

Patrimonial Violence: A Study of Women's Property Rights in Ecuador

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2012

The Gender Asset Gap Project is a joint initiative of an international research team that was formed in 2009 with four objectives: 1) to collect individual-level asset data from three different countries (Ecuador, Ghana and India) in order to demonstrate the importance and feasibility of collecting data on women's access to and ownership of property; 2) to identify the minimal set of questions on individual level asset ownership that are needed in multi-purpose household surveys to calculate the gender asset and wealth gaps; 3) to develop various measures of gender asset and wealth gaps that can be used by national governments to track progress toward Millennium Development Goal 3 on gender equality and women's empowerment; and 4) to identify the critical enabling or constraining social, economic, and institutional factors affecting women's asset ownership in order to help policymakers and others to improve women's claims to productive assets.

The project is housed at the Centre of Public Policy (CPP) at the Indian Institute of Management Bangalore (IIMB). The project team leaders are Hema Swaminathan, IIMB; Abena D. Oduro, University of Ghana; Carmen Diana Deere, University of Florida; Cheryl Doss, Yale University; and Caren Grown, American University. FLACSO-Ecuador hosted the field work in Ecuador.

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Forthcoming: *Latin American Perspectives*, Special Issue on Gender Violence

PATRIMONIAL VIOLENCE:

A STUDY OF WOMEN'S PROPERTY RIGHTS IN ECUADOR

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Grown, Magdalena León and the reviewers for comments on earlier versions. The paper was presented at the International Association for Feminist Economics annual conference in Buenos Aires, Argentina, July 2010, at the congress of the Asociación Latinoamericana de Sociología Rural, Pernambuco, Brazil, November 2010, and at the Latin American Studies Association Ecuador Section conference, Quito, June 2011.

ABSTRACT

Patrimonial violence, defined minimally as the violation of women's property rights, is increasingly recognized as a form of gender violence, along with physical, psychological, and sexual violence. Drawing on qualitative as well as survey research in Ecuador, this paper considers the extent to which women are aware of their property rights and the situations in which patrimonial violence is most likely to occur. It shows that while most women seem to be aware of certain fundamentals, there are also many misconceptions, particularly regarding the status of individual property. Women's lack of legal knowledge often undermines their ability to attain their rightful share of the division of property upon separation, divorce or widowhood. Moreover, patrimonial violence is often aggravated by the presence of other forms of violence against women.

Key words: Gender Violence; Women's Property Rights; Assets

PATRIMONIAL VIOLENCE:
A STUDY OF WOMEN'S PROPERTY RIGHTS IN ECUADOR

Patrimonial violence, defined minimally as the violation of women's property rights, is increasingly being recognized as a form of violence against women, along with physical, psychological, sexual, and sometimes economic violence. Latin America has been in the lead globally in this expansion of the concept of gender violence. Beginning in the mid-1990s, but particularly over the past decade, a growing number of countries—including Argentina, Brazil, Colombia, Costa Rica, Mexico and Venezuela, among others¹— have incorporated patrimonial or economic violence in second-generation reforms of domestic violence codes and now most include penal sanctions for violations.

The initial international accords which established that violence against women was a form of discrimination and a violation of their basic human rights, such as the 1993 UN Declaration on the Elimination of Violence against Women or the 1994 Convention of Belem do Para made no mention of economic or patrimonial violence (UN 1993; IACHR 1994). The Pan American Health Organization (PAHO) was among the first organizations to advocate for their inclusion in legal codes, both because they often accompany other forms of violence and because on their own, they constitute violations of women's human rights (Sagot et al., 2000; Solano and Velzeboer, 2003). Beginning with the 2006 UN Secretary-General's influential study on ending violence against women, the UN system has expanded the concept to include economic violence and now recommends that it be included in comprehensive definitions of domestic violence (UN 2006; UN 2010).

The concepts of economic and patrimonial (or property) violence are sometimes assumed to be synonyms and used interchangeably (much in the way that psychological and/or verbal

violence is often equated with emotional violence). While we consider patrimonial violence to be a sub-category of economic violence, we find it useful to separate these concepts analytically. Economic violence tends to highlight those acts that restrict women's ability to generate or control their own income or to be able to support their families. According to the Women and Development Unit of the Economic Commission for Latin America and the Caribbean (ECLAC):

“Economic violence takes the form of a series of control mechanisms and monitoring of the behavior of women in terms of the use and distribution of money and the constant threat of denying economic resources. Both strategies, the monitoring and the threats, reinforce dependency (or power) ties in keeping with the traditional figure of the man as “provider” in charge of bringing the food into the home and the figure of the passive woman in the domestic space” (ECLAC 2009: 32).

Economic violence is frequently associated with the failure of estranged fathers to provide child support (Ramos Runova 2010). Sometimes, when expanded to the public sphere, it includes the gender wage gap, as in Colombia's 2008 reform (Colombia 2008).

Patrimonial violence, in contrast, focuses on violations of women's property rights, that is, their ability to own and manage the individual and joint property to which they are entitled. The reformed Costa Rican law, for example, sanctions a husband or partner if he steals, damages or destroys a wife/partner's property; prohibits her from using, managing or disposing of her own property; commits any kind of fraud regarding joint property; and/or appropriates the profits from a family business to her prejudice (Costa Rica, 2007). Some of the domestic violence codes explicitly include both concepts-- which we consider the preferable practice-- such as Venezuela's 2006 law which sanctions all acts or omissions against a woman which serve to

deprive her of the property or income necessary to meet her needs, whether in the private or public sphere (Venezuela, 2006).

Although Latin American feminist NGOs have been among the leaders in denouncing economic and patrimonial violence (Ramos Runova 2010), few academic studies have been carried out on the topic. This is partly because data on their incidence has only recently begun to be collected.² The most detailed national survey which includes such information is the 2006 ENDIREH (Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares) survey for Mexico. It shows that economic violence (including patrimonial violence) was the second most frequently reported form of gender violence among married women or those in consensual unions (of 15 years of age or older) during the previous 12 months--with an incidence of 22.9 percent, compared to 32.0 percent for emotional, 10.2 percent for physical, and 6.0 for sexual violence (INEGI 2006: Table 23). About one-quarter of the reported incidences of economic violence involved patrimonial violence, defined therein as being dispossessed of one's property or assets or the documents supporting such ownership or being coerced to put someone else's name on the property one purchased or inherited (Ibid.: Table 12).

While patrimonial violence has not been well studied, it is not surprising that Latin American governments have taken the lead globally in advancing patrimonial violence as a form of gender violence, since women's formal property rights are much stronger in Latin America than in other regions of the world (Deere and Doss 2006). For example, in most Latin American countries the default marital regime is partial community property. In case of divorce or widowhood women are entitled to half of the joint (or community) assets accumulated during the marriage whether or not they contributed income directly for their purchase. Moreover, in most Latin American countries women in consensual unions now have the same legal property rights

as married women. In addition, in case of intestate succession, inheritance regimes all provide for the equal division of parental property among all children, irrespective of sex (Deere and León, 2001). In Latin America the issue is whether women's property rights are enforced, rather than establishing strong property rights, as is the case in other regions of the world.

