latin America over the course of this century, but particularly in the decades of the 1960s–1980s, for both social equity and efficiency considerations. Under the neoliberal model, in the majority of countries, social equity considerations in the distribution of productive assets are a thing of the past. The welfare of the great majority of rural men and women is to be determined in land, water, labor, and capital markets, which can be expected to reward the most efficient.

⁹As part of the new focus on land reform relying on market mechanisms there has been renewed attention of the need to provide land reform beneficiaries with an integrated package of services to assure that their production plans are profitable. In this context, in a pilot program in five municipalities, the National Institute of Land Preparation (INAT, Instituto Nacional de Adecuacion de Tierras), which is in charge of irrigation districts, will be participating in training programs and in cofinancing investment plans (Ministerio de Agricultura y Desarrollo Rural, INCORA, and DNP 1997).

¹⁰Interview with Alejandro Reyes, researcher at the Institute of Policy Studies and International Relations of the University of Colombia, by Magdalena Leon, May 30, 1996, Bogota, Colombia. Also see *El Tiempo*, "Narcos se adueñan del campo," November 30, 1996: 1. Here it is estimated that as much as half of Colombia's productive lands are in the hands of the drug traffickers.

The two central questions of this paper were: 1) how have rural women fared under the guiding hand of neoliberalism and in the process of the Latin American counterreforms; and 2) what has been the influence of international feminism and the growth of the Latin American women's movement in influencing changes in gender-discriminatory legislation regarding women's access to land? With respect to the first question, in the two countries where the agrarian collectives were dismantled in the 1970s and 1980s—Chile and Peru—women were such a minimal share of their membership that their dismantling and parcelization probably had little direct impact upon them. The impact of the counterreform on women would likely depend on whether the male head of household was titled land,¹¹ and whether the share of household income which was pooled was more or less when the male head was a member of the collective in comparison to being an individual farmer. A similar conclusion can be reached with respect to Honduras, although in this counterreform there is the possibility (although not mandatory) of joint titling of land.

In Nicaragua and El Salvador, where women had a much larger share of the cooperative membership compared to Honduras, the impact of the counterreform will depend on whether female cooperative members are as likely to be able to acquire a land parcel as male members, and if so, whether they receive land of comparable size and quality as the male membership. For Nicaragua, there is case study evidence that women were less likely to get access to a land parcel when the cooperatives were divided up and when they did, they tended to get the worst parcels (Brunt 1995). Whether the actions of the Chamorro government in the 1993-96 period have reversed this tendency, remains to be seen.

Unfortunately, we have found no references in the literature to what has happened with respect to water rights when cooperatives were dismantled. Moreover, research has yet to be carried out from a gender perspective on the privatization of water rights in the Chilean case, the only experience of sufficient longevity to evaluate seriously.

In examining the gender accomplishments summarized in table 3, it is clear that the majority of the positive changes in agrarian and civil codes have been in response to the international feminist movement and the UN convention to end the discrimination against women as well as the pressures which national women's movements have been able to exert upon the state. The latter was facilitated in those countries that have women's ministries or institutes (or women in development units in the ministries of agriculture), such as in Colombia, Costa Rica, and Nicaragua, and recently, in Chile.

With the exception of Colombia and to a certain extent, Nicaragua and Honduras, none of these nine countries has been characterized by strong, national-level rural women's organizations. Not surprisingly, the most has been accomplished in Colombia, where there is only one, autonomous, national peasant women's organization.¹² There is little question that the gender-favorable legislation in Colombia has been a product of women's increasingly prominent voice in national politics. It is also clear that if gender-progressive legislation is to be

¹¹Land that has been distributed previously by agrarian reform efforts, by inheritance or other means, but that does not have legal title.

¹²The Honduran and Nicaraguan cases thus differ from the Colombian in that Honduras is characterized by multiple rural women's organizations at the regional and national level and these have found it difficult to adopt a unitary program in terms of women's land rights. In the case of Nicaragua, there is only one national peasant women's structure, but it is not autonomous from the main national peasant organization, UNAG, nor until the 1990s, from the Sandinista Front, the FSLN.

come a reality in practice, it will depend upon the unified action of local and national rural women's groups. Local-level organizations of women may be a necessary condition for the creation of the demand for water and land rights, but it is not a sufficient condition. To achieve change in national legislation and to assure its implementation, rural women must have a national voice.

