

# Property Rights and the Gender Distribution of Wealth in Ecuador, Ghana and India

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

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

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IN ECUADOR, GHANA AND INDIA

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**Abstract:**

Women's ability to accumulate wealth is often attributed to whether they have property rights; i.e., a legal personality to own and manage property. In this paper we argue that basic property rights are insufficient, for much depends upon the marital and inheritance regimes in particular contexts. Drawing upon household asset surveys which collected individual level ownership data in Ecuador, Ghana and the state of Karnataka in India, we estimate married women's share of couple wealth and relate it to whether major household assets are owned individually or jointly during the marriage as well as to different inheritance regimes and practices. In Ecuador, married women own 44 percent, in Ghana, 19 percent, and in Karnataka, nine percent of couple wealth. Ecuador is characterized by the partial community property regime in marriage while inheritance laws provide for all children, irrespective of sex, to be treated equally, norms that are largely followed in practice. In contrast, Ghana and India are characterized by the separation of property regime which does not recognize wives' contribution to the formation of marital property, and by inheritance practices that are strongly male biased. Reforming marital and inheritance regimes must remain a top priority in many regions of the world if gender economic equality is to be attained.

# PROPERTY RIGHTS AND THE GENDER DISTRIBUTION OF WEALTH IN ECUADOR, GHANA AND INDIA

## 1. Introduction.

The historical evidence suggests that married women's property rights matter greatly to achieve a gender equitable distribution of wealth. But once women have basic property rights, i.e., a legal personality so that they can own and manage their own property, enter into contracts, write wills and receive bequests in their own name, does their ability to accumulate wealth depend on the specific marital and inheritance regimes? By marital regime we refer to the specific rules governing the ownership and management of property during marriage. Inheritance regimes refer to the rules governing testaments and intestate.

Until now, national level estimates of the gender distribution of wealth have not been available for any developing country. This paper presents evidence on the gender distribution of wealth for three countries with differing inheritance and marital regimes- Ecuador, Ghana and India. We draw upon nationally representative household asset surveys in Ghana and Ecuador and a survey representative of the state of Karnataka, India, which collected individual level asset ownership data to explore how and why marital and inheritance regimes affect the accumulation of wealth by women.

In broad terms three main types of marital regimes can be distinguished: full or partial community property and separation of property [11]. In partial community property regimes, all assets acquired during the marriage with the exception of inheritances are considered the joint property of the couple. In the event the marriage is dissolved (whether due to divorce or death), the joint assets are split equally between the two spouses. What distinguishes full and partial

community property is how property acquired prior to marriage and inheritances are treated. In partial community property regimes, property acquired prior to marriage remains as individually owned property during the marriage and is treated similarly to inheritances in case the marriage is dissolved; each spouse retains their own. In full (or unrestricted) community property regimes all assets are pooled whether acquired prior to or during the marriage, including inheritances. In contrast, in the separation of property regime all property, irrespective of when or how it was acquired, is treated as individually owned property; in the event the marriage is dissolved, there is no community property to distribute. Inheritance regimes may be distinguished on a number of criteria, but the most important for our purposes is whether children are treated equally irrespective of sex, whether husbands and wives have inheritance rights to each other's estates, and whether both of these provisions govern intestate (when there is no will) as well as testaments.

In Ecuador the default<sup>1</sup> marital regime is partial community property whereas in Ghana and India it is separation of property. In Ecuador, and in India since 2005, all children of either sex are treated equally under intestate while in Ghana, the law is silent on whether male and female children inherit equally. In both India and Ghana spouses are entitled to a share of the decedent's estate. In Ecuador, if the decedent has left children or their offspring, the surviving spouse does not have inheritance rights since it is assumed that s/he is provided for by their right to 50 percent of the marital property.

Overall, the gender distribution of wealth in Ecuador is equitable, while in Ghana and India the gender wealth gap is quite large: in Ghana women own 30 percent and in Karnataka, India, 19 percent of gross household physical wealth [16]. In this paper, we focus specifically on married women's share of couple wealth and relate it to whether major household assets are owned

individually or jointly as well as the different inheritance regimes. We find that married women's share of couple wealth is much lower than these aggregate figures, principally because of the large share of households not consisting of a principal couple in all three locations, and because the aggregate estimate also includes the wealth of other household members besides the principal respondents. In a comparative framework, the much larger share of women's couple wealth in Ecuador than in Ghana and India is largely explained by the fact that the majority of major assets—housing, land and other real estate—are owned jointly by the couple, rather than by men individually, reflecting the outcomes of different marital regimes. Moreover, in Ghana and India there is a strong male bias in inheritance, whereas in Ecuador inheritance is much more gender equitable.