Our interest in property rights is motivated by the important role that such rights play in the possibility for women to own assets, either in their own name or jointly with her partner. In feminist economic theory, women's ownership of assets is considered to enhance their "fall-back" position-- how well off they would be on their own should a marriage or relationship break-up (Katz 1991; Agarwal 1994 and 1997; Deere and León 2001). A woman who owns her own home, for example, is in a much stronger position to terminate an unsatisfactory marriage than a woman who does not, since at the very least she knows that she has a place to live. Similarly, a woman who owns land, knows that she has the means of supporting herself outside the marriage, be it from her own farming activities or renting the parcel. Further, in feminist economic theory, a woman's fall-back position is posited to be associated with her bargaining power within marriage. The stronger her fall-back position, the more likely that a woman can negotiate with her partner from a position of strength, and at the very least, have a say in household decisions.

While the relationship between ownership of assets and intimate partner violence is just beginning to be investigated empirically, at least one study has found that women's ownership of assets, whether a dwelling or land, can be a deterrent to domestic violence, such as in Kerala, India (Panda and Agarwal 2005). At the same time, as we will illustrate, conflicts over property can also provoke physical violence against women, such as when they try to exert their property rights. Probably more common, is the use of threats regarding property ownership whereby

husbands impose upon their wives the idea that they have no fall-back position at all, thus they must accept the husband's dominance in the relationship.

We know relatively little about the extent to which women's property rights in Latin America are recognized in practice, and equally important, if women are aware of their property rights and demand that these be honored. In addition, under what kinds of situations is patrimonial violence most likely to occur? In this paper we provide tentative answers to these questions drawing on qualitative and quantitative field research for Ecuador, one of the countries that has yet to sanction patrimonial violence. Our argument is as follows: Most women seem to be aware that marriage conveys joint property rights to the assets accumulated by the couple. However, there are many misconceptions, particularly regarding individual property, and in terms of what happens when a marriage or consensual union dissolves. Women's lack of legal knowledge often undermines their ability to accumulate assets and, specifically, to attain their rightful share of the division of property upon separation, divorce or widowhood, leading to patrimonial violence. Partly because of social norms, women rarely take advantage of the legal protections regarding individual and joint property which are available to them. Women are supposed to marry for love, not to build or secure a patrimony. To discuss material things is often viewed as not trusting one's husband or partner, and to threaten the harmony of the union.

To set the stage for this analysis, in the next section we summarize the main aspects of women's property rights in Ecuador, highlighting where they differ from other Latin American countries, and then describe the methodology of the study. The subsequent sections are organized according to marital status—marriage and consensual unions, separation and divorce, and widowhood-- to facilitate the discussion of the different types of patrimonial violence that occur. We also draw upon survey data to illustrate the magnitude of misconceptions regarding

property rights. In the conclusion we sum up and offer some suggestions on how women's property rights could be strengthened.

WOMEN'S PROPERTY RIGHTS IN ECUADOR

As in the rest of Latin America, legally men and women have the same property rights in Ecuador, which vary according to marital status. Differences in how these are manifested in practice are due to gender differences—differences in the socially prescribed roles of men and women as well as in their capabilities and opportunities. Most, but not all, of the legal prescriptions themselves are gender neutral; i.e., they apply equally to men and women.

Ecuador's civil code provides for only one legal marital regime, partial community property, or what is termed in this country as the "marital society" (sociedad conyugal), known elsewhere in the region as gananciales. Under this regime all property which is acquired while a person is single remains their own individual property should they marry or form a consensual union. In addition, any property that is acquired as an inheritance by them individually, irrespective of their marital status, is considered as their own individual property. Under the rules of the marital society, it is only the property that is acquired during the marriage with the incomes of either spouse (plus any incomes earned on community or individual property, such as rents or interest) which goes to form the joint property of the couple, that is, the community property. Upon dissolution of the union for whatever reason this community property is divided into equal shares. This marital regime is particularly beneficial for wives who do not earn their own income since the equal division of community property upon dissolution of the union constitutes an implicit form of compensation for domestic labor and child-rearing (Deere and León, 2001).

Partial community property is the default marital regime in most Latin American countries, the exception being Costa Rica, Honduras and Nicaragua, where total separation of property is the default.³ Ecuador differs from other South American countries with respect to its marital regime in two respects. First, the civil codes of most other countries give couples the option of marrying under alternative marital regimes, such as separation of property or full community property (Ibid.). In Ecuador there is only one marital regime, the marital society, although couples may develop their own rules regarding the distribution of property and its fruits, through what are known as capitulaciones, legal agreements designed for this purpose. These agreements may be drawn up preceding or at the time of the marriage (as in prenuptial agreements), or, since 1989, at any time during the union. Through capitulaciones, couples can establish full separation of property or full community property, or any combination thereof regarding rights to specific assets, including who will administer them.

The second way that Ecuador differs from other South American countries is with respect to who administers the community property. In the past, following the Luso-Hispanic colonial tradition, the husband was the designated household head, charged with administering the community property of the marriage. Since the reforms of the 1980s and 1990s, most Latin American countries have adopted the legal figure of the “dual headed household” where both husband and wife are considered the heads, and either and/or both may administer the community property (Deere and León, 2001). In Ecuador, since the civil code reform of 1989, either the husband or wife may administer the marital society; however, unless otherwise specified, the husband is the administrator.⁴ Nonetheless, Ecuador has adopted certain legal norms to protect the rights of the non-administrator spouse. For example, according to article 181 of the Civil Code, the sale of real estate, vehicles and financial instruments such as stocks by

a married person requires the signature of both spouses (what is known as the “double signature”) and this provision generally also applies to most loans taken out by a person who is married.⁵

Consensual unions gained similar property rights to those of marriages in 1982 if certain conditions are met: that the union be of at least two years’ duration, the relationship be stable and monogamous, and neither person be married to someone else.⁶ In case of dissolution of the union (due to separation or widowhood), each partner is entitled to half of the assets accumulated during the union.⁷

With respect to the inheritance regime, in Ecuador, as in all Latin American countries, in the case a person dies intestate the law of succession places children in the first order of succession, with the estate to be divided equally among all children irrespective of sex. Children born of consensual unions or out of wedlock have the same inheritance rights as those born of marriages. Similar to other South American countries, Ecuador’s civil code provides for only restricted testamentary freedom; individuals are free to will only up to one-quarter of their estate to whomever they please.

In terms of the inheritance rights of surviving spouses, under interstate in Ecuador they are in the second order of inheritance. This means that spouses inherit from each other only in the case that there are no children or other offspring. Moreover, in this case the surviving spouse shares the estate with the parents of the deceased.⁸ Similarly, if a person writes a will, he/she is not under any legal obligation to provide for the surviving spouse (ie., the spouse is not a ‘forced heir’). However, since the portion that a person is free to will (the one-quarter of the estate) may be left to whomever one pleases, one can provide for a surviving spouse, but this is totally voluntary.

The civil codes of a number of South American countries are more favorable to surviving spouses than Ecuador's. In several the surviving spouse is in the first order of inheritance, along with the children. In Chile, for example, since the civil code reform of 2000, the widow/er is guaranteed one-quarter of the deceased spouse's estate, in addition to their property right to half of the community property. In Bolivia, Brazil, Peru and Venezuela widows/ers inherit a share of their deceased partner's patrimony equal to the share of each child (Deere, 2007).