In those countries that have passed through processes of both agrarian reform and counterreform, women's access to land and water will depend henceforth on the marketplace and on inheritance practices. One aspect of the neoliberal model that may favor rural women is that one of the preconditions for developing a vigorous land market is land titling. Lack of clear titles to land is endemic among Latin America's smallholding sector and has become the focus of attention of both the World Bank and the Inter-American Development Bank. Programs prioritizing the titling of female household heads have been instituted in Chile¹³ and Nicaragua. It is possible that the land titling programs may result in benefiting more women than were benefited in the whole period of state land redistribution, particularly if these are proactive; that is, if they support titling women in family disputes over land.

A point of concern regarding land titling programs, however, is whether, once women have legal titles to their land, they will be able to hold on to their parcels and have access to the necessary complementary resources (i.e., water, credit, technical assistance) to earn a decent living as agriculturalists. Since one main rationale for land titling programs is to invigorate the land market, by allowing land to be transferred from the least to the most efficient producers, it will be particularly important to monitor the outcome of these programs.

As buyers in the land market, women will no doubt be at a disadvantage as compared to men, notwithstanding the fact that the neoliberal model has resulted in the expansion of many nontraditional agricultural exports that favor the employment of women. The Chilean case stands out in this regard (Lago 1987; Matear 1997). But most rural wage employment for women is temporary in nature, and with only a few exceptions, women tend to earn less than men. Low wages for agricultural workers, in general, irrespective of gender, result in a low capacity to save. In the absence of subsidized credit particularly designed to allow the landless and land-poor to participate in the land market, it is doubtful that the growing number of landless agricultural wage workers will be participants in this market.

In the coming years, the struggle over inheritance rights will undoubtedly take on an even more important focus as the primary means by which rural women might claim rights to land and water. The rights of spouses and partners in terms of inheritance vary widely and often differ in the civil and agrarian codes of a given country (FAO 1992). Given the prevalence of consensual unions throughout rural Latin America, high on the feminist agenda should be the demand that these be accorded equal status to legal marriages, without the need for prior registration (as in Honduras or Ecuador).

In some countries, farmers can bequeath their property to whomever they wish; in others, such as Colombia, Ecuador, El Salvador and Peru, a spouse or permanent companion is automatically guaranteed a certain portion of the property whether so bequeathed by a will or

¹³In Chile, it was not until 1991 that a national office (SERNAM, Servicio de Mujeres) was created to bring a gender perspective to public policy. One of its first actions was to sign an accord with the Ministry of National Property (also called the Heritage Ministry) to ensure that female-headed households be given priority attention in the World Bank-financed national land titling program (Matear 1997: 99).

not. This latter provision seems most important if women are to be provided with a modicum degree of security in old age. When a landowner dies without a will, some countries stipulate that the spouse or partner is the first heir; others provide for property to be divided between the spouse/partner and the children. Certainly the former provision is much more favorable to women, assuring them greater security and that they will be attended to in old age by their heirs.

Most Latin American countries follow the Napoleonic code which provides for bilateral inheritance by all children, irrespective of gender, if the parents die without a will. However, whether in fact rural women are able to claim their inheritance is subject to social practices and is an arena of struggle and contention, one particularly growing in intensity as land shortage becomes more acute (Roquas 1995). In the coming years, it will be important for women's groups to struggle for the enforcement of bilateral inheritance and equal land and water rights for all children, irrespective of gender.

In sum, the main conclusion of this paper is that during periods of state intervention in agriculture, feminist strategy must focus on assuring that both men and women are beneficiaries of agrarian reforms or counterreforms, either through joint titling of land and water rights so that the family unit is the beneficiary in practice, or by demanding that both men and women be given land titles and control over water individually. In countries that have already passed through agrarian reform and counterreform, women's access to land subsequently depends on two factors: access to the land and water markets, and inheritance. Feminist strategy, through collective action, may well make a difference in the latter practice. The future of women's access to productive resources in Latin America greatly depends upon it.

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