In the next section, we review the historical evidence on the impact of granting married women property rights in the United States (US) and Great Britain. We show that institutional change in these countries led to a more equitable gender distribution of wealth. Surprisingly little research has been carried out, however, which compares marital and inheritance regimes, either within one country (such as the US, where these vary by state) or across countries. Such research is important since, as we show, just having basic property rights may not be sufficient for married women to be able to accumulate wealth; rather, much depends on how marital and inheritance regimes interact in specific contexts.

We then describe the historical evolution of the marital and inheritance regimes in our three countries and, in the next section, explain the survey methodology. The subsequent section presents our results on the distribution of wealth among couples and shows how this is related to the form and patterns of ownership of assets during marriage. We then present evidence on inheritance practices and discuss how these contribute to the gender wealth gap. The concluding

section sums up and argues why reforming marital and inheritance regimes must remain a top priority in many regions of the world if gender economic equality is to be attained.

## 2. An overview of the evolution of marital and inheritance regimes

In a cross-cultural perspective, there is little question that until the second half of the nineteenth century, the British common law tradition was one of the most unfavorable to married women.

In England under what was known as coverture, women lost their legal personality upon marriage. Any personal property (moveable assets such as furniture, livestock, money and stock) that married women acquired prior to marriage or inherited while married became the property of their husbands. While they did not lose property rights over immovable property (such as real estate), management of the latter was in the hands of their husband during the marriage.<sup>2</sup> Only if they were widowed and no longer under coverture did the management of their own real estate (immovable property) revert to their control. Under common law, single women had almost the same property rights as single men [26, 39, 44].

In addition, married women could not write wills. As testamentary freedom (the right to freely choose to whom to bequeath one's property) became the norm in England during the eighteenth century, it was the privilege of married and unmarried men and unmarried women, not married women. Moreover, under intestate widows did not automatically inherit from their husbands; rather, they only had the usufruct right to dower, which was a right to the income from one-third of their deceased husband's immovable property during their life time. All moveable property accumulated during the marriage by the husband passed to the children.

In contrast, under the Roman and Islamic legal traditions, married women maintained their legal personality upon marriage. This meant that they continued to own both moveable and

immovable property upon marriage, inherited in their own names, and could will their own individually owned property, subject to certain restrictions on testamentary freedom. The Roman legal tradition, as it evolved in southern Europe and was transported to the New World by the Spanish, French, and Portuguese, was particularly favorable to married women in that marriage automatically created a regime of community property. All property purchased by either spouse during the marriage belonged to the couple irrespective of whose income was used to acquire it. In case of the death of one of the spouses, the community property was divided equally between the surviving spouse and the estate of the decedent. Whereas in Portugal full community property was the norm, in Spain and France partial community property was the default regime. What these regimes shared was that up until the twentieth century, the husband managed both the community property as well as his wife's individual property. However, if widowed or separated, under the partial community property regime all of a woman's moveable and immovable property reverted to her control including half of the community property acquired during the marriage. An important legacy of the Roman legal tradition is that inheritance laws treated children of both sexes equally, both under intestate and in the regime of restricted testamentary freedom where children were automatically entitled to most of each parent's estate. However, under intestate surviving spouses did not inherit automatically from the decedent's estate since it was assumed that they were provided for by their share of the community property [12, 13].

A major difference between the Roman and Islamic legal traditions is that under the latter, as it evolved in the Ottoman Empire in the fifteenth to nineteenth centuries, separation of property was the default marital regime [35, 21]. Another difference was that wives retained both possession and management of whatever property they brought to or acquired during the

marriage, putting them in a more favorable position than married women elsewhere. However, the inheritance regime was unfavorable to women. Sons and daughters did not inherit equally, but rather, sons were entitled to twice the share of daughters. While spouses were in the first order of inheritance under intestate along with the children, widows were in a less favorable position than widowers; the latter received one-quarter of their deceased wife's estate, while widows received only one-eighth of that of their husbands, and in polygamous marriages that share had to be divided among all of the wives [20].