Finally, Ecuadorean legislation does not yet proscribe patrimonial violence. In its 1995 domestic violence law, violence against women is defined narrowly, in terms of physical, psychological and/or sexual violence.⁹

METHODOLOGY

The qualitative field work upon which this analysis is based was carried out in 2009 in three provinces of Ecuador: Azuay and Pichincha in the sierra and Manabí on the coast. These provinces were chosen to be illustrative of different processes of development as well as socio-economic characteristics, factors posited to influence the possibilities for asset accumulation, the main focus of the overall research project on which this paper is based. In each province focus groups were organized in three or more municipalities (canton), always including the provincial capital as well as several predominantly rural municipalities. These were chosen to be illustrative of a range of income-generating activities that might facilitate women's accumulation of assets: in Pichincha, the cut flower industry, the main source of rural wage employment for women in Ecuador; in Azuay, international emigration and artisan production; and in Manabí, diverse agricultural activities alongside the fishing and tourism industries.¹⁰

All told, 40 focus groups were held, organized in collaboration with 23 organizations, ranging from women's and peasant organizations and cooperatives to microcredit groups. Most

of the focus groups were all-women in composition, although at least one male-only rural group was organized in each province, and in some cases, several mixed-sex groups were included as well. Also, at least one focus group was organized with professional and businesswomen in each provincial capital. In addition, a total of 58 interviews were carried out with key informants, including lawyers, judges, public notaries, real estate agents, leaders of base level organizations, NGO representatives, and academics. This paper draws upon the findings of the three provincial case studies, all focused primarily on the theme of asset accumulation over the life cycle.¹¹ It also reports on some of the findings of the 2010 Ecuador Household Assets Survey, a nationally representative survey of 2,892 households carried out by the authors (Deere and Contreras, 2011). To the extent possible, throughout the subsequent analysis we contrast the situation of women in the “popular classes”¹² to that of middle class women, and highlight any significant rural-urban differences among women of the popular sector in each of the regions.¹³

PROPERTY RIGHTS IN MARRIAGE AND CONSENSUAL UNIONS

In Ecuador there are significant differences by region in the incidence of formal marriage, with marriage being much more frequent among couples in the sierra as compared to the coast.¹⁴ There are also important differences by social class, with consensual unions predominating among couples of the popular sector on the coast.

Most of the married participants in the focus groups felt secure in the property rights offered by the marital society regime, confident that the assets purchased during the marriage belonged to them jointly with their spouse, irrespective of whose income was used to purchase them. The 2010 Ecuador Household Assets Survey also confirmed a fairly high level of knowledge regarding the legal status of property acquired during a marriage or consensual union. In answer to the question of to whom do the assets belong which are purchased with one’s own

individual income while married or in a consensual union, the overwhelming majority of men (94 percent) and the great majority of women (88 percent) answered, correctly, that these belonged to the couple together.

Based on the focus group discussions, we had expected the gender gap in legal knowledge to be greater in magnitude. We encountered a number of women who were under the misconception that assets purchased by their husbands with the money that he alone had earned to belong solely to him. As a housewife of the Quito (Pichincha) popular sector told us “everything is in his name, since he is the one who works.” She lamented that he sometimes threatened to leave her, taking everything which they owned with him, a clear example of the relationship between patrimonial and psychological violence.

In general, popular sector women felt more secure of their property rights if they worked and contributed income directly to the household. As one of the floriculture workers who had dropped out of the labor force for a while and then returned put it, “if he’s the only one who works, I don’t feel I have the right to ask for things.” Women who earned their own income seemed more likely to participate in decisions related to asset acquisition and sometimes to take such decisions unilaterally. A Quito informal sector worker told us that since she earned her own income, “one day I decided I was fed up washing clothes and bought my own washing machine.”

In the focus groups, women revealed a fairly high level of awareness of the requirement of the “double signature” for the sale of major assets. The commonality of this practice was also confirmed in our interviews with third parties. Real estate agents, for example, said that they always asked both spouses to sign a contract regarding the purchase and sale of real estate. And

if purchased while married, homes are usually titled in the name of both spouses, a proposition supported by the survey data on home ownership.¹⁵

Women claiming their property rights can also lead to intimate partner violence. A focus group participant in Cuenca told us how she and her husband had been co-owners of a housing lot, but that she only found out that he was planning to sell it when she was summoned by the notary public to add her signature to the sale. She refused to sign until her husband shared half of the proceeds of the sale with her. He finally consented, but then battered her all the way home from the notary public's office for having challenged his authority.

Many of the lawyers and judges whom we interviewed considered most women to be less knowledgeable about property rights than men, irrespective of social class. They regarded wives as being too trusting, having faith that their spouses would do right by them. As one of the lawyers in Cuenca put it, "due to women's lack of knowledge [about property rights] they sign whatever paper their husband puts in front of them. With that piece of paper sales are made, debts taken on...and sometimes her signature is falsified. The woman, since she doesn't look into the matter, always loses. It is difficult for her later [at the time of divorce or widowhood] to have proof that she was deceived."

Similarly, in the focus group of professional women in Portoviejo one participant noted that "the men put the titles in their name because they are the ones who buy [the assets]...When the woman has to sign, she doesn't even read the piece of paper." Another participant had the following analysis of the problem: "Why is it that women are left without anything? It's because they have faith in their partner, they don't assume the worst, doubting his intentions. In contrast, the man is only thinking about himself."

There was consensus among those interviewed that married women had much stronger property rights than those in consensual unions, although legally, these are supposed to be equivalent. According to a participant in Portoviejo, where consensual unions are so common, if a man is not married “he manages the assets however he pleases, but if married, he has to think twice about what he does with the property.” And it was in this province of Manabí where it was reported most frequently that assets tended to be registered in a man’s name. This is also the province with the lowest female labor force participation rate among the three provincial case studies, and where sentiment was strongest that assets belonged to whoever paid for them.

One of the main problems of enforcing the same rules for consensual unions as those for marriages is that in the identification card that is required of all citizens, the official marital status of someone who is in a consensual union is “single.” Moreover, rarely when purchasing or selling an asset is such a person asked if they are living in a consensual union. Thus, according to a real estate agent in Portoviejo, “he can sell whatever he wants without the woman knowing about it, or buy anything as well. That is a disadvantage...” He also emphasized that it was strictly voluntary for a man (or woman) whose marital status was single to divulge that they were living in a consensual union.

Few consensual unions are legally registered, making these difficult to prove. In the 2010 Ecuador Household Asset Survey, only 9 percent of adults in consensual unions reported that theirs was so registered, with this practice being more common in urban as compared to rural areas.¹⁶ If a woman in such a union wants to denounce her partner for having sold an asset that was joint property, all that he would have to do to invalidate the charge would be to show that they do not meet the legal requirements. For these to be valid, as previously noted, the relationship must be stable and monogamous. Thus, according to a participant in Portoviejo,

“the man is likely to demonstrate that he has other women, and children with them. That way he is not in a legal consensual union.” In this case the woman would have no legal recourse.

As noted earlier, legally there are two main ways of accumulating individually owned property, through inheritance and while single. With respect to legal knowledge regarding individual property, most focus group participants seemed aware that any assets acquired while single remained one’s individual property when one married or formed a consensual union. A floriculture worker in Cayambe was adamant about this: “The things that I bought while single I am not going to share with him because if some day we separate for whatever reason, he is not going to take what is mine. For this reason what I bought [while single] is in my name.”

Nonetheless, we found some confusion among women of the popular sectors who sometimes thought that whatever was acquired prior to marriage became community property once married, “because in marriage everything should be shared.” We also observed a tendency for women to consider any property that they themselves acquired before marriage to belong to ‘the family’ once married, but for them to recognize their husband’s own individual property as his own. The survey results, nonetheless, demonstrate that there is a fairly high degree of confusion among both men and women regarding the ownership status of property acquired prior to marriage, as Table 1 shows.

Whereas 29 percent of the women correctly reported that the property acquired prior to marriage remained one’s individual property once married, only 16 percent of the men responded similarly. As Table 2 demonstrates, the trend was similar in terms of the reported ownership of inheritances if married or in a union, with 34 percent of the women and 21 percent of the men answering that such constituted individually owned property.

