

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/264859180>

# Property rights and women's accumulation of assets over the life cycle: Patrimonial violence in Ecuador

Article · October 2010

CITATIONS

9

READS

1,273

3 authors:



**Carmen Diana Deere**

University of Florida

121 PUBLICATIONS 3,898 CITATIONS

SEE PROFILE



**Jackeline Contreras**

Pontificia Universidad Católica del Ecuador

12 PUBLICATIONS 120 CITATIONS

SEE PROFILE



**Jennifer Twyman**

Consultative Group on International Agricultural Research

62 PUBLICATIONS 1,117 CITATIONS

SEE PROFILE

Some of the authors of this publication are also working on these related projects:



Policy Action for Climate Change Adaptation [View project](#)



Policy Action for Climate Change Adaptation in East Africa [View project](#)

October 15, 2010

**PROPERTY RIGHTS AND WOMEN'S ACCUMULATION OF ASSETS OVER THE  
LIFE CYCLE: PATRIMONIAL VIOLENCE IN ECUADOR**

Carmen Diana Deere, Jacqueline Contreras, and Jennifer Twyman<sup>1</sup>

Paper presented at the International Association for Feminist Economics (IAFFE) international conference in Buenos Aires, Argentina, July 22-24, 2010

---

<sup>1</sup> The authors are, respectively, Professor of Food and Resource Economics and Latin American Studies at the University of Florida, Visiting Scholar at FLACSO-Ecuador, and project PI; Professor-Researcher at FLACSO-Ecuador and project co-coordinator; and doctoral student in the Department of Food and Resource Economics, University of Florida and Visiting Scholar at FLACSO-Ecuador. This paper is a result of the FLACSO and University of Florida project "Gender, Poverty and the Accumulation of Assets" housed in the Gender and Culture program of FLACSO. It is in turn part of the comparative, international project funded by the Dutch Ministry of Foreign Affairs under their MDG3 Fund for gender equality. The comparative project, entitled "In Her Name: Measuring the Gender Asset Gap", also includes Ghana and India and is housed at the Indian Institute of Management Bangalore. The authors are grateful to Caren Grown and Magdalena León for comments on an earlier version of the paper

## Introduction

As in most South American countries, women in Ecuador have fairly strong property rights, particularly in comparison to other regions of the world.<sup>2</sup> For example, under the default marital regime of partial community property, in case of divorce or widowhood women are entitled to half of the community assets accumulated during the marriage whether or not they contributed income directly to their purchase. Moreover, women in consensual unions have the same legal property rights as married women. In addition, in case of intestate death, the inheritance regime provides for the equal division of parental property among all children, irrespective of gender.

But to what extent are these property rights recognized in practice? Are women aware of their property rights and demand that these be honored? And are these rights sufficient to guarantee that women be able to accumulate assets on par with men over the life cycle and enjoy their benefits? In this paper we provide tentative answers to these questions based on field research in three provinces of Ecuador. Drawing primarily on data gathered through focus groups and interviews, we attempt to discern the extent to which women are aware of their property rights and how these are manifested in practice depending on a woman's marital status and stage of the life cycle. To the extent possible, we highlight differences by region, rural/urban locale, social strata and generation.

In broad strokes, most women seem to be aware of certain fundamentals, such as marriage conveying joint property rights to the assets accumulated by the couple. However, there are many misconceptions, particularly 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 what is becoming known as "patrimonial violence."

Patrimonial violence—defined minimally as the violation of women's property rights-- occurs not only because of lack of legal knowledge, but also because women rarely take advantage of the legal protections regarding individual and joint property which are available to them. This is in part because of social norms. 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 threatening the harmony of the union.

There is a growing trend to include patrimonial violence as a component of the forms of violence against women—along with physical, verbal, psychological and sexual violence. Its inclusion has been advocated by a number of international organizations, such as the Pan American Health Organization (PAHO) for at least a decade, both because patrimonial violence often accompanies

---

<sup>2</sup> For a brief summary and comparison of marital regimes in different world regions see Deere and Doss (2006).

other forms of violence, and because on its own, patrimonial violence also constitutes a violation of women's human rights. In recent reforms of domestic violence laws, a number of countries have incorporated the concept—such as Argentina, Costa Rica, Mexico and Venezuela—and include penal sanctions for violations.<sup>3</sup> In Ecuador, while studies recognize that domestic violence should include all acts that impact upon women's well-being, including economic violence (OPS 1999), the law does not yet proscribe patrimonial violence, with violence against women being defined in terms of physical, psychological and/or sexual violence.<sup>4</sup>

To set the stage for this analysis, in the next section we describe women's property rights in Ecuador, highlighting those aspects where their rights are stronger or weaker than other countries with a similar legal tradition. We then introduce the provinces where the field research was carried out and provide more detail on the methodology of the study. The subsequent sections are organized according to marital status—whether single, married or in a consensual union, separated or divorced, or widowed-- since property rights are so differentiated. We emphasize the life cycle in these analyses, not because all women pass through these phases, but rather to highlight the various processes that in combination with marital status also influence women's ability to accumulate assets, such as age, motherhood, labor force participation, etc. The final section considers inheritance practices with respect to children. In the conclusion we sum up, highlighting the importance of asset accumulation to women at different points of the life cycle, and offer some suggestions on how women's property rights in Ecuador could be strengthened.

## **Women's Property Rights in Ecuador**

Legally men and women have the same property rights in Ecuador, which vary according to their specific marital status or change in 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.

Ecuador's civil code provides for only one legal marital regime, partial community property, or what is termed in this country as the “conjugal society” (*sociedad conyugal*). Under this regime all property that 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 their own individual property. Under the rules of the conjugal society, it is only the property that is

---

<sup>3</sup> See Costa Rica (2007) and Venezuela (2006) for examples of these laws and what they proscribe. The 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 the community property; and/or appropriates the profits from a family business to her prejudice.

<sup>4</sup> 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](http://www.centroreinasofia.es/admin/leyes/2/Ecuador.Ley_violencia_mujer_familia.pdf). Accessed June 8, 2010.

acquired during the marriage with the incomes of either spouse (plus any incomes earned on community or individual property, such as rents or interest) that goes to form the joint property of the two spouses, that is, the community property. Upon dissolution of the union for whatever reason (divorce or widowhood), this community property is what is divided into equal shares.

Partial community property is the default marital regime in most Latin American countries, the exception being the Central American countries of Costa Rica, Honduras and Nicaragua, where total separation of property is the default.<sup>5</sup> 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 (Deere and León 2001). In Ecuador there is only one marital regime, the conjugal 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 marriage. Through capitulations, couples can establish full separation of property or full community property, or any combination thereof regarding rights to specific properties, 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 or both may administer the community property (Deere and León 2001). In Ecuador, since the civil code reforms of 1989, either the husband or wife may administer the conjugal society; however, unless otherwise specified, the husband is the administrator.<sup>6</sup> 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 someone who is married.<sup>7</sup>

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 is stable and monogamous, and neither person is married to someone else.<sup>8</sup> In case of dissolution of the union

---

<sup>5</sup> On why these Central American countries departed from the Hispanic legal tradition at the end of the nineteenth century with respect to marital and inheritance regimes, see Deere and León (2005).

<sup>6</sup> Article 180 of the civil code (Ecuador 2009).

<sup>7</sup> Article 182 of the civil code (Ecuador 2009).

<sup>8</sup> “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).

(due to separation or widowhood), each partner is entitled to half of the assets accumulated during the union.<sup>9</sup>

In the case of divorce (or separation of a consensual union), if there are minor children and the community property includes only one dwelling, the spouse/partner who is granted custody is entitled to remain in the familial home in usufruct until the children come of age.<sup>10</sup> Given gender constructions, this provision favors women since generally mothers are granted custody rights over children, and hence the right to remain in the familial home.

With respect to the inheritance regime, 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 of the children irrespective of gender. Children born of consensual unions or out of wedlock have the same inheritance rights as those born of marriages. Only in the case that there are no living children do spouses inherit from each other; that is, they are in the second order of inheritance. In this case the surviving spouse shares the estate with the parents of the deceased.<sup>11</sup>

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. Half of the estate must be legally designated to the children in equal shares, irrespective of sex. Up to one additional quarter, known as the *mejoras* (or 'betterment') may be willed to only one child or several of the children (or grandchildren). If there are no living children, the parents of the deceased become the "forced heirs" and are entitled to one-half of the estate, with the other half available to be willed freely. In the presence of forced heirs, then, a widow could inherit between one-quarter to one-half of her deceased husband's estate if, depending on his good will, he designated her as the beneficiary.