Not surprisingly, the nineteenth century wave of reforms of married women's property rights was centered in the US and Great Britain and focused on granting married women a legal personality. In the latter, the British Married Women's Property (MPW) Act of 1870 granted married women the right to own and control their own moveable property, including their own earnings; married women attained similar property rights to those of single women in the 1882 reform, including control over their immovable property and the right to bequeath all of their property [26]. In the United States, MPW acts were adopted on a state by state basis, beginning in the 1840s so that by the end of the nineteenth century married women in most states could inherit, own and dispose of their own property and earnings, write wills and generally enter into all contracts and suits.<sup>3</sup>

Granting married women property rights in Britain and the US brought about an important change in the distribution of wealth between men and women [8, 41]. A study of wealth holdings as reported in the US census for 1860 revealed that the aggregate wealth of women and children combined was only 7.8 percent of the aggregate wealth of men, the focus of that study [43, p. 200]. According to historian Carole Shammas [41, p. 21), "more change in female wealth holding occurred between the 1860s and the 1890s than had transpired in the previous two

hundred years of American history.” She attributes these changes to the MWP acts, principally because fathers began to include their daughters in their wills. Since the acts were not retroactive, it took over a generation for these changes to manifest themselves in the gender distribution of wealth as reported in wills or probate. Her summary of the available studies of probate records and wills shows that over the late nineteenth century the share of women leaving wills or whose estates were probated increased significantly, that there was a growing tendency towards the equal treatment of sons and daughters in bequests,<sup>4</sup> and that women owned an increasing share of probated wealth—around one-quarter by 1900. These changes took place in tandem with changes in the composition of inheritances over the nineteenth century, with land becoming less important and moveable property, including financial assets, more so, following the overall trend in the composition of wealth as the US became increasingly urbanized and industrialized [42, 28].

Geddes and Lueck [24] show that another beneficial change in favor of gender equality associated with the MWP acts in the US was an increase in the share of girls attending school relative to boys. They argue that once women could control their own earnings and assets, parents had an incentive to increase human capital investments in daughters. It is likely that an indirect effect of the laws was to contribute to the growing labor force participation of unmarried women. The MWP acts apparently had little direct effect on the labor force participation of married women up through the beginning of the twentieth century [39]. But the relatively high labor force participation rate of unmarried women that was reached by 1890 [32], could have contributed to the increasing share of probated wealth owned by women through their ability to purchase assets with earnings. Other research suggests that the MWP acts encouraged women’s

greater participation in commercial activities such as the filing of patents in their own name [29], which potentially could have also led to increased wealth holding by women.

Analyzing federal estate tax returns for the 1922 to 1953 period, Shammas [41, p. 18] found that women's share of wealth among top wealth holders in the US increased from 24.5 percent to 39.4 percent. In another study, Harbury and Hitchens [25] concluded that in both Britain and the US, women's share of wealth increased substantially after the 1920s and reached approximately 40 percent by the 1950s. The growth in women's share of wealth in this period is attributed to the growing tendency for the family home to be purchased jointly by the couple (supported by an overall increase in homeownership rates) and to estate laws that favored the division of wealth among spouses for tax purposes. Also, women's life expectancies grew faster than men's over this period, so that wives became ever more likely to survive their husbands. The long-term trend in the US has been for husbands to favor wives as opposed to children in their wills, and for states to better the position of surviving spouses under intestate, factors that support an increase in women's share of wealth [42].

The United States would seem to be the ideal case to test the impact of different marital and inheritance regimes on women's ability to accumulate wealth, since eight western former Spanish or French territories maintained their legacy of partial community property regimes when they joined the Union, providing a contrast with the common law states that evolved into the separation of property marital regime. Most analysts expect married women to fare better under community property as compared to the separation of property regime, since women have property rights to the assets acquired during the marriage [41, 23, 19]. Unfortunately, there has been little work testing this proposition, principally, due to the lack of individual level asset ownership data. The only evidence to this effect comes from a 1953 study of federal estate tax

records of the top wealth holders in the US which revealed that in community property states women owned 49 percent of the total wealth; in states with the separation of property regime women owned only 38 percent of the estate wealth [31, p.125].<sup>5</sup>

The great advantage of the community property regime is that it implicitly recognizes wives' contribution to the formation of marital property through domestic labor and child-rearing [12]. Given women's lower labor force participation rates than men's, and the disadvantages they face in the labor market— due to occupational segregation and the gender earnings gap, among other reasons – married women's potential for accumulating assets on their own is less than men's. Recognition of joint community property in marriage thus serves to level the playing field.