Contrary to our expectations based on the focus group discussions, women's responses to both of these legal rights questions were more likely to reflect the legal norm than men's. But there was considerable variation in the responses of both men and women depending upon their marital status. As tables 1 and 2 show, the responses of those who were divorced and separated were more likely to reflect the rules of the civil code than those who were currently married or in a consensual union, perhaps because the former were more attuned to the importance of individually-owned property due to their own personal experiences.

In the focus groups, few women were aware of the fact that they had a choice of marital regimes if they married, or that there were legal mechanisms available that could protect their individual property during marriage or while in a consensual union. But rarely does a magistrate performing a civil marriage ask the couple if they would prefer some other arrangement besides the marital society regarding the ownership of property or its administration. Middle class women were much more likely than those of the popular sector to know about the possibility of contracting alternative arrangements, such as the separation of property regime. In the survey, only one percent of the respondents reported making some specific arrangement regarding property, whether opting for the separation of property regime or declaring a capitulación.

The lawyers and public notaries whom we interviewed confirmed that these practices were infrequent and considered that it was primarily among the well to do or those marrying for a second time that couples opted for the separation of property regime at the time of marriage. They attributed this largely to social norms-- that it is not considered socially appropriate to discuss material matters when in love.

It is more common for the separation of property regime to be adopted by women marrying for the second time, often because of the patrimonial violence that they experienced

while going through a divorce. As a popular sector woman in Quito reported, “He took all of our materials things thus that made me see [the importance of separation of property]. I had to start all over. So now everything that I am able to buy with my own work goes in my own name.”

Once women experience being cheated out of what they consider to be their fair share of property-- because of naive trust in their spouse-- they rarely want to experience such again. In other cases, women that are re-marrying insist on the separation of property regime to protect the patrimony of the children from their first marriage. Separation of property offers the protection that their assets will not become “co-mingled” with those of the new husband, thus avoiding potential claims to inheritance on his side. In addition, patrimonial violence is one of the reasons middle class women sometimes opt for separation of property after years of marriage. We were told of a case where a wife opted for this regime after learning that her husband was selling off some of their community property by falsifying her signature. Another reason is the relatively high rate of divorce.

According to a lawyer in Cuenca, “in the past there was the idea that marriage was forever. So why do capitulaciones? It also sounded ugly...” Now there is more reason, since women are more likely to work before marriage and build up an individual patrimony. Moreover, with the high rate of divorce it is “natural and wise” to make these agreements over property. Another lawyer considered that through capitulaciones, young people “prepare themselves for the possibility of an eventual divorce.” Perhaps for this reason, some of the older middle class women voiced their concern that capitulaciones and the regime of separation of property, in particular, could “psychologically affect the marriage” and that the couple would not be as united as they are under the marital society regime.

SEPARATION AND DIVORCE

As might be expected, patrimonial violence most often occurs during the process of separation or divorce, as compared with during marriage or a consensual union. According to the focus groups, divorce and separation is now quite common and on the rise. The status of separated and divorced is much more frequent, however, among women than among men, since men are more likely to enter into a subsequent relationship. In our survey, only 6.3 percent of the adult men were separated or divorced, compared with 19.3 percent of the women. Moreover, of those currently married or in a union, 17.5 percent of men and 14.3 percent of women had been in a previous live-in relationship or marriage with someone else (2010 Ecuador Household Assets Survey).

Many surprises can accompany divorce, such as a wife learning that her husband has debts of which she was unaware, or in anticipation of divorce, that he has placed particular assets in the name of a relative or friend so that they will not be subject to equal division, sometimes falsifying her consent. Once a couple begins to discuss divorce, joint possessions can also begin to disappear mysteriously. These are all forms of patrimonial violence.

Given the generally accepted norm of joint property within the marital society, if they divorce, women expect to receive half of the community property. They often assume that they will be able to remain in the familial home and in possession of whatever appliances and furnishings the couple has accumulated. Not all women are aware that the right to remain in the familial home is tied to whoever has custody of minor children, and that this right can be granted equally to the mother or father, depending on whom is the custodial parent.¹⁷ Also, few women are aware that if granted usufruct of the familial home, that this right is temporary and lasts only as long as there are minor children living at home. Once the youngest child reaches the age of

18, the ex-spouse can demand that the dwelling and other joint assets be sold and that the proceeds be divided between the two of them.

Men sometimes pressure the wife to sell the home and divide the proceeds. In order to avoid conflict, or in the words of a focus group participant, to “preserve her tranquility, she ends up accepting whatever the husband wants to do, and the home is sold.” It is evident that lawyers do not always inform women of their right to stay in the familial home if they have custody of the children, a clear case of patrimonial violence.

If a consensual union ends, separated women also expect to remain in the familial home and in possession of the furnishings and consumer durables acquired jointly, particularly, if the man has left the woman for another. But if the man contests her claim, such a woman is in a much weaker position than if she had married since, as noted earlier, she would have to prove that the union was monogamous and that the assets were purchased during the period that they cohabitated. As a result, according to the judges and lawyers interviewed, women in consensual unions are less likely to engage in disputes over the division of assets than are married women. If they pursue judicial action it is much more likely to be over child support.

How the division of assets plays out in practice shows wide variation. Sometimes men leave all of the community property with the wife, taking only a suitcase and a few prized possessions. Other times, particularly if the woman has committed an infidelity, she might lose everything. According to a middle class participant, “there are a few ‘rotten men’ (desgraciados) who throw the woman and children out of the home.” Sometimes husbands enforce their own notion of what they consider a fair division. A lower middle class woman in Cuenca reported that when she separated the “husband took all of our things. Thank God you can’t move a house...I stayed in the house, but we were left with nothing in it, not even a bed to sleep on.”

According to a judge in the flower-growing municipality of Cayambe, the main conflicts everywhere have to do with the lack of clarity over what constitutes individual versus joint property, in addition to the lack of titles for inherited property. The problem is that individual property often becomes co-mingled with joint property and it is difficult to establish what was acquired when and by whom, particularly when people do not bother to acquire formal titles to assets. There was considerable confusion among the focus group participants about the property rights associated with dwellings built by the couple on housing lots that had either been inherited by one of them or purchased while they were single. If the housing lot is not registered as individual property, then sometimes the solution in a separation or divorce is for the home to be sold, and for the total value of the home (including the lot) to be divided in half, to the prejudice of the person who received the inheritance. This is one of the reasons why it would be useful for couples to file capitulaciones, clearly differentiating what belongs to each spouse individually.¹⁸

Of course, not only women can come out on the short-end of a divorce. In our field work in Azuay we were told several times about a case where a woman had divorced her migrant husband without his knowledge. It is possible to divorce, citing abandonment, and for the spouse not to learn of the process, particularly if not residing in the country. The filing must be published in local newspapers, but if not contested within a certain period of time, can become final without the migrant ever learning about it. In this often-cited case, the woman continued to receive remittances from her former husband, and as a divorced woman purchased assets only in her own name. When the migrant returned to Cuenca he not only found his ex-wife living with another man in the house his remittances had purchased, but that he had little recourse in the face of this deception.

A much more common occurrence in Azuay, where international migration rates are so high, is that women with migrant husbands might eventually find themselves abandoned, particularly if their husbands have formed a second family in the country of destination. Few of these abandonments lead to formal divorces. More commonly, the husband gradually stops sending remittances, leaving the woman and the children to fend for themselves. In these cases, however, the woman will generally remain in control over any assets previously purchased with remittances.