The civil codes of a number of South American countries are more favorable to surviving spouses than that of Ecuador. In several, the 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 is guaranteed one-quarter of her deceased spouse's estate, in addition to her property right to half of the community property. In Bolivia, Brazil, Peru and Venezuela widows inherit a share of their deceased husband's patrimony equal to the share of each child (Deere 2007).

Ecuador's civil code still maintains a vestige of the Hispanic legal tradition which is potentially favorable to impoverished widows. Under the provision of the *porción conyugal* (spousal portion) if there is little or no community property to distribute and the individual estate of the deceased spouse considerably exceeds that of the widow, the latter may claim up to one fourth of

---

<sup>9</sup> Rather than a conjugal society, a consensual union forms what is known as a "society of assets". The same inheritance regime applies to these as marriages.

<sup>10</sup> Article 190 of the civil code (Ecuador 2009). This provision also applies to widows.

<sup>11</sup> Article 1030 of the civil code (Ecuador 2009).

his individual estate if she would otherwise be left in poverty.<sup>12</sup> Most of the South American countries that have elevated spouses to the first order of inheritance have eliminated this provision from their reformed civil codes, since it was generally considered ineffectual and not as favorable to widows as being forced heirs (along with the children) of their spouses' estates.

In sum, then, the particular aspects of Ecuador's civil code beneficial to women is the marital regime of the conjugal society which guarantees spouses half of the community property in case the marriage/union is dissolved, and the inheritance regime which guarantees children of either sex an equal portion of their parent's estate. The benefits of this marital regime are particularly evident in the case of non-income earning wives, since the equal division of community property upon dissolution of the union constitutes a compensation of sorts for domestic and caring labor (Deere and León 2001). The potential benefits of both the marital and inheritance regime depend crucially, of course, on the ability of individuals and households to accumulate assets over the life cycle and their knowledge of property rights.

### **Context of the Study**

The field work upon which this analysis is based was carried out in three provinces of Ecuador: Azuay and Pichincha in the sierra (highlands) and Manabí on the coast (see Map 1). 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 province of Pichincha is the seat of the nation's capital, Quito, the second-ranking metropolitan center of the country in size (after Guayaquil, on the coast), and the primary industrial center. As Table 1 shows, the population of the province is much more urban than the national average. Pichincha also constitutes a rich agricultural region, being the center of the cut flower industry (one of Ecuador's top ten exports), and an important producer of basic grains, fresh vegetables and dairy products. A significant share of the province's population, 11.5%, considers themselves as indigenous.

The province of Azuay, located in the southern highlands, is one of the poorest agricultural regions of the country. Although it has seen considerable industrial development over the past three decades centered in the capital of Cuenca, such has been insufficient to absorb the surplus labor of rural areas. Throughout the twentieth century, this province has been characterized by high rates of emigration, initially to the coast and Quito, and since the 1980s, to the United States.<sup>13</sup> This emigration has been largely male, reflected in the high rate of femininity of its population (see Table 1).

---

<sup>12</sup> Articles 1196, 1199 and 1201 of the civil code (Ecuador 2009).

<sup>13</sup> Among provinces, Azuay ranks third in the share of its population that is living overseas, in 2006, 3.4% (5.4% of men and 1.6% of women). Pichincha is in the mid-range, with 2.1%, and Manabí is much below the national

The coastal province of Manabí is characterized by diverse economic activities, from an important fishing and growing tourist industry, to an agricultural sector producing a broad range of crops for export (coffee and cacao) and the domestic market, in addition to livestock. Manabí is also one of the poorest provinces of the country and has among the highest levels of illiteracy and lowest rates of school completion (Tables 2 and 3). The share of its population with unmet basic needs considerably exceeds the national average, as well as that of Azuay and Pichincha (Table 4).<sup>14</sup>

A characteristic of all three provinces, and Ecuador as a whole, is the large rural-urban gap in terms of unmet basic needs and essential services, and in years of schooling completed. In terms of essential services, the gap is narrowest in terms of access to electricity, a product of the country's emergence as an oil exporter in the 1970s and subsequent investment in a national electricity system. This has positive implications for the accumulation of consumer durables, as will be subsequently shown.

In terms of gender gaps, these continue to be significant in terms of illiteracy and years of completed schooling, with the exception of Manabí, where illiteracy is high for both men and women, and years of completed schooling quite low for both. Women's labor force participation rate of 30.5% nationally is also significantly lower than men's, 72.4%, with the gap being greatest in Manabí, where women's participation rate is quite low (Table 5).

In each province we carried out field work in at least three municipalities (known as *cantones*), always including the provincial capital as well as several predominantly rural municipalities.<sup>15</sup> The rural municipalities 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. The urban municipalities are all characterized by a wide variety of female income generating activities in the formal and informal sectors; in addition all have micro-credit and housing programs aimed at women.

The primary methodology was the focus group, complemented by interviews with key informants and a compilation of the secondary literature. 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 groups consisted of all

---

average, at 1.1%. In these two provinces there was no significant gender difference (CEIME 2008, based on the 2005-06 Living Standard Measurement Survey).

<sup>14</sup> The measure of poverty according to unmet basic needs follows the definition adopted by the Andean Community and includes deficiencies in housing, health and education services and employment. A deficiency in any one of five criteria (such as a dwelling with cane walls and/or dirt floors) earns the designation of poor; a deficiency in two criteria is considered an indicator of extreme poverty.

<sup>15</sup> In Azuay these included Cuenca, Gualaceo, Paute and Sig Sig. In Manabí, the municipalities selected included Portoviejo, Manta, Montecristi, 24 de Mayo and Olmedo; in Pichincha, Quito, Cayambe and Pedro Moncayo.



women, although at least one male-only rural group was organized in each province, and in some cases, several mixed-sex groups were held as well. Also, at least one focus group was organized with professional and businesswomen in each provincial capital. The focus groups focused on four themes: the accumulation of assets over the life cycle; the importance of assets; the market for assets; and household decision-making over asset acquisition and use. A total of 58 interviews were carried out with key informants, including lawyers, judges, notary publics, and real estate agents, leaders of grassroots movements, NGO representatives, and academics. This paper draws upon and summarizes the findings of the three provincial case studies as well as a working paper on the middle class in four cities, all focused primarily on asset accumulation over the life cycle.<sup>16</sup>

In the subsequent analysis we first focus on general trends by marital status and life cycle stage and then contrast the situation of women in the “popular classes” to middle class women as well as highlight any significant rural-urban differences among women of the popular sector in each of the regions.<sup>17</sup>

### **The Accumulation of Assets while Single**

Besides through inheritance, one of the ways that one acquires individual property is by accumulating assets while single. The ability to accumulate assets while single in turn depends on employment opportunities and the possibility of generating savings. It is also related to the age of marriage or first union, since the longer a person remains single, holding all else constant, the greater the probability of accumulating individual property. Both factors are also related to the economic position of parents, since this also influences educational attainment and employment opportunities (in addition to the probability of inheritance).

In 2007, the average age of marriage nationally was 25 for women and 29 for men, with the provinces of Azuay and Pichincha being below, and Manabí above, the national average. Just in the period 2001 to 2007, the age of marriage increased two years for both men and women (*Gestión* 2009: 63).

One of the main factors differentiating middle class urban women from those of the popular classes (both rural and urban), besides the former’s higher level of education and more favorable

---

<sup>16</sup> See Contreras (2010), Deere (2010a and 2010b), and Twyman (2010) for citations to the specific interviews and focus groups.

<sup>17</sup> 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.

employment opportunities, is their apparent later age of marriage and first pregnancy.<sup>18</sup> Generational change is also quite evident among middle class women, with younger women more likely to complete college and exercise their profession before marriage compared to women over 50 years of age. Thus it is more likely that younger women of the middle class will bring assets to marriage that they have purchased through their own savings, than did those of the older generation.