### 3. Marital and Inheritance Regimes in Ecuador, Ghana and India

The historical evidence suggests that marital and inheritance regimes in developing countries were often shaped by their particular colonial experiences, the timing of such, and the manner in which formal, statutory law was imposed on or coexisted with customary law.

In Latin America, the marital and inheritance regimes of Spain and Portugal were transported to the New World and evolved but slightly over the three hundred and some years of colonial rule. With independence in the 1820s, most of the new Spanish American republics retained their regimes of partial community property (and Brazil, of full community property) and restricted testamentary freedom. Because a feature of the community property regimes is that married women have a legal personality, this step which was so crucial in the US and Britain, was never an issue. The pressing issues related to equality in marriage, such as the husband's right to manage the community property of the couple as well as his wife's individual property, and the

series of restrictions on the activities that wives could carry out only with permission of their husbands, were not addressed until the twentieth century.<sup>6</sup> Nonetheless, Deere and León [12, 13] argue that wives in Latin America were in a much stronger position than their counterparts under common law because of their much stronger fall-back position should the marriage dissolve.

One might expect that the legal heritage of countries that were once part of the British Empire with respect to married women's property rights would be partly influenced by the timing of colonization. India fell under British domination before the MWP acts had been enacted, while most African countries were not colonized until the late nineteenth century, when married women's property rights in England were in the process of being reformed. But British colonization was much more pluralistic than that of the earlier Spanish and Portuguese empires, and the legal frameworks that evolved in the colonies of the British Empire was a complex mosaic of religious and customary law and British common law, a mosaic that is still found today.

India became a British colony in the eighteenth century but it was not until the second half of the nineteenth century that the British influence was felt in the shaping of different aspects of family law with respect to the small, but growing Christian population in India, and in the development of the judicial system. Codification of family laws governing the Hindu and Muslim populations took place much later, with the British relying on indirect rule and customary law to solve conflicts governing property and succession [1]. British common law after the MWP acts and Hindu and Muslim personal law did converge on a central point: separation of property as the norm in marriage [2].

Christian communities in pre-independence India were subject to the Indian Succession Act of 1865. This statute established testamentary freedom with the exception of the one-third of an estate which was reserved for the widow; in the case of intestate the widow received this same share, with the remaining two-thirds designated to lineal descendants. The Act did not apply uniformly across all Christians, however; for example, those from Cochin and Travancore were governed by different succession statutes that had significant gender disparities. Only in 1925, when the Indian Succession Act was amended, were norms established for daughters and sons to inherit equally from parental property in the case of intestate [3, 7].

The Hindu Women's Rights to Property Act of 1937 focused primarily on the rights of widows under intestate; they were entitled to a limited share of their husband's estate during their lifetime which they forfeited if they remarried. The rights of women were strengthened in the 1956 Hindu Succession Act which granted both women and men full testamentary rights over self-acquired or separate property, which is distinguished from ancestral property.<sup>7</sup> Under intestate, sons, daughters, widows and widowers (and in the case of men, mothers) were all included in the first order of succession (known as Class I heirs). Agricultural land, nonetheless, was exempt from this law. This meant that women could be discriminated against with respect to agricultural land, either ancestral or self-acquired. The Hindu Succession (Amendment) Act of 2005 removed the remaining vestiges of gender inequality in inheritance by granting daughters equal rights as sons in ancestral property and incorporating agricultural land within the jurisdiction of the Hindu Succession Act [3].

The Muslim Personal Law (Shariat) Application Act of 1937 codified the varying practices of the Muslim community to more closely follow religious law. Testamentary freedom was restricted to one-third of a person's immovable property, with daughters to receive one-half of

the share of sons. If there were children from the marriage, widows were entitled to one-eighth of their husband's estate both under intestate and if their husband left a will excluding them. Agricultural land was excluded from the purview of this law, with its succession to be governed by local custom [1].