A strategy that we found to be particularly common among migrant families in Azuay, as well as women in consensual unions in Manabí, was the practice of putting assets in the name of the children. The rationale for this practice on the part of women was that if their partner abandoned the family for whatever reason, the children would at least have access to this patrimony. The complication is that if the children are under age, the mother needs to follow a rather cumbersome bureaucratic procedure to be granted the right to administer such assets. And in some cases, when the children come of age, there is no guarantee that they will share these assets with their mother.

In sum, patrimonial violence is most often the result of the combination of women's lack of knowledge of their property rights and how they can secure them, and their expectation that husbands will act in good faith. When husbands do not, especially in the process of an inimical divorce or separation, they have little recourse, particularly if the assets have already been decimated. The vulnerability of women is particularly evident when the woman has been subject to intimate partner violence. In many such cases the woman will not claim any property rights at all in order to be free of the man. According to the focus group participants, a related reason

women opt not to claim their property rights is due to outright fear of the man and potential retribution.

In most of the focus groups, irrespective of locale or social class, the participants considered separated or divorced women to be much worse off economically than married women. This was not only because they might find themselves with reduced access to assets once such were divided in half, or no assets at all if subject to patrimonial violence, but because they are often left to maintain and educate their children on their own. Prescribed levels of child support are often inadequate, if paid at all. In addition, women's labor market opportunities are far less favorable than those of men, a result of women's higher unemployment rates, occupational segregation and outright discrimination. The gender wage gap in Ecuador is as large as in other countries, recently reported as US\$0.67 per \$1.00 earned by a man (INEC, 2009). Middle class housewives are often at a particular disadvantage if they have been stay-at-home moms, with lack of labor market experience or atrophied skills, since in Ecuador there is no alimony.

WIDOWHOOD AND THE INHERITANCE OF ASSETS BY CHILDREN

According to demographic projections based on the 2010 Census, life expectancy at birth in Ecuador is currently 78 years for women and 74 years for men (INEC, 2011). Hence it is much more likely that women will experience widowhood as compared to men. It is fairly well understood that in case of widowhood, the surviving spouse retains half of the community property, with the other half going into the estate of the deceased spouse. There is considerable confusion, however, on what the half retained by widows represents, with many women considering this to be an inheritance from the deceased spouse rather than their property right in the community property. This distinction is important because it has policy implications. If

wives consider that they already have inheritance rights they are not going to demand these, even if as widows they end up in a disadvantageous position compared to their own children or widows in other countries.

Few women are aware of the fact that their husband's estate will consist not only of his half of the community property, but also, any individual property that he had accumulated. Since wives are in the second order of inheritance, they have no rights to this individual property in the case of widowhood, since it all goes to his children. As noted earlier, in Ecuador wives inherit from their husband's estates only if there are no children or other offspring, and in this case, they must share the estate with the husband's parents. Only if the deceased husband had no children or living parents does the wife inherit her husband's entire estate, a highly unlikely scenario.

Few people write wills in Ecuador. According to those in the legal profession, this is a practice only of the very wealthy or of single people without children. The lack of a testamentary tradition may be a factor that favors the equal inheritance by all children irrespective of sex, for inheritance practices tend to follow the dictates of the law of succession, where all children are the legal heirs of their parents and are treated equally. Testaments allow children to be treated unequally, since only 50 percent of a person's estate must be explicitly designated to them. An additional one-quarter constitutes the 'betterment' (mejoras) that may go to only one child (or to several or all of them), while only one-quarter may be freely willed to whomever. From the point of view of the widow, a testamentary tradition could work in her favor, since the one-quarter that may be willed freely could be willed to her. This would leave widows in a much better position than under the law of succession where spouses are in the

second order, and rarely inherit anything from their husband's estate. But this positive outcome depends totally on their husband's good will.

There is a marked preference among parents of all social classes for transferring assets to children during their lifetime. This can be done formally through donations or via a fictitious purchase/sale contract. In either of these cases a title can then be obtained for the property. The designation of inheritance shares by the parents is frequently done informally, without any paperwork at all, particularly in the countryside. In this case, the land cannot be transferred legally until after the parent's death, and must follow the law of succession and relevant procedures.

Among the reasons that focus group participants preferred inter vivos transfers to children was that they considered donations and particularly, purchase/sale contracts, to be much easier to execute in terms of the paperwork involved than either wills or intestate succession. Another reason is that many parents assume that dividing their assets during their lifetime will prevent conflicts among the children. The practice sometimes is to try to reach agreement among all of the children, thus providing a means of settling the division of property once and for all while the parents are still alive.

There seems to be very little understanding of the property rights implications of the different means of transferring property. Donations are treated legally just like inheritances, and via these, assets can be transferred to a child as his/her individual property. In contrast, fictitious sale contracts are treated legally just like any other contract, and if the person is married, the asset becomes part of the community property of the couple. We came across several cases where women were confused as to why "their inheritance" ended up being titled jointly to the

couple. If the inheritance transfer took place via a sale contract, such would have been the proper legal procedure.

Generally, the familial home is the main asset of significance, and with the father's death, such becomes the joint property of the widow and children. Legally, if there are underage children, the widow is entitled to remain in the home; that is, she cannot be forced to sell the family residence and to divide the proceeds with the legal heirs. The most common practice everywhere is for the widow to remain in her home until her death. But we found a broad range of situations with regard to the division of the deceased husband's estate.

First, how much community property remains to be redistributed depends critically on how much of it has already been transferred in life to the children; the more that has been transferred, the fewer the assets that remain to support the widow. Anyone of the following three situations is found with respect to the community property that remains, without any clear pattern emerging by region, locale or social class. In some cases, the widow retains all of the community property in usufruct, postponing any division of the inheritance among the children until her death. In other cases, upon the death of her husband, the widow will proceed to divide up the community property, retaining half and distributing the other half among the children. Finally, there are also cases where the widow, upon the death of her husband, decides to distribute all of the community property to the children in the expectation that the children will support her until her death.

In rural areas, which strategy is followed among the peasantry with respect to the division of land largely depends on the age of the children, and if these are grown, whether any of them remain in the community. In indigenous communities in Pichincha where the practice is to give children their inheritance of land as they marry, it was common for an older widow with grown

children to be left with only a small piece of land surrounding the main homestead where she remains until her death, often accompanied by the youngest child (irrespective of sex) or an unmarried daughter. Among the urban popular sectors, often the only asset available to divide is the parental dwelling. It is a fairly frequent practice for parents to build additional stories (or an adjacent dwelling) to the house to accommodate the children as they marry and form their own families, as a strategy of both assisting them and maintaining grown children nearby. One child is usually designated as the beneficiary of the initial parental home with the explicit obligation of caring for the widow in her old age. Overall, however, it is less common in urban as compared to rural areas for a child to remain living at home with a widowed mother.

If inter vivos inheritance has not taken place, the timing of the division of a deceased husband's estate depends greatly on how much pressure there is on the widow from the children to receive their share of their father's inheritance or even their total inheritance. According to our focus groups, this pressure can sometimes be considerable. As one working class participant in Quito expressed it: "One hears that children do not always behave well towards their parents. They make them sell the asset and then drop them off at the 'old folks' home. They demand their inheritance and then leave them with nothing." In contrast, the professional women in Cuenca stressed the important symbolic role of the figure of the mother and how for grown children to ask the mother for their inheritance was socially frowned upon. They considered that it was much more likely that pressures to divide an estate would come from daughters- and sons-in-law.