Several cultural practices influence the specific assets that single women are likely to purchase before marriage, with one of the main ones being whether they live in the parental home until forming a union, or live independently. The general pattern in Ecuador is for young people of all social strata to live with their parents until marriage. However, it is becoming increasingly common in the cities (particularly Quito) for young, urban middle class professionals to live independently prior to marriage, although this is still the exception. Living independently creates new needs, such as furnishing an apartment, requiring an investment in consumer durables (as a minimum, a stove, refrigerator and television set), besides bedroom and living room furniture and small appliances.

In general, young single people who work and live at home tend to consume most of their income, with the greatest differentiating factor by social class being whether they need to contribute to parental household expenses and/or pay for their own educational expenses. From the middle class on down it is not uncommon for young people to work while they complete high school or technical or university training, and to assume, in addition to educational expenses, those for their own clothing and entertainment.

Among the first investments made by young people living at home who have the income, irrespective of social class, is in a cell phone and electronics, such as a television set, DVD player and/or stereo. Among the popular strata (for both young men and women, whether urban or rural), a cell phone has become an important status symbol, if not a necessity. Another investment growing in popularity, particularly in urban areas, and not totally restricted to the middle or upper class, is in a computer.

Whether young single men or women were more likely to save and purchase assets related to furnishing a future home generated lively discussions in the focus groups. The general consensus among the popular strata groups was that some gender differences were evident, with young, single women more likely than men to invest in a bedroom set or items related to furnishing a kitchen. Young single men were more likely to invest in means of transportation, whether a bicycle, motorcycle, or in upper income groups, an automobile. Among the middle

---

<sup>18</sup> Nationally the age of women at first birth has been falling, in contrast to the age at marriage, pointing to the growing number of children being born in consensual unions or to single mothers. Manabí is among the provinces where the average age of women at first birth is lowest (*Gestión* 2009: 62), and as we will show, where consensual unions are most common.

class, both men and women might own their own car, but this seems to be less important to single women, who appear more likely to spend their savings on travel and studies.

An important difference between rural and urban areas is the fewer employment opportunities available to young people in rural areas, with the exception of the province of Pichincha. In most rural areas young people who do not migrate are employed in family agriculture until marriage (complemented by seasonal wage work), and at most, might accumulate some small farm animals before marriage, or among men, a bicycle. In Pichincha the flower industry employs young people from both urban and rural areas, and this has blurred differences in urban/rural consumption and investment patterns. Single wage workers with steady employment are most likely to have access to commercial store credit to purchase consumer durables and/or electronics.

Overall, the sense from the focus groups was that irrespective of class, the general trend was for young, single people to accumulate few assets prior to forming a union. Moreover, except through inheritance, it was unlikely for single people to accumulate any real estate. The exception were professional men or women who remained single until their 30s or 40s and were thus able to save enough to purchase a house or a land plot upon which to build a house. Inheritance seemed to be the main differentiating factor, irrespective of class, in distinguishing the value of assets that a person might bring to marriage or a union.

With respect to legal knowledge regarding individual property, most focus groups participants were aware that the property 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."

### **The Accumulation of Assets during Marriage and Consensual Unions**

In Ecuador there are significant differences by region in the incidence of formal marriage, such being much higher in the sierra than on the coast (see Table 6). There are also important differences by social strata, with consensual unions predominating among couples of the rural and urban popular strata on the coast. In the highlands, the only focus groups where women in consensual unions outnumbered married women, was among the floriculture wage workers in the Cayambe-Tabacundo region of the province of Pichincha, an area of considerable in-migration from the coast and other areas of Ecuador. Among the highland urban popular sectors and the peasantry, if couples co-habitate, it usually leads to formal marriages. In all three provinces it is unusual for couples of the middle class to co-habitate before marriage, although this is slightly

more common in the province of Manabí.<sup>19</sup> As one of the focus group participants put it, in Portoviejo (Manabí), “the strata who have a public role, such as teachers, do get married, but consensual unions are found from the middle class on down.”

The great majority of marriages are only civil marriages; that is, they are not always followed up by a religious ceremony.<sup>20</sup> In the three provinces religious marriages appear to be on the decline among all social strata. Wedding celebrations are usually associated with church marriages, although sometimes they may accompany a civil marriage, and these also appear to be on the decline, in part, because of the expense involved—whether among the peasantry or middle class. If a wedding is thrown, there is considerable variation on who actually pays its cost, although there appears to be a tendency for these to be split among both sets of parents.

If a wedding celebration takes place, guests are expected to bring gifts, usually household items and these are considered to be a gift to the couple. In the highlands, Catholic weddings usually involve having a *padrino* (godfather and/or godmother of the couple), and these are expected to offer the most substantial gifts. Even among the popular classes, both urban and rural, this obligation may involve the giving of major appliances or furniture to the bride and groom.

Among the middle class it is becoming increasingly common for couples to ask for money rather than gifts, and even to include the number of a bank account with the wedding invitation. As one of the professional women focus group participants in Cuenca (Azuay) put it, “initially it was difficult for our social group to accept – how ugly the bank account! – but in reality, this practice is the most practical.” The younger generation appears to be more practical than earlier generations in other ways, such as preferring a substantial gift from their parents—such as helping to furnish an apartment or a down-payment on a house or apartment—rather than a wedding celebration.

Some of the middle class focus group participants had vague memories of dowries being given in their grandmother’s generation, at the beginning of the twentieth century. These were generally associated with elite families and arranged marriages. In the Luso-Hispanic tradition dowries were given by the parents of the bride to the young woman—as her individual property—in advance or at the time of marriage to generate income for the young couple.<sup>21</sup> Among the elite dowries could include haciendas, major farm animals and/or jewelry.

---

<sup>19</sup> According to press reports, it might also be becoming more common among young, professional couples in Quito. See “La unión de hecho cada vez atrae a mas jóvenes,” *El Comercio*, March 21, 2010, p. 24.

<sup>20</sup> Only civil marriages are recognized legally, thus if a church wedding is to take place, it follows the civil ceremony.

<sup>21</sup> Following the rules of the marital regime of partial community property, the dowry was considered the bride’s individual property, but any asset purchased with the income from that property became community property. The dowry was also managed by the husband, but received special legal protection since it could not be encumbered or sold without permission of the wife, and could not be used to pay a husband’s debts (Deere and León 2005).

The only vestige of the practice of dowry today, is when well-to-do parents gift their daughter (or son) an apartment, house or housing lot at the moment of their marriage. And even among the urban popular class, it is not uncommon for parents to build a second-story or adjacent dwelling for a child at the time they form a union. Among the peasantry in Pichincha, when a couple marries, “it is time to show them their inheritance;” that is, to designate the land plot that the son or daughter will eventually inherit, for them to build their home there. In most cases of “advance inheritance”—whether through informal agreements, formal donations or fictitious purchase/sale contracts – these gifts are intended to be the individual property of the son or daughter, rather than a gift to the couple.

### *Legal Knowledge and Practices*

Rarely does a magistrate performing a civil marriage ask the couple if they would prefer some other arrangement besides the conjugal society regarding the property brought to or acquired during marriage or in terms of who is going to be its administrator. Middle class women were much more likely than those of the popular strata to know about the possibility of contracting alternative arrangements, such as the separation of property regime.

In the focus groups we only found one woman of the popular strata who had contracted the separation of property regime at the time of marriage. She was a floriculture worker in Pichincha, originally from the coast, who had married a Chilean and had decided on this regime to avoid problems should he decide to abandon the country (and her).

The lawyers and notary publics whom we interviewed gave us mixed reports on how common it was for couples to declare capitulations, or to opt for the separation of property regime, but overall it is not very frequent. There was consensus that it was primarily among the wealthy that couples opted for the separation of property regime at the time of marriage. Among the middle class it was more common for couples to adopt this regime once married, rather than at the time of marriage, or when a woman was marrying for the second time. The explanation given was that among the middle class it is not considered socially appropriate to discuss material matters when in love.

A business woman in Cuenca related how her future husband had suggested that they marry by separation of property since she had considerable more property than he did. She said she could not even conceive of marrying in that manner: “Then it would be ‘this is your television, that is your room...this is yours and don’t touch mine’. I looked at it as being absurd.” Many years later she and her husband opted for separation of property, but for totally different reasons, discussed subsequently.