Given India's federated structure since independence, states may establish their own statutes with respect to marital and inheritance regimes. Only one state in India, Goa, provides for full community property as the default marital regime, and equality in inheritance for all children under intestate, a result of its Portuguese legal heritage [15]. The state of Karnataka which is primarily Hindu, and is the focus of our empirical work, anticipated the Hindu Succession Act of 2005 by nearly a decade, establishing equal inheritance rights for sons and unmarried daughters in ancestral property. Another progressive measure enacted in this state is that a household's land cannot be sold without the consent of its female members, but it is not clear that this provision is well known or enforced [48]. Previous research, however, has suggested that the state's equal inheritance provision has increased the likelihood that daughters inherit land [14].

Turning to Ghana, although most parts of the country were not consolidated as part of the British Gold Coast colony until the early twentieth century, the British began shaping statutory law and the legal system in the last quarter of the nineteenth century in those parts that they controlled. Here, as elsewhere, the British relied on indirect rule, leaving local chiefs to interpret customary practices with respect to marriage and inheritance.<sup>8</sup> One of the points of commonality between customary law, Islamic religious law, and English common law in Ghana (as in India) after the MWP acts, was that the separation of property regime was the norm. A point on which they differ is with respect to polygamous marriages, which were practiced both under customary as well as Islamic law and were illegal under common law.

The first British statute related to marriage was the Marriage Ordinance of 1884 which set out the rules governing monogamous marriages, principally Christian marriages, following the common law principles of coverture. Although the MWP Act of 1882 ended coverture in England, giving women a full legal personality, such was not established in Ghana until the Married Women's Property Ordinance of 1890 which recognized married women's right to own property. As Fenrich and Higgins [22] note, customary law in Ghana already gave married women the right to own and manage their own separate individual property. The rules pertaining to Muslim marriages were officially recognized by the Marriage of Mohammedans Ordinance of 1907 which provided for those who were formally registered to be ruled by Islamic religious law. The latter has always recognized women's property rights over their own separate property [50, 5].

The Marriage Ordinance was amended again in 1909 to establish the rules for intestate inheritance; 2/3 of an individual's estate was to be distributed according to English law and the remaining 1/3 of to be distributed according to customary law. The practice, however, was for widowers to take 2/3 of the non-customary portion and widows to take 1/3. The remainder went to the extended family. The Marriage Ordinance was further amended in 1951, so that in monogamous marriages intestacy was fully governed by statute but it maintained the different provisions for husbands and wives [22, 30].

The majority of the population has traditionally followed customary law with respect to marriage and inheritance. The guiding principle in marriage is that it is the husband's duty to support the wife and for her to contribute domestic labor. But "the proceeds of this joint effort of man and wife and/or children and any property which men acquire with such proceeds are by customary

law the individual property of the man” [22, p. 275]. This has nefarious consequences for women when they become widowed or divorced.

While customary law varies by region and ethnic group, a main distinction is whether they are characterized by matrilineal and patrilineal descent systems. In inheritance, separate rules apply to self-acquired and family assets. The latter, consisting primarily of land rights, belong to the lineage, and usufruct rights are transmitted across generations according to the rules of the specific descent system. On the other hand, self-acquired property, which has been accumulated through personal effort, may be gifted to immediate family members (spouse and children) who may not be considered part of the lineage and hence do not have rights to family property. However, under both matrilineal and patrilineal systems a wife does not have an established right to inherit from her husband, although traditionally, it is expected that a widow and her children will receive support from the extended family [4].

After independence in 1957, two relevant statutes were passed, the Wills Act of 1971 (Act 360) and the Matrimonial Causes Act of 1971 (Act 367). The former established full testamentary freedom, without provisions for forced heirs. A wife or children, however, whose maintenance was not provided for adequately in a will could seek redress in the courts. The latter statute focused specifically on divorce. A promising feature of this law is that it opened the door for potential recognition of a wife’s contribution of marital property by giving “the court authority to determine what interest if any a spouse seeking divorce has in the property acquired through marriage” [36, p. 4]. However, no guidelines were provided and implementation has been subject to judicial discretion which has generally not been favorable to women since they were required to provide evidence of substantial contribution to the acquisition of the property [5].