Widows can find themselves with unexpected surprises upon the death of their husbands, such as debts of which they are unaware. In Quito we were told of situations where a widow was forced to sell the familial home in order to cover such debts, since the marital society is liable for

debts entered into by either spouse. In the regions of high international emigration, such as Azuay, a situation that can leave a widow particularly vulnerable is when the husband dies while abroad without having totally repaid the debt incurred for the migration, leaving her liable.

Another unexpected surprise is when the widow learns upon a partner's death that he has begat children with other women, who now come forward to claim their inheritance share. As noted earlier, all children, irrespective of whether they were born to a marriage, have equal rights to inherit from their mother and father. Such children, however, may be less likely to have special consideration for the widow, not being their own mother, and exert considerable pressure to sell the familial home or other assets.

Although women in consensual unions expect to be able to remain in the familial home when widowed (particularly, if they helped to purchase the lot or construct the dwelling) and this certainly occurs, they tend to be more vulnerable than widows who were formally married, particularly on the coast where consensual unions are most common. First, it is more likely on the coast that the home or lands will be in the name of the male partner. Thus, if there is pressure from the children to sell the assets so that they can receive their inheritance share, the widow will have to prove that she was in a consensual union when the house was constructed and/or the lands acquired, with all of the difficulties that this implies. Second, on the coast there is a greater likelihood that there will be children from various relationships pressuring for a division of the estate. And third, the lack of formal titles to homes and land is more common in Manabí than in the other provinces complicating the division of property. For example, in a focus group in rural Manabí, we were told of a case where a widow and her children lost all access to land when their farm was claimed by the brother of the deceased. The land was still

registered in the name of their father, and had only been informally assigned to the deceased partner. Thus not even the widow's children had a legal claim to the farm.

Another strategy common in Manabí, as well as among migrants elsewhere, of putting assets in the name of the children can also backfire once a woman is widowed. The children could use the home as collateral, for example, and if the debt is not repaid, lose the asset, forcing the widow's displacement. Moreover, if the asset is in the children's name, it is far easier for children to sell the dwelling without their mother's consent.¹⁹

It was the general impression among participants in the focus groups that widows, irrespective of social strata, do not fare very well. In the first instance, their patrimonial status depends on the extent to which the community property has already been transferred to the children. Given the preference for inter vivos inheritance, the widow may be left with very little to support herself in old age. In many ways, given women's longer life expectancy, inter vivos inheritance could be considered an implicit form of patrimonial violence against women. Second, whether a widow will be able to maintain control of the remaining community property (and guarantee herself a secure place to live as well as an adequate income) largely depends on the good will of children. Given the predisposition of mothers to want to help their children, widows often find themselves in a very precarious position once having sold the familial home, being totally dependent upon them. Finally, a relatively small portion of the population is affiliated to the social security system, whereby a widow might expect to receive a pension (montepío) upon her husband's death, usually equal to around 40 percent of her husband's pension. Most women of the popular sector will face widowhood without any kind of income security, and be obliged to maintain themselves through their own efforts or what assistance they receive from children.

Turning to inheritance by children, the great majority of focus group participants considered that sons and daughters were treated equally. The large number of female participants who mentioned having inherited land, a housing lot, or a home from a parent at least suggests that daughters are not discriminated against outright. As Graph 1 shows, the majority of survey respondents who had received an inheritance from a parent considered that brothers and sisters had received inheritances of equal value, confirming that gender equality is the norm. Nonetheless, women were more likely than men to report that one sex had been favored over another, with 23 percent reporting male preference and 14 percent female preference by their parents.

Among the cases cited in focus groups of unequal division of a parent's estate was where all the children were married except for one daughter, who was then favored, or where there was a child with a special disability; single mothers were sometimes included in this latter category. Son preference in inheritance was only reported in two of the focus groups in Portoviejo. Most of the other reasons given for unequal inheritances among children were gender neutral, such as to favor the child who had lived and cared for the parents in old age. This practice is by no means the rule, however, and some participants argued that it required the agreement of the other heirs. The general case is that if one child remains with the familial home and this is the only asset, he/she will have to compensate the other heirs.

Also, in cases where there are children from previous marriages or unions, these sometimes lose out in inheritance if there are also children born of the current union. In fact, this is sometimes given as the reason to title the home in the name of a child (or children) of the couple, a practice which is favored by women of the popular strata when their partners have had

previous children with other women. Conflict among half-siblings over inheritance seems to be fairly common, particularly in Manabí, where consensual unions are also so common.

Even though parents are eager to avoid conflicts over inheritance among their children, one of the practices that could greatly reduce conflicts—formally titling land and homes—is still not the general case. The lack of a formal title to property not only complicates its transfer, placing the burden of proof on the heirs, but can lead to disputes when land boundaries, for example, are not clearly delineated, or when there are other relatives ready to claim the land legally titled to a common ancestor. But even a land title or inter vivos inheritance cannot prevent disputes arising among siblings once the parents have passed away. In a clear example of patrimonial violence, one woman in Manta (Manabí) reported that her brother had tricked her into giving him her inheritance share by asking her to sign a document which she thought was intended to title the land; instead, it transferred her inheritance of land to him. In all of the rural areas studied land conflicts were common, with siblings, for example, fighting over the best quality land. Disputes over inheritance are quite common in urban areas as well, and among all social classes. Such disputes can take years to settle, and are also quite costly.

CONCLUSION

A unique feature of the partial community property regime is that over the life cycle women may accumulate property in two ways, as individual property and as joint property. Individual property conveys many benefits, specifically, that it is the woman's to manage as she pleases, irrespective of marital status. It also constitutes what she can generally count on in case of separation, divorce or widowhood—or the “core” of her fall-back position. An inheritance from parents seems to be the main manner in which women in Ecuador acquire individual property. The prevailing practice of treating children of both sexes equally gives women in Ecuador an

advantage over women in many Latin American countries where male privilege in inheritance predominates (Deere and León, 2001). Hence patrimonial violence in Ecuador is less likely to be associated with inheritance practices and more related to the dissolution of the relationship (either marriage or consensual union) by separation, divorce, or widowhood.

Joint property in marriage and consensual unions also has a number of specific benefits. The formation of community property, irrespective of who contributes the income, implicitly compensates women for domestic labor and child care as well as for the discrimination they may face in the labor market. Knowledge of the legal right to half of the joint property in the case of separation, divorce or widowhood, also provides women with a sense of security. And that half is likely to be greater than the assets that a woman might accumulate on her own had she remained single.

Still, as we have demonstrated, patrimonial violence—the violation of women’s property rights—is not uncommon, and leaves women particularly vulnerable in case of separation, divorce or widowhood. In practically every women’s focus group, irrespective of social class, we heard about women unjustly losing assets, whether her own individual property or her fair share of the community property. To summarize, the following are among the situations that often lead to patrimonial violence:

1. Women assuming that the assets they acquired while single belong to “the family” once they marry or live in a consensual union so that they do not claim these in case of separation or divorce.
2. In the case of women who do not contribute income to the household, assuming that since only their husbands earn income, that the assets purchased during the union belong to

their spouse alone and that they have no right to claim a share of these if the relationship dissolves.

3. Where a woman inherits a parcel of land or lot and then builds a dwelling with her partner, for the house and lot to then be jointly titled or considered community property when the relationship dissolves (whether due to death, separation or divorce), effectively ignoring her inheritance rights in the land parcel.
4. Married men or those in consensual unions falsifying their partner's signature to dispose of an asset or secure a loan, or in anticipation of divorce or separation, purchasing assets in the name of a third party to avoid these being considered as part of the joint property of the couple.
5. A husband pressuring his spouse to sell the familial home in the case of separation or divorce even though she has custody of the minor children.
6. Children pressuring their widowed mother to sell the family home in order to receive their full inheritance while she is still alive.