There is some evidence that the use of capitulations and the separation of property option at the time of marriage are becoming more frequent among the younger generation in cities such as Quito, and not just among the wealthiest strata. A focus group participant in her 30s spoke of how her professional friends were now commonly making contracts regarding their individual

property: “they make capitulations so that the things they had prior to marriage don’t become community property...they negotiate to decide whether the assets [or its income] is divided 50%-50% or 40%-60%, whatever, this is an option.” There was consensus in the group that it was the high rate of divorce that was driving this change

According to one of the focus groups participants in Cuenca who was also a lawyer, “in the past there was the idea that marriage was forever. So why do capitulations? 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 capitulations, young people “prepare themselves for the possibility of an eventual divorce.”

A group of female judges in Portoviejo (Manabí) considered that capitulations were a very wise practice since there are so many problems that arise over the division of property at the moment of divorce or when it comes time to distribute an inheritance. The principle problem is that individual property 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. Nonetheless, some of the older middle class women voiced their concern that capitulations and the regime of separation of property, in particular, could “psychologically affect the marriage” and that the couple would not be as unified as they are under the conjugal society regime.

Most of the married participants in the focus groups-- whether from the popular or middle classes-- felt secure in the property rights offered by the conjugal society regime. That is, they felt confident that the assets purchased during the marriage belonged to them jointly with their spouse, irrespective of whose income was used to purchase them. There was also fairly high awareness of the requirement for the “double signature” for the sale of major assets. The frequency of this practice was also confirmed in our interviews. Real estate agents, for example, said that they always asked for both spouses to sign a contract regarding the purchase and sale of real estate. And, if married, the real estate is usually titled as joint property, in the name of both spouses. This is supported by data from the 2005-06 Living Standard Measurement Survey which reports that of titled homes, 41.3% nationally are owned jointly by a couple; 37.3% are owned by an individual man and 21.4% by a woman.<sup>22</sup>

The focus groups of professional women in Cuenca and Portoviejo, however, reported that it was still common for the purchase of major assets to appear only in the name of the husband, since he was the household head. In Cuenca the married women felt fairly secure that, irrespective, these were joint assets, and that their husband could only sell them with their consent and signature.

Nonetheless, all too many women are under the misconception that assets purchased by their husbands with the money that they alone earn belonged solely to them, a myth perpetuated by

---

<sup>22</sup> Authors’ calculations.

some men. As a housewife of the popular sector in Quito told us “everything is in his name, since he is the one who works.” She lamented that he had often threatened to leave her, taking everything they owned with him, a clear example of the relation between patrimonial and psychological violence.

Most popular sector women felt more secure in their property rights if they worked and contributed income to the household. As one of the floriculture workers put it, who had dropped out of the labor force for a while and then returned, “if he’s the only one who works, I don’t feel I have the right to ask for things.” Women who earn their own income seem more likely to participate in decisions related to asset acquisition and sometimes to make 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.”

Most of the lawyers and judges whom we interviewed considered women—of all social classes—to be less knowledgeable about property rights than men, and considered that wives tended to be 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 a different take on 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 general 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 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 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, 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, “he can

sell whatever he wants without the woman knowing about it, or buy anything as well. That is a disadvantage...” The real estate agent whom we interviewed in Portoviejo 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.

Rarely are consensual unions registered legally.<sup>23</sup> If a woman in a consensual 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 don’t meet the legal requirements for a consensual union. 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 to claim half of the assets acquired during the union, a clear example of patrimonial violence.

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 the separation of property regime after learning that her husband was selling off some of their community property by falsifying her signature. It probably is most common for the separation of property regime to be adopted by women marrying for the second time, often because of the patrimonial violence they experienced 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. With separation of property their assets will not become “co-mingled” with those of the new husband; thus avoiding potential claims to inheritance on his side.

Another reason that people sometimes opt for the separation of property regime once married is that Ecuador now makes family members liable if a divorced or separated parent fails to provide child support.<sup>24</sup> We were told of a case where the husband had had a son before marriage, who in turn had procreated several children out of wedlock. The wife was afraid that she and her husband would be forced to take on the obligation of child support for these grandchildren on her

---

<sup>23</sup> Registration is, nonetheless, a relatively simple procedure that can be done before a notary public or a civil judge and costs around US\$60. “La unión libre se legaliza ante un notario o un juez civil,” *El Comercio*, March 24, 2010, p. 14. In this article, a notary public in Quito reports that he registers an average five couples per day.

<sup>24</sup> “Ley Reformativa al Título V, Libro II del Código de la Niñez y Adolescencia” of June 3, 2009, provides that in the case a divorced or separated father does not meet his child support payments, this obligation falls on the grandparents and/or uncles/aunts of the child.



husband's side. In order to protect her patrimony for her own children, she opted for separation of property, although years before, at the time of her marriage she had been strongly against this mode.

Sometimes couples opt for the separation of property regime to protect business interests, for example, if they don't want to expose community property to risk. A lawyer explained that separation of property was frequent among large builders in Quito; this way, if they were sued, only their own individual property would be liable, protecting that of their spouse and children.

### *A Home of One's Own*

An aspiration of most couples –whether married or in a consensual union—is to own their own home. And in fact, Ecuador has a relatively high rate of home ownership. According to the 2005-06 Living Standard Measurement Survey, 65.7% of households nationally own their own home, with the incidence of home ownership being higher in rural (76.0%) than in urban areas (60.4%).<sup>25</sup>

In the past, young couples irrespective of class tended to live with their parents during the first years of marriage. This is still the case in many rural and peri-urban areas where either the bride or groom may be given a land plot at the time of marriage upon which to build their home, but where the construction of the dwelling might take several years. This practice is also common among the urban popular classes, where the young couple might be allowed to build a second floor on the parental house or an adjacent structure. In these cases, the dwelling is literally built brick by brick as savings allow.

Among those who have permanent wage incomes (such as the floriculture workers) or the middle class, young couples are much more likely to begin married life living independently, usually renting rooms (in the former case) or an apartment. Purchasing an apartment or a house right off usually depends, among the middle class, on assistance from parents to pay the down payment, or on having previously inherited some real estate. As a middle class woman in Cuenca explained it, “when the parents have means, there is the sentiment of obligation to help the children...be it with land, furniture, or paying the rent...I would go so far as to say that parents live to help their sons and daughters.”

In the focus groups the importance of inheritances and/or parental gifts in providing a firm economic foundation to the marriage was clearly apparent among all social strata. Sometimes such inheritances would be sold—particularly when of land in rural communities—to purchase a housing lot near the current locale of employment, such as among the floriculture workers in Pichincha.

---

<sup>25</sup> Authors' calculations based on Ecuador (2006).

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 or purchased by one of the spouses while single. Part of the confusion is that these inheritance transactions are rarely titled. Thus it is likely that when the dwelling is titled that it will be in the name of the married couple, particularly if it was the woman who inherited the land and the husband took care of the titling. One rural woman in Cuenca displayed her dismay that this had happened to her, but did not think that she could do anything about it.

Legally, if an inheritance of real estate is sold while the person is married, then the proceeds are considered to be part of the community property, unless otherwise agreed to through a capitulation. Hence, in this case, the new housing lot or dwelling purchased with the proceeds would be considered community property, a situation which causes considerable confusion among all social strata.

If a young, middle class couple does not have parental assistance or an inheritance to draw upon, it will often take several years before they have built up the savings and credit ranking to be able to purchase a home. In some cases, young couples initially purchase consumer durables or a vehicle on credit, precisely to establish such a track record. In recent years, nonetheless, it has become easier for young couples to purchase a home or apartment both because of the greater availability of housing mortgages, and because of the spread of subdivisions where the builder finances the purchase of the home or facilitates access to a bank mortgage. Most of the focus group participants considered that it was necessary for both spouses to work to be able to afford the payments on a mortgage.

Among the urban popular sectors it is much more common to first purchase a housing lot and then to build the dwelling, rather than to purchase a house outright. Sometimes the lot is purchased with savings and sometimes with credit; not infrequently, it is acquired via squatting or a land invasion. Our focus groups in Quito included women who belonged to housing cooperatives of various types. In one, where the land had been obtained through an invasion, many of the participants still did not have legal titles to their home. The other was a housing cooperative initially founded through a collective land purchase where members then built their own homes. In both groups, the members stressed the active role of women in organizing the housing cooperative; in some cases they had joined without their partner's knowledge or consent.