The Intestate Succession Law of 1985 (PNDC Law 111), governing self-acquired property, was applicable to all irrespective of the law under which they were married and is generally considered a significant advancement of the rights of widows. This law was introduced in cognizance of the increasing importance of the nuclear family in the Ghanaian social system. It sought to protect widows from dispossession (often by their husband's extended family members) under customary law. The widow and children of the deceased now became automatically entitled to one house as well as the household "chattels" (furnishings, consumer durables, etc.) and any remaining wealth of less than 10 million cedis. If the residue was larger than this threshold, then the following partition was established when the deceased was survived by a spouse, children and parent: 3/16 for the widow, 9/16 for the children, 1/8 for the decedent's parents, and 1/8 that could be distributed according to customary law. The statute was silent on whether male and female children should be treated equally. This law was apparently not sufficient to stop the dispossession of widows for the 1991 Intestate Succession (Amendment) Law made it a punishable offence to evict a widow or the children from the matrimonial home [33, 4].

The 1992 Constitution (article 22) went a step further in guaranteeing the property rights of married women by implicitly recognizing community property during marriage: "spouses shall have equal access to property jointly acquired during the marriage and that assets which are jointly acquired during the marriage should be shared equally between the spouses when the marriage is dissolved" [36, p. 4]. However, this constitutional provision requires implementing legislation to go into effect. Not until 2009 was legislation introduced, the Property Rights of Spouses Bill, to enact this provision, but as of 2012 it had yet to be approved by parliament [4]. Under this bill, similar property rights would apply to couples in consensual unions who have

cohabitated at least five years. The 1992 Constitution, nonetheless, has provided a basis for the courts to rule in favor of joint ownership. A February 2012 Supreme Court judgment ruled in favor of the plaintiff wife on the basis of human rights. The judgment stated that “common sense and general human rights require that a person who is married to another. . . . must not be discriminated against in the distribution of properties acquired during marriage when the marriage is dissolved.”<sup>9</sup> In addition, the judgment introduced a radical shift from the requirement of evidence of substantial contribution to the recognition of unpaid domestic work as contributing to the acquisition of marital property.

Ecuador became a fully independent country in 1830, but only enacted its first Republican civil code in 1860. This code and subsequent reforms have maintained the general principles of partial community property and restricted testamentary freedom of its Hispanic legal legacy, including equal inheritance irrespective of sex. It differs from other South American countries<sup>10</sup> with this same marital regime in that its civil code provides for only one legal marital regime, partial community property, known as the “conjugal society” (*sociedad conyugal*). Most other countries today give couples the option of marrying under alternative marital regimes, such as separation of property or full community property. But while there is only one legal marital regime in Ecuador, couples may develop their own rules regarding the distribution of property and its fruits, through what are known as *capitulaciones*, marital agreements similar to prenuptial agreements, only that since 1989 these can be drawn up at any time during the marriage. In practice, very few people are aware of these options [12, 10].

A second way that Ecuador differs from other South American countries is with respect to who administers the community property. 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. In Ecuador, while married women attained full legal capacity (the ability to carry out most activities without permission from their husbands) in 1970, and the civil code reform of 1989 established that either the husband or wife may administer the conjugal society, unless otherwise specified, the husband is still the administrator. Nonetheless, there are legal norms to protect the rights of the non-administrating spouse and these are generally followed in practice. For example, 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 [12, 18, 10]. 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, stable and monogamous, and neither person be married to someone else. In case of dissolution of the union (due to separation or widowhood), each partner is entitled to half of the assets accumulated during the union.

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. Only in the case that there are no children or other descendants 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 if such are living, and if not, s/he is entitled to the entire estate. 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

“betterment” (*mejoras*), may be willed to only one child or several of the children (or grandchildren). 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 (this would be in addition to her property rights in half of the community property). 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, under both intestate and restricted testaments, and receives a share of her spouse’s estate similar to a child [12, 18].

The potential benefits of different marital and inheritance regimes depend crucially, of course, on the ability of individuals and households to accumulate assets over the life cycle as well as on their knowledge of the laws governing property rights. After describing our surveys, we turn to the empirical evidence on the distribution of wealth during marriage.

#### 4. The Household Asset Surveys

The household asset surveys employed in the subsequent analysis were carried out in 2010 as part of the Gender Asset Gap project, a comparative study of Ecuador, Ghana and Karnataka, India, funded by the MDG3 Fund of the Dutch Foreign Ministry.<sup>11</sup> The comparative project included six months of qualitative field work in each country and the adaption of the project’s baseline questionnaire to each country context.