The first three situations above do not constitute patrimonial violence, per se, but illustrate how women's lack of legal knowledge increases their vulnerability. It makes women susceptible to psychological violence during the union, for if they believe they have no assets of their own to rely upon should the relationship terminate (a weak fall-back position), they are less likely to challenge abuse from a controlling or domineering husband. It also makes them more susceptible to patrimonial violence in the case of separation, divorce or widowhood, since they are less likely to demand their individual property or their half of the joint property. Lack of legal knowledge is also one of the main reasons why women do not take advantage of the legal protections available to them, such as capitulaciones, or demand the privileges available to them

because of motherhood, such as the right to remain in the familial home upon divorce or widowhood if they have minor children.

But as we have stressed, gender norms and expectations also play a critical role in dissuading women from learning about their rights as well as demanding that these be implemented. Romantic love and the trust that emanates from that—faith that a partner will protect one’s interests—often serves to limit discussions regarding property rights. This is complemented by women’s fears that discussion of material issues will break the harmony of a relationship, be socially frowned upon, or lead to intimate partner violence. Due to gender roles, women are also more likely to demand property rights for their children than for themselves. Sometimes, as we have shown, this comes at the cost of a woman’s own security in the case of separation, divorce, or widowhood. In addition, the practice of inter vivos inheritance leaves widows vulnerable and dependent on the good will of their children.

The risk of patrimonial violence appears to be greater for women in consensual unions than married women. First, it is more likely that assets bought during the union will be owned by the men, since they are not only more likely to be employed and earn higher incomes but also, to purchase assets in their own names since they would rarely be asked if they had a partner. And second, it is more difficult for women to prove that such assets were purchased during the time that they lived in such a union, and thus to claim these as joint property. Thus, in case of separation or widowhood, they appear more likely to be left without access to any joint property at all.

While in a comparative context, women in Ecuador have fairly strong property rights, there is still much that can be done to strengthen them. The first task should be to promote legal literacy among both men and women. Women need to know of their rights before they can

demand them. They also need to be in a supportive context in order to do so. Thus state-sponsored campaigns to raise awareness of property rights (such as the current one in Ecuador against domestic violence) would be useful, particularly regarding the property rights of women in consensual unions. The latter could also be strengthened by promoting the registration of consensual unions.

Given the gender gap in life expectancy favoring women and the difficulties faced by widows, strengthening the property rights of widows should be another priority, such as by elevating spouses to the first order of inheritance. The ability to inherit property from a deceased spouse along with the children could enhance the economic security and bargaining power of widows, and reduce their dependence on the good will of children. If widows inherited from their husband's estate, it might be more likely that they be left with the controlling interest of the family farm or business, for example. Another change in practice that would be beneficial to widows would be discouraging inter vivos inheritance, so that a couple's community property not be decimated prior to widowhood. Of course, such changes involve trade-offs, potentially favoring older women over younger women, and mothers over daughters.

Finally, as noted at the outset, Ecuador's 1995 domestic violence law defines domestic violence relatively narrowly, including only physical, psychological and sexual violence. Although the government has recently adopted a rather admirable national plan for eradicating violence against women, it does not recognize patrimonial violence as a form of gender violence,²⁰ and one that is often related to the other types of intimate partner violence, particularly psychological violence. Thus much could be done to draw attention to patrimonial violence if it too were treated as a violation of women's human rights.

TABLES

Table 1: Legal Literacy – “Once you marry, to whom does the property belong which you have acquired while single?” Distribution by Marital Status and Sex (percentages)

Sex	Response	Single	Married	Consensual Union	Widow	Divorced	Separated	Total
Men								
	Yourself	37.5	15.4	13.1	27.5	28.3	31.2	16.2
	Couple	60.5	81.3	83.4	67.9	71.7	58.1	80.2
	D.K.	1.9	3.3	3.5	4.6	0	10.7	3.6
	Total	100	100	100	100	100	100	100
	n	50	1,180	641	51	12	76	2,010
Women								
	Yourself	49.1	21.1	25.9	33.9	43.8	52.8	28.9
	Couple	42.7	76.6	69.4	59.7	52.5	42.0	67.2
	D.K.	8.3	2.4	4.6	6.4	3.7	5.3	3.9
	Total	100	100	100	100	100	100	100
	n	106	1,263	694	207	79	306	2,655

Source: 2010 Ecuador Household Assets Survey

Note: D.K. = Do not know and other. The percentages are weighted according to the survey expansion factors and may not add to 100% due to rounding.

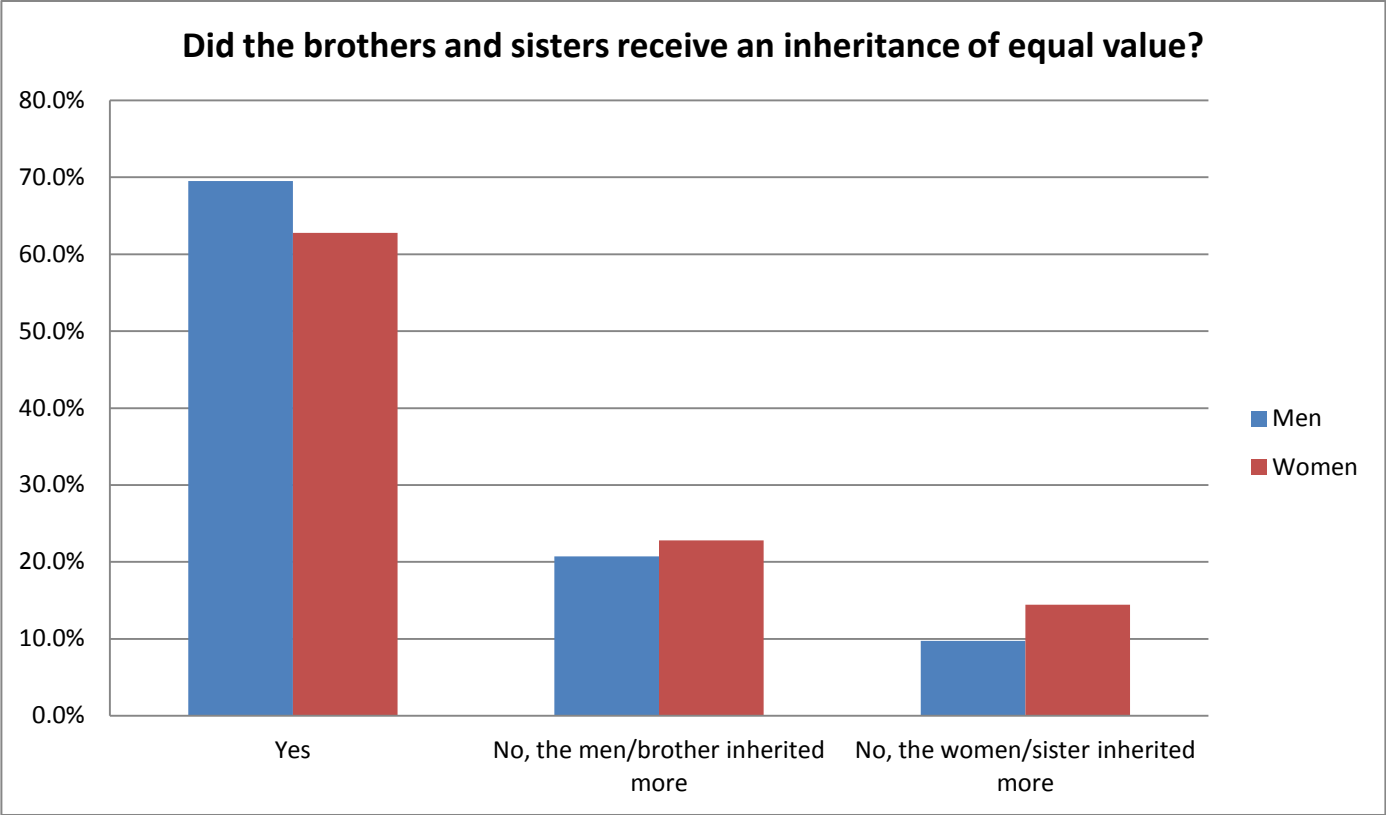
Table 2: Legal Literacy - “If you are married or in a consensual union, to whom does the property belong which you might inherit?” Distribution by Marital Status and Sex (percentages)