In other urban focus groups it was frequently stressed as well how owning their own home was particularly important to women, and their most desired asset of all. It was argued that women are more disposed than men, for example, to go into debt to acquire a housing lot or the materials to build a home. As one of the Quito popular sector participants explained it, "Women are more concerned with security...one is always thinking of the security we want to give our children. Men are less concerned with such things and sometimes aren't even interested [in purchasing a home]."

In our investigation of microcredit programs, it seemed much more common for loans to be available for the expansion or improvement of dwellings as compared to their construction or the purchase of a housing lot. There is a Ministry of Housing (MIDUVI) program for households in lower income groups which provides \$5,000 building grants. A requirement of this program (in rural and peripheral urban areas) is that the potential beneficiary already have a titled housing lot, which is a deterrent to many. It is not unheard of for women to secure a loan from a moneylender (*chulquero*) at exorbitant interest rates, to make a down payment on a lot or obtain building materials.<sup>26</sup>

Often the objective of international emigration is to accumulate the savings to be able to purchase a housing lot or a dwelling. In Azuay, the fruits of international emigration are clearly visible in the countryside, where a successful migration is measured by the construction of a large two or three-story modern house. A frequent pattern in this province is for a young man to marry prior to migration, and after repaying the debt for the costs of the journey (which can be considerable), for the wife to take charge of securing the land plot and supervising the construction of the home to be built through remittances. In most cases these homes are eventually titled in the name of husband and wife.<sup>27</sup>

### *The Acquisition of Other Assets*

Table 7 presents data on the incidence of household ownership of a series of consumer durables and other items.<sup>28</sup> In 2006 the majority of Ecuadorean households owned a refrigerator, a blender, a television set and sound equipment of some sort. For most assets, with the exception of sewing machines and perhaps bicycles, the ownership gap between rural and urban areas was quite large. There are also some interesting differences between the coast and sierra, with ownership of bicycles and refrigerators more frequent among households on the coast than in the sierra; given its tropical climate, a refrigerator on the coast is considered a necessity. A significantly larger share of households in the sierra, on the other hand, own automobiles and computers.

We did not find tremendous differences in the physical assets owned by urban and rural focus group participants of the popular sector. Most households own basic furnishings, a gas stove, a color television set and sometimes a sound system or radio. Among the differences between rural and urban households is the importance of animals in asset accumulation strategies in rural

---

<sup>26</sup> While the maximum legal interest rate for microcredit is 33% annually, it is not unheard of for moneylenders to charge as much as 16% to 20% monthly. "18 prestamistas asesinados en 2 meses," *El Comercio*, August 31, 2009. According to some of our focus groups and interviews, monthly interest rates of 3% to 5% were the most common.

<sup>27</sup> In our interviews with researchers in Cuenca we were told that in the indigenous communities in this province there was a tendency for migrant remittances to be considered the sole earnings of the husband, and for wives not to view the homes purchased with remittances as their own, but this seems to be the exception.

<sup>28</sup> The households in Table 7 include both those composed of couples and of sole household heads with other marital statuses. We discuss these data here, since the majority of households in Ecuador are headed by a couple; in 2005-06, 21% of households were reported as female-headed (INEC 2006, authors' calculations).

and peri-urban areas. When a rural woman constitutes her own household she almost immediately begins to raise small farm animals, such as cuyes, chickens and pigs. Pigs, in particular, are often a rural women's most important source of capital accumulation; as one put it "they are our bank account." The most frequent aspiration among peasant women was to own a cow or two, if not a small herd. There was considerable variation on whether women considered these animals to be their own property or that "of the family," although there is a general association of ownership with those animals that one cares for.

The main differentiating factor between the popular classes and the middle class, besides the quality of appliances and furniture, are the latter's ability to purchase big ticket items such as clothes washers, dryers and dishwashers. Nonetheless, given the availability of domestic servants to the middle class, some of these items are not always considered essential to maintaining a middle class lifestyle. The ownership of a car is considered essential, and urban middle class couples generally aspire to owning at least one if not two cars, particularly if both spouses work outside the home.<sup>29</sup> Among the popular strata, the ownership of a vehicle is more likely an aspiration related to income earning opportunities, such as a pick-up truck or a taxi.

One of the commonalities between the popular and middle classes is that consumer durables and electronics are generally purchased new and on credit, with the use of store credit being by far the most common means. Even though a permanent job is usually a requirement, a suitable substitute is having another person who owns assets serve as the guarantor of the loan, making such store credit more widely available. A major difference between the popular and middle classes is the availability of credit cards to the latter and their frequent use.

With respect to business assets, among the businesswomen in the focus groups there were three trends: in some cases, they were co-owners of a business which they had started with their husbands; in other cases, and more frequently among the middle class, the family business had been inherited by the woman or her spouse; finally, and most common among the popular strata, the women considered their businesses to be solely their own. The latter sentiment was particularly strong among the women who had started their own businesses with microcredit. In Cuenca, for example, several married women insisted that their husbands had nothing to do with the business, that these constituted their own individual property, and that the income they generated was solely their own.

### **The Division of Assets during Separation and Divorce**

In 2007 for every ten marriages registered, two divorces were also registered, and the evidence suggests that divorces are on the rise (*Gestión* 2009: 163). The marital status of divorced is much

---

<sup>29</sup> According to press reports, the status symbols of the middle class are to own their own home, to own a car, and to travel outside the country. "Autos, casas y viajes, símbolos del 'éxito'", *El Comercio*, May 19, 2010.

more common in the sierra—where marriage is also more frequent—than on the coast, as Table 6 shows.<sup>30</sup> Moreover, according to our focus groups, divorce everywhere is on the rise, particularly among the younger generation.<sup>31</sup> While data is not available on the rate of divorce among married couples, or of separation among consensual unions, the latter is also considered to be frequent. Sometimes interviewees referred to the abundance of single mothers among certain groups, such as the floriculture workers in Pichincha where these reportedly account for one-third of female workers, as proof of the instability of consensual unions among rural wage workers. In contrast, peasant households in Pichincha, where marriage is the norm, were considered to be much more stable, perhaps even more stable than among urban middle class marriages.

In Azuay, where international migration rates are high, abandonment by husbands who have migrated was considered a relatively common occurrence, and a fear of many rural women. While few of these abandonments lead to formal divorces, if the husband has taken on a new partner or formed a new family while abroad he will no longer send remittances, leaving the woman and her children to fend for themselves. In these cases, however, the women will generally maintain control over any assets purchased with remittances.

Given the generally accepted norm of joint property within the conjugal society, married women expect to receive half of the community property if they divorce. In particular, they expect 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 their custody of minor children, and that this right can be granted equally to the mother or father, depending on whom is the custodial parent.<sup>32</sup> But given gender constructions, generally it is women who are granted custody of the children in the case of divorce, although there has been a recent tendency for men – particularly of the middle class—to claim their paternity rights.<sup>33</sup> 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. Once the youngest child reaches the age of 18, the man can demand that the dwelling and other joint assets be sold and that the proceeds be divided between the two of them.

Similarly on the coast, if a consensual union ends, women 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 they are not always aware that if they have minor children that this is their legal right. Moreover, if the man contests her claim, a woman in a

---

<sup>30</sup> The number of divorced people per 10,000 inhabitants is not the best measure of divorce, since it doesn't reveal the frequency of divorce among married people. However, it is the only measure available.

<sup>31</sup> In the 2001-07 period, 75% of divorces took place among those 25 to 47 years of age; the majority of divorces were among those who had been married between two to fourteen years (*Gestión* 2009: 62).

<sup>32</sup> Article 106, *Código de la Niñez y Adolescencia*.

<sup>33</sup> In only 3% of custody cases are custody rights granted to a father. "La Justicia ampara a la madre en una demanda por la custodia," *El Comercio*, April 19, 2010.

consensual union is in a much weaker position than a married woman since, as noted earlier, they have to prove that the consensual union was stable and monogamous and that the assets were purchased during the period that they lived together. As a result, according to the judges and lawyers interviewed, in both coast and sierra women in consensual unions are less likely to engage in disputes over the division of assets than 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 to 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 women 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.”

It is not uncommon for men to pressure the wife to sell the home and divide the proceeds. In order to avoid conflict or 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.

Many surprises can accompany divorce, such as learning that the husband has debts of which the wife was unaware, or –sometimes 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, things can also begin to disappear mysteriously. These are all forms of patrimonial violence against women.

As noted earlier, patrimonial violence is most often the result of the combination of women’s lack of knowledge of their property rights and their expectation that husbands will act in good faith. When husbands do not, particularly, in the process of an inimical divorce, they have little recourse, particularly if the assets have been decimated. The vulnerability of women is particularly evident when the woman has been subject to domestic violence in the marriage or union. In many cases, irrespective of class, the woman will not claim any property rights at all in order to be free of the man. According to participants in Manabí and Quito, another reason women opt not to claim their property rights is for fear of the man and potential retribution.

According to the judge in the flower-growing municipality of Cayambe (Pichincha), in 60% of divorce cases no problems arise with respect to the division of properties; in an additional 20% there are conflicts among the couple, but these are soon resolved. It is in the remaining 20% where the conflicts are major and their resolution protracted. 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.

Earlier we noted the common practice of a couple building a home together on a land plot or housing lot that was inherited by only one of them. If that piece of property is not titled individually, then the solution in a conflict is sometimes for the home to be sold, and the 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 main reasons that some lawyers and judges advocate that couples file capitulations clearly differentiating what belongs to each spouse individually.

Of course, not only women can come out on the short-end of a divorce, although they do seem to be more likely than men to lose their inheritance of land/lots through joint titling of the home. In one of the few cases that we came upon of divorce among a peasant couple, also in Cayambe, the father complained how the legal system favored women, to the detriment of his son: “The law is for women, for men there is no law.” He said that when his daughter-in-law left his son she took everything that he had bought while single (working in the flower industry) as well as what they had purchased together, including the two cows for which he was still in debt.

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 he 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 strategy that we found to be particularly common among women in consensual unions in Manabí, and not uncommon among migrant families in Azuay, 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 the 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 children come of age, there is no guarantee that they will share these assets with their mother.

In most of the focus groups, irrespective of locale or social strata, 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 often have

to maintain and educate their children on their own. Prescribed levels of child support are quite often inadequate and frequently not paid at all.<sup>34</sup>

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 \$0.67 per \$1.00 earned by a man (INEC 2009). Housewives of the lower middle or middle class are often at a particular disadvantage if they have been stay-at-home moms, with lack of labor market experience or atrophied skills; moreover, in Ecuador there is no alimony.<sup>35</sup>

While no rigorous studies have yet been done on the matter, our impression is that in Ecuador, as in many other countries, divorced women are left in a much more precarious position than men, and are much less likely than divorced men to remarry. Moreover, in some of the more traditional towns and cities, such as Portoviejo, divorced women are discriminated against socially, perhaps explaining why divorce is less likely among the middle class here than elsewhere. As one participant explained, "divorce gives a man status, but if a woman is divorced people ask 'why did the husband divorce her?'" Also, divorced women are considered "easy women." As another noted, "The prejudice is such that when a group of friends go out with their husbands, they are afraid to invite the divorced woman." They think that "she might sleep with my husband; she could entice him away, 'don't you see, she is divorced'."

Ironically, it is precisely in Manabí where consensual unions are the norm among the popular strata, suggesting the presence of a double morality linked to social class. Among the reasons given for the prevalence of consensual unions among the popular sectors in Manabí, is precisely the cost and hassle of marriage and divorce.<sup>36</sup> In focus groups with this sector, some of the women cited the benefit of first living with a man, to get to know his character, before making a more permanent commitment, and considered it a benefit to be able to easily leave a relationship if a situation proved intolerable. Moreover, they noted the difficulty of accumulating any assets of significance, so that the division of these was not always a top concern. But a number of them also stressed the difficulties of raising children as single mothers.

For some divorced and separated women of the popular strata, microcredit programs have been a savior, allowing them to start small businesses to support themselves and their children.

---

<sup>34</sup> The level of child support a father must pay depends on his salary or income and increases progressively with the age and number of children. For example, someone earning US\$240 (the minimum wage) to \$436 monthly, would pay 28.5% of their monthly salary for one child and 54.2% for three or more, if the children are five years old or older. "La tabla vigente de las pensiones," *El Comercio*, April 18, 2010, p.6.

<sup>35</sup> A woman who is separated can file a request before a judge that she be provided with financial support during divorce proceedings, but once divorced there is no provision for alimony.

<sup>36</sup> We only collected data on the cost of divorce for Cuenca. A divorce by mutual consent can be done in three months and only cost \$500 if done before a notary public; if children are involved, a no fault divorce must be done through the Family Court. In contrast, if one person files for divorce, a legal suit can take from eight to twelve months and cost on the order of \$1,500 in legal fees. In this city, the most common grounds cited for divorce among the middle class are infidelity, abuse, and alcoholism.



Everywhere we got glowing testimonials of what access to credit had meant to such women, irrespective of what seemed to us to be quite high interest rates on such loans, sometimes reaching the maximum legal annual interest rate of 33%. We were told that what was important to them was that they could secure such loans without collateral--which many of them did not have-- and that these loans were cheaper than the main alternative, to have to turn to the local money lender to meet subsistence needs.

### **Widowhood and the Division of Community Property**

According to demographic projections, life expectancy at birth is currently 78.8 years for women and 72.9 years for men (INEC, reported in SIISE 2008). 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 of the popular sectors considering this to be an inheritance from the deceased husband 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.

As noted earlier, in Ecuador wives inherit from their husband's estates only if there are no living children, and in this case, they must share the estate with the husband's parents. Only if there are no living children or parents of the deceased, then, would a wife inherit the entire estate of her husband. While data is not available on such matters, the latter situation would seem to be fairly improbable.

Also, few of the women had considered the fact that their husband's estate would consist not only of half of the community property, but also, of any individual property that he had accumulated. If it were to be more likely for men to accumulate assets prior to marriage and/or to inherit more assets, then men's individual property would exceed that of women. 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.

Generally, the familial home is the main asset of significance, and this usually becomes the co-property of the widow and children. Legally, if there are underage children, the widow is entitled to remain in the home; that is, she can not be forced to sell the family home and to divide the proceeds with the legal heirs. And 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 narrowly on how much of it has already been transmitted in life to the children. As we discuss in the next section, *inter vivos* inheritance is quite common in Ecuador among all social classes. The more of the community property that has been transmitted in life, of course, 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 stratum. 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 peasant communities in Pichincha where the practice is to give children their inheritance of land as they marry, it was not uncommon for an older widow with grown children to be left with only a small piece of land surrounding the main homestead where she would remain until her death, often accompanied by the youngest child (irrespective of sex) or an unmarried daughter.

Whatever the timing of inheritance, with few exceptions, peasant families generally attempt to maintain inherited land within the family. Thus it is unlikely that children who have migrated to the cities or internationally sell their inheritance share to outsiders, being more likely to sell their share to their siblings or other family members within the community.<sup>37</sup> It is not at all uncommon for the widow (depending on her age) to continue to farm the land shares designated for children that have migrated until her death, and for the final redistribution not to take place until then. Similarly, farm animals are generally not liquidated, with the proceeds divided among the children, until the death of the widow.

Among the urban popular sectors, often the only asset available to divide is the parental dwelling. As mentioned previously, it is not uncommon 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 additional explicit obligation of caring for the widow in her old age. Overall, however, it appeared to be less common in urban as compared to rural areas for a child to remain living at home with a widowed mother.

---

<sup>37</sup> That the inheritance shares of grown children who have migrated are honored was evident from the number of women in the focus groups in Quito and Cayambe who had inherited land back in their communities of origin.

In rural Azuay, where male international emigration is so common, the aim of a successful migration is often to build a two- to three-story home that can accommodate several generations. If a woman is widowed she will have co-ownership of this house along with her children. Ironically, we were told, she is sometimes pressured to sell this home or to put it up as collateral to finance the international emigration of some of her own children (in which case she might lose it if the migration does not go well).

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." The participants in Cuenca considered such children to be ingrates (*malcriados*).