Sex	Response	Single	Married	Consensual Union	Widow	Divorced	Separated	Total
Men								
	Yourself	33.4	20.4	18.6	33.8	21.6	30.3	20.8
	Couple	64.3	75.8	78.7	63.3	78.4	62.7	75.6
	D.K.	2.3	3.9	2.7	2.9	0.0	7.1	3.5
	Total	100	100	100	100	100	100	100
	n=	50	1,180	641	51	12	76	2,010
Women								
	Yourself	52.1	27.9	27.9	37.3	59.8	59.6	34.4
	Couple	43.0	69.9	68.1	57.9	37.7	35.5	62.3
	D.K.	4.8	2.2	4.0	4.8	2.5	4.9	3.3
	Total	100	100	100	100	100	100	100
	n=	106	1,263	694	207	79	306	2,655

Source: 2010 Ecuador Household Assets Survey

Note: D.K. = Don't know and other. The percentages are weighted according to the survey expansion factors and may not add to 100% due to rounding.

Graph 1: Inheritances by Siblings from Parents, by Sex



Source: 2010 Ecuador Household Assets Survey

Note: n= 988; includes only those cases where at least one or more siblings and/or the interviewee had received an inheritance. Of the full sample of 4,665 individuals, 75 percent had not or had not yet inherited from the parents; in 3.7 percent of the cases, the interviewee did not have siblings, did not know or answered “other”.

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NOTES

¹ Other countries whose recent domestic violence codes are reported to include economic or patrimonial violence but which were not reviewed by the authors include Guatemala, Honduras, Paraguay and Uruguay (Solano and Velzeboer, 2003) and Dominica, El Salvador and Guyana (ECLAC 2009).

² According to a recent ECLAC (2009: 33) report, a few countries are now including questions regarding economic violence in their Demographic and Health Surveys. Bolivia in 2003, for example, incorporated a question on whether husbands or partners had threatened the withdrawal of economic support, and 21.5 percent of women aged 15 to 49 answered positively. Colombia in 2005 and the Dominican Republic in 2002 asked whether husbands/partners try to control or monitor their spending, and 19.1 and 8.0 percent, respectively, answered positively.

³ On why these Central American countries departed from the Hispanic legal tradition at the end of the nineteenth century, see Deere and León (2005).

⁴ Article 180 of the Civil Code (Ecuador, 2009).

⁵ Article 182 of the Civil Code (Ecuador, 2009).

⁶ “Ley 115. Ley que regula las Uniones de Hecho,” in Corporación de Estudios (2001), and articles 222 and 223 of the Civil Code (Ecuador, 2009).

⁷ Rather than a marital society, a consensual union forms what is known as a “society of assets”. The same inheritance regime applies to these as marriages.

⁸ Article 1030 of the Civil Code (Ecuador, 2009).

⁹ OPS (1999) and see Law 103, “Ley contra la violencia a la mujer y la familia” of November 1995.

http://www.centroreinasofia.es/admin/leyes/2/Ecuador.Ley_violencia_mujer_familia.pdf. Accessed June 8, 2010.

¹⁰ The provinces and municipalities were also chosen to reflect some of Ecuador’s ethnic diversity, with a relatively higher share of the population of Pichincha, and the rural municipalities of Cayambe and Pedro Moncoya, specifically, self-identifying as indigenous compared to the other provinces.

¹¹ For more detail on the focus groups, the provincial context, and specific references to the interviews see Contreras (2010), Deere (2010a and 2010b), and Twyman (2010).

¹² We use the term “popular classes” or popular sector loosely, in the way that it has come to be used in the literature on Latin America to refer to the bottom three income quintiles of the population. In the urban context it includes wage workers, artisans and those employed in the vast informal sector. In rural areas, it includes peasants and artisans, and the large number of peasants who are also part-time wage workers or rural wage workers who have access to land; the only group of full-time rural wage workers in our case studies was those employed in the floriculture industry in Pichincha.

¹³ We do not highlight ethnic differences since in the qualitative field work, rural/urban differences seemed more pronounced than those by ethnicity. With respect to the survey, which excluded the Amazonian region due to cost constraints, only 4.8 percent of the respondents reported themselves to be indigenous, and 1.9 percent, Afro-Ecuadorians. This compares with the 7.0 percent who self-declared as indigenous and 7.2 percent Afro-Ecuadorian nationally in the 2010 Census (INEC 2011).

¹⁴ In the 2010 Ecuador Household Assets Survey, 39.2 percent of the adults interviewed on the coast were married while 42.5 percent were in a consensual union. In the sierra, in contrast, 66.9 percent were married and only 13.3 percent were in a consensual union. The remainder did not have a current partner, being either single, widowed, divorced or separated. The sample consisted of 4,688 individuals who are the principal adults in the 2,876 households surveyed (Deere and Contreras, 2011: Table 3, p. 19). In interviews, the much higher share of couples in consensual unions on the coast was explained by the weaker influence of the Catholic church historically as compared to the sierra.

¹⁵ Of owner occupied homes, 41 percent were reported to be owned by the couple jointly; the remainder were either owned individually (with those owned by a woman exceeding those owned individually by a man) or were owned by other members of the household, all household members together, or by a household member with someone not residing in the household (Deere and Contreras, 2011: Table 4A, p. 25). 69 percent of owned homes were titled, and of titled homes, 42 percent were titled in the name of the principal couple. Comparative data for Latin America suggests that joint ownership of the principal dwelling is much more common in Ecuador, along with Argentina, than in other Latin American countries (Deere, Alvarado and Twyman 2010).

¹⁶ Registration is, nonetheless, a relatively simple procedure that can be done before a public notary or a civil judge and costs around US\$60. This corresponds to about 25 percent of the minimum monthly salary. “La unión libre se legaliza ante un notario o un juez civil,” *El Comercio*, March 24, 2010, p. 14.

¹⁷ Article 190 of the Civil Code (Ecuador, 2009). All else equal, however, preference is given to the mother; see article 106, *Código de la Niñez y Adolescencia* (Ecuador, 2003).

¹⁸ Another source of confusion is that if an inheritance of real estate is sold while the person is married, then the proceeds (or a new lot or dwelling purchased with the proceeds) are considered to be community property, unless otherwise agreed to through a capitulación.

¹⁹ This could also happen, of course, in the case of separated or divorced women.

²⁰ “Plan Nacional para la Erradicación de la Violencia de Género hacia la niñez, adolescencia y mujeres.” This plan was authorized under Law 1109 of May 27, 2008.