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 conjugal 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.<sup>38</sup>

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. In Ecuador all children, irrespective of legitimacy, have equal rights to inherit from their mother or 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 those who were married for several reasons. Unless the familial home or lands have been previously registered as joint property, it is

---

<sup>38</sup> The cost of financing an international emigration is considerable. Current rates are between US\$13,000 and \$15,000 and include three attempts to enter the United States. Migrants generally have three years to repay the debt, paying relatively high interest rates (up to 6% monthly) on the balance. Interview with Father Fernando Vega, SENAMI, Cuenca, November 5, 2010.

more likely on the coast, where consensual unions are common, that such will be in the name of the male partner. In this case if there is pressure from the children to sell the dwelling or lands in order to 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, given the looser family structure on the coast, there is a greater likelihood that there will be children of only the husband pressuring for a division of his estate. And third, the lack of formal titles to homes and land seemed to be more common in Manabí than in the other provinces complicating the division of property.<sup>39</sup>

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 or the migration does not go well, lose the asset, forcing the displacement of the widow. Moreover, if the asset is in their name, it is far easier for children to sell the dwelling without their mother's consent.<sup>40</sup>

It was the general impression among participants in the focus groups that widows in Ecuador, 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.

Third, if widowed young and with dependent children, a widow will find herself facing all the same labor market disadvantages as divorced or separated women, such as discrimination. Moreover, 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,

---

<sup>39</sup> According to the 2005-06 Living Standard Measurement Survey, in Manabí, only 44% of dwellings were titled, compared with 78.7% in Azuay and 69.9% in Pichincha (INEC 2006, authors' calculations).

<sup>40</sup> This could also happen, of course, in the case of separated or divorced women.

usually equal to around 40% of her husband's pension.<sup>41</sup> Moreover, only among the middle to upper classes is it common to have life insurance, which might provide a steady income to the widow for the remainder of her life. 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 help they receive from children.

Interestingly, not many women—judges and lawyers included—had ever heard of the *porción conyugal*, the provision in the civil code that potentially protects poor widows. In fact, only one judge (among four interviewed) had ever ruled on such a demand, and this was in only one case in her twenty-one years on the court. In this case the widow had demanded the conjugal portion of ¼ of her deceased husband's estate because there was no community property to distribute, and his individual patrimony was quite substantive.

### **Inheritance among Children**

It seems that few people write wills in Ecuador. According to focus group participants as well as those in the legal profession whom we interviewed, 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 treated equally and are the legal heirs of their parents.

Testaments allow children to be treated unequally, since only 50% 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.

There is a marked preference among all social strata for transferring assets to children during the parents' 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. But often the designation of inheritance shares by the parents is 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.

---

<sup>41</sup> If the husband receives the maximum social security pension (by contributing to the pension fund at the highest salary level for all of his working life) of \$1,000 monthly, then she would receive \$400 a month. By middle class standards, this amount would be quite low unless there are other sources of income for her to support herself. Moreover, if the widow remarries or begins to live in a consensual union, she loses the right to this pension. <http://www.iess.gov/site.php?content=1253-montepio>. Accessed June 6, 2010.

The marked preference for transferring property *inter vivos* among the middle class is clearly related to the evasion of estate taxes. In the focus group in Cuenca participants noted that in the past it was much more common to leave wills, but an increase in the estate tax now discourages the practice. A judge in Cuenca contested this interpretation, noting that for estates of modest size the estate tax was practically no higher than taxes on the other transactions. We investigated the matter with the local Internal Revenue Service (SRI, Servicio de Rentas Internas) and found that at least since 2008, inheritances in fact receive more favorable tax treatment than either donations or fictitious sales.<sup>42</sup> The child or parent of the deceased pays only half the rate on an inheritance than they would on a donation; moreover, underage children pay no tax at all on an inheritance from a deceased parent. In addition, the SRI is now attempting to close the loop-hole of fictitious sales of assets among relatives, so that these now must be carried out as donations.

Among other 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, both urban and rural, consider that by dividing their estates during their lifetimes, this will prevent conflicts over inheritance among their children. According to some of the focus group participants, to carry out a donation, the practice is 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.

Besides confusion over estate taxes, there seems to be very little understanding of the property right 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 ran into several cases where women were confused as to why “their inheritance” ended up being titled in the name of both them and their spouse. If the inheritance transfer was via a purchase/sale contract, such would have been the proper procedure.

The great majority of focus group participants considered that sons and daughters were treated equally in inheritance. The large number of women participants who had inherited land, a housing lot, or a home from a parent at least suggests that daughters are not discriminated against outright. There may even be a tendency to favor daughters in certain situations. Among the cases cited by the participants of unequal division of a parent’s estate was when there was a single daughter among the children and all the others were married, or a child with a special disability, with single mothers sometimes being included in this category. Son preference in inheritance was only reported in two focus groups in Portoviejo, one with women of the popular

---

<sup>42</sup> Interview with the Inheritance Tax Unit, SRI, Quito June 9, 2010. Also, according to the Inheritance Tax Table, no tax is paid on inheritances or donations of US\$56,760 or less. The tax rate then increases progressively, with the top tax bracket being 35% on amounts greater than US\$681,160.

class (where a young woman and her mother had both been discriminated against), and among professional women in Portoviejo, who considered it to be a practice much more common in the past than it is today.

Most of the other reasons given for unequal inheritances among children were gender neutral, such as to favor the child who has lived and cared for the parents in old age. This practice is by no means, however, the rule, and some participants argued that it required the agreement of the other heirs. The general case, in both rural and urban areas, 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 common. The potential for conflict often discourages women to come forth to claim an inheritance from their father when there is another family involved.

Even though there is much concern among parents about avoiding conflicts over inheritance among their children, one of the practices which could greatly reduce conflicts—formally titling land and homes—is still not the general case. According to the 2005-06 Living Standard Measurement Survey, only 58.2% of homeowners have formal titles to their homes. The incidence of having a titled dwelling among homeowners was higher in the sierra than on the coast, and in urban as compared to rural areas.<sup>43</sup> 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. In all of the rural areas studied land conflicts were common, with siblings, for example, fighting over the best quality land. According to the judges interviewed, as well as focus group participants, disputes over inheritance are quite common in urban areas as well, and among all social strata. Such disputes can take years to settle, and are also quite costly. In Cuenca the participants commented on how whole families have been torn apart over inheritance disputes.

---

<sup>43</sup> INEC (2006), authors' calculations.

## Concluding thoughts

In this paper, in addition to showing the importance of asset ownership to women at different stages of the life cycle, and assessing their knowledge of their property rights, we hope to have demonstrated some of the ways in which women experience patrimonial violence, to their detriment. After summarizing some of our main findings, we conclude with some suggestions on how women's property rights in Ecuador could be strengthened.

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 community 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 what might be considered 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 elsewhere, where male privilege in inheritance predominates. And as we have shown, inheritances play an important role at all stages of the life cycle.

Community property in marriage/unions has a number of special benefits. Joint property, irrespective of who contributes income, in many ways functions to compensate women for domestic and caring labor and for the discrimination they may face in the labor market. Knowledge of the legal right to half of the community property in the case of separation, divorce or widowhood, also provides women with a sense of security. And that half might be greater than the assets that a woman could accumulate on her own had she stayed single.

Still, as we have demonstrated, patrimonial violence—lack of enforcement 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 most egregious forms of 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 by them belong to them 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 purchasing assets in the name of a third party in anticipation of divorce or separation.
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

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

Lack of knowledge of their legal rights certainly is one of the main reasons why women do not take advantage of the legal protections available to them, such as capitulations, 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. The legal profession also bears some of the blame for not always being well trained in family law, and not advising women properly of their property rights. But as we have stressed, social norms and expectations also play a very important 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—is one of our downfalls as women. This is complemented by fears that discussion of material issues will break the harmony of a relationship or be socially frowned upon. 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.

While women in Ecuador have fairly strong property rights in a comparative context, there is still much that can be done to strengthen them. The first task should be to promote legal literacy among women. Women need to know of their rights before they can demand them. They also need to be in 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. In addition, the legal profession needs greater training in family law. The property rights of women

in consensual unions could also be strengthened by promoting their registration. This could be done, for example, by facilitating the registration of the union when a child is born.

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 might considerably enhance the economic security and bargaining power of widows, and reduce their dependence on the good will of children. If widows could inherit from their husband's estate, it might be more likely that they be left with the controlling interest of the family farm or a family business, for example. An alternative might be to promote the practice of leaving wills combined with greater social recognition of the need for husbands to provide for widows. 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 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 still does not include patrimonial violence as a form of violence against women,<sup>44</sup> and one that is often related to the other types of domestic violence, particularly psychological. Thus much could be done to draw attention to patrimonial violence if it too were to be treated as a violation of women's human rights.

---

<sup>44</sup> "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.

## References

CEIME (Comisión Especial Interinstitucional de Estadísticas de Migraciones en el Ecuador). 2008. "Apuntes sobre la emigración internacional del Ecuador." Memo. Quito: CEIME.

CEPAL-BID. 2005. *Atlas sociodemográfica de la población indígena y afroecuatoriana*. Santiago: CEPAL.

Contreras, Jacqueline. 2010. "Mujeres, activos y el ciclo de vida: Apuntes sobre la provincia de Azuay." Working Paper. Gender and Culture Program. Quito: FLACSO-Ecuador.

Corporación de Estudios y Poblaciones. 2000. *Código civil con jurisprudencia. Legislación conexa*. Tome I. Quito: Corporación de Estudios y Poblaciones.

Costa Rica, Republica de. 2007. *Ley 8489. Penalización de la violencia contra las mujeres*. <http://www.poder-judicial.go.cr/salatercera/leyes/leypenal/ley8589.html>. Accessed June 6, 2010.

Deere, Carmen Diana. 2010a. "Mujeres, activos y el ciclo de vida: Apuntes sobre tres cantones de la provincia de Pichincha." Working Paper. Gender and Culture Program. Quito: FLACSO-Ecuador.

Deere, Carmen Diana. 2010b. "Mujeres, activos y el ciclo de vida: Apuntes sobre los derechos de propiedad y la clase media en Ecuador." Working Paper. Gender and Culture Program. Quito: FLACSO-Ecuador.

Deere, Carmen Diana. 2007. "Married Women's Property Rights in Mexico: A Comparative Latin American Perspective and Research Agenda," in Helga Baitenmann, Victoria Chenaut, and Ann Varley, eds., *Decoding Gender: Law and Practice in Contemporary Mexico* (New Jersey: Rutgers Univ. Press), pp. 213-230.

Deere, Carmen Diana, Gina E. Alvarado and Jennifer Twyman. 2010. *Poverty, Headship and Gender Inequality in Asset Ownership in Latin America*. Working Paper #296, Gender, Development and Globalization Program, Michigan State University.

Deere, Carmen Diana and Cheryl R. Doss. 2006. "The Gender Asset Gap: What Do We Know and Why Does it Matter?" *Feminist Economics*, Vol. 12 (1&2): 1-50.

Deere, Carmen Diana and Magdalena León. 2005. "Liberalism and Married Women's Property Rights in Nineteenth Century Latin America," *Hispanic American Historical Review*, Vol. 85 (4): 627-678.

Deere, Carmen Diana and Magdalena León. 2001. *Empowering Women: Land and Property Rights in Latin America*, with Magdalena León (Pittsburgh: University of Pittsburgh Press). Spanish translation: 2000. *Género, Propiedad y Empoderamiento: Tierra, Estado y Mercado en*

*América Latina* (Bogotá: Tercer Mundo y Universidad Nacional de Colombia); 2002, 2cd., Ciudad de México: PUEG/UNAM y FLACSO-Ecuador).

Ecuador, Republica de. 2009. *Código Civil. Actualizado a junio de 2009*. Quito: Corporación de Estudios y Publicaciones.

Ecuador, Republica de. 1995. *Ley contra la violencia a la mujer y la familia*. <http://www.mingobierno.gov.ec/dinage>. Accessed June 6, 2010.

*El Comercio*, various issues (Quito).

*Gestión*. 2009. "Indicadores Sociales: Matrimonios y Divorcios," No. 180: 62-64 (Quito).

INEC (Instituto Nacional de Estadística y Censos del Ecuador). 2009. *Encuesta de Empleo, Desempleo y Subempleo (ENEMDU)*. Quito: INEC.

INEC. 2006. *Encuesta de Condiciones de Vida (ECV) 2005-06*. Quito: INEC.

INEC. 2002. *VI Censo Nacional de Población y V de Vivienda, 2001*. Resultados Definitivos. Quito: INEC.

OPS (Organización Panamericana de Salud). 1999. *Violencia contra las mujeres: La ruta crítica en Ecuador*. Quito: OPS.

SIISE. 2008. *Sistema Integrado de Indicadores Sociales de Ecuador*. CD-Rom. Quito: Ministerio de Coordinación de Desarrollo Social.

Twyman, Jennifer. 2010. "Gender, Assets and the Life Cycle: A Comparison of Five Cantons in the Manabí Province of Ecuador. Working Paper. Gender and Culture Program. Quito: FLACSO-Ecuador.

Venezuela, República Bolivariana de. 2006. *Ley orgánica sobre el derecho de las mujeres a una vida libre de violencia*. <http://web.laoriental.com/leyes/L111n?L111nTOCap3.htm>. Accessed June 6, 2010.

# Map



## Tables

Table 1. Population Characteristics, 2001

	Total Population	Percent Urban	Percent Indigenous	Femininity Index
Ecuador	12,156,608	61.1	6.8	102.0
Azuay	599,546	52.1	2.5	114.3
Manabí	1,186,025	51.9	0.8	98.8
Pichincha	2,388,817	71.8	11.5	104.6

Source: INEC, 2001 National Population Census, based on SIISE (2008); for indigenous population, CEPAL-BID (2005).

Table 2. Illiteracy Rates, 2001

	Total	Male	Female
Ecuador	9	7.7	10.3
Azuay	8.8	5.6	11.3
Manabí	12.5	12.5	12.6
Pichincha	5.5	4.1	6.8

Source: INEC, 2001 National Population Census, based on SIISE (2008).

Table 3. Years of Completed Schooling, 2001

	Men	Women	Urban		Rural	
			Men	Women	Men	Women
Ecuador	7.5	7.1	8.9	8.5	5.1	4.6
Azuay	7.7	6.4	9.9	8.6	4.8	3.7
Manabí	6.1	6.1	7.8	7.7	4.2	4.1
Pichincha	9.4	8.6	10.1	9.2	7.4	6.7

Source: INEC, 2001 National Population Census, based on SIISE (2008).

Table 4. Poverty Rates According to Unsatisfied Basic Needs, 2001

	Total	Urban	Rural
Ecuador	61.3	45.8	85.6
Azuay	53.2	26.9	81.8
Manabí	74.8	56.0	95.2
Pichincha	40.6	32.5	61.4

Source: INEC, 2001 National Population Census, based on SIISE (2008)

Table 5. Labor Force Participation Rates, 2001

	Total	Men	Women
Ecuador	51.1	72.4	30.5
Azuay	53.1	72.3	37.2
Manabí	44.4	70.9	17.8
Pichincha	55.1	71.7	39.6

Source: INEC, 2001 National Population Census, based on SIISE (2008)

Note: Based on population above 12 years of age.

Table 6. Incidence of Matrimony and Divorce among the Population by Natural Regions, 1999

	Matrimony	Divorce
Ecuador	60.8	8.8
Coast	51.7	7.4
Sierra	72.7	10.7
Amazon	46.9	5.3

Source: INEC, Vital Statistics, based on SIISE (2008)

Note: Refers to legal marriages and divorces per 10,000 inhabitants (excludes consensual unions).

Table 7: Incidence of Household Ownership of Selected Consumer Durables, 2006

	Ecuador			Coast	Sierra
	Total	Urban	Rural	Total	Total
Bicycles	41.7	43.5	38.2	47.3	36.5
Automobiles	16.6	21.1	8.0	13.1	21.1
Refrigerator	69.3	81.5	45.6	72.8	67.1
Washing machine	20.8	29.4	4.1	21.0	21.7
Blender	75.3	84.0	58.6	72.1	80.5
Sewing Machine	27.2	28.0	25.6	26.0	29.0
Television	87.2	95.3	71.5	88.9	87.4
DVD/Video	47.6	57.9	27.8	47.7	49.1
Sound system/radio	72.8	76.7	65.0	67.5	79.4
Computer	17.9	25.0	4.2	13.0	23.9
Internet access	2.5	3.6	0.4	4.3	1.1
Cell phone*	38.2	46.9	21.8	40.0	37.8

Source: INEC, Living Standard Measurement Survey 2005-06, based on SIISE (2008).

\*Note: Cell phone ownership is by person, rather than household.