Each of the surveys utilized two-stage random sampling, with the primary sampling units selected in the first stage being nationally (or in the case of India, state) representative. Within each of the randomly selected primary units, the appropriate number of households was then drawn with equal probability of selection.<sup>12</sup> The Ecuador sample consists of 2,892 households

and is representative of urban and rural areas and the two major geographic and population groupings of the country, the highlands and the coast. The Ghana sample is made up of 2,170 households and is representative of the ten major administrative regions. The Karnataka sample includes 4,110 households and is representative of rural and urban areas and the city of Bangalore.

The surveys employed two instruments, a household and an individual questionnaire. The household questionnaire included a household registry with basic socio-economic information on each household member, an assets inventory (including detailed information on individual-level ownership and valuation), and several other modules that varied by country. The individual questionnaire solicited information on the respondent's financial assets and debts, and information relevant to characterizing marital and inheritance regimes, among other topics.

The person or persons most knowledgeable about the household's assets was selected as the respondent to the household questionnaire. In Ecuador, the protocol was to administer the household questionnaire to the principal couple together, since the qualitative field work in this country revealed that more precise answers on the valuation of assets was obtained if the couple could discuss among themselves and come to an agreement on what their assets might be worth if they sought to sell these. The principal couple was interviewed together in approximately half of the households with couples. In Ghana, both spouses could be present for the household inventory and in slightly over half of the households with a principal couple, both were present for the household inventory. In Karnataka, the protocol was to select the most knowledgeable person as the primary respondent for the household questionnaire. In each country, the individual questionnaire was answered by up to two respondents (including the respondent to the household questionnaire) separately and in conditions of privacy.<sup>13</sup>

The analysis below is based only on the sub-sample of households with a married couple (or a couple in a consensual union) where both currently live in the household and each completed the individual questionnaire. This is the sample of couples on whom we have full information, including financial assets, which were collected only in the individual questionnaire. The final sample size for the analysis includes 1,776 couples (3,552 individuals) in Ecuador, 944 (1,888) in Ghana, and 2,511 (5,022) in Karnataka which for this analysis excludes Bangalore city. For ease of exposition, we refer to the respondents as spouses (or husband and wife) irrespective of whether they are formally married or in a consensual union.

Finally, the analysis is based on gross physical and financial wealth. Physical assets include the principal residence, agricultural land, other real estate, businesses, agricultural equipment and installations, consumer durables as well as other important consumer goods, such as jewelry. The value of physical wealth was determined by asking respondents how much they would receive if they sold the asset at the time of the interview. The value of financial assets is the current amount held in the various types of formal accounts or as informal savings. Pensions, other retirement accounts, life and burial insurance, and loans to third parties are excluded in this analysis.

## 5. The Gender Division of Wealth and Forms of Property

### 5.1 Married Women's Share of Couple Wealth

Our main proposition is that married women's share of couple wealth reflects the interplay of both the marital and inheritance regimes in particular contexts. As Table 1 shows, married women own 44 percent of couple wealth in Ecuador, 19 percent in Ghana, and nine percent in Karnataka, India. These figures illustrate in broad strokes that women fare better under a partial

community property as opposed to a separation of property regime, and under a regime that favors equality in inheritance among children of both sexes.

In all three countries financial wealth is a relatively small share of total couple wealth being only three percent in Ecuador and Ghana and four percent in Karnataka, India. In most developed countries financial assets tend to represent at least 20 percent of total gross household wealth, thus we would expect this share to be lower in our three countries. In the case of India, the estimate for Karnataka can be compared with the results of a national household asset survey in 2002-03 which found that financial wealth constituted five percent of total gross household wealth [47, p.116]. But we cannot rule out the fact that financial assets may have been underestimated in our surveys, particularly in Ecuador, since these are notoriously difficult to capture with any degree of accuracy.

The countries illustrate different patterns with respect to whether the gender wealth gap is largest for physical or financial wealth. In Ecuador women hold a much smaller share of reported financial wealth than they do of physical wealth, while in Ghana and Karnataka the opposite trend prevails. For these latter two countries, then, married women's particular disadvantage is with respect to the number and value of the physical assets that they own, which represents the vast bulk of couple wealth.

With respect to locale of residence, in Ecuador there is little difference in women's share of total couple wealth between urban and rural areas, being 44 percent and 43 percent, respectively. In Ghana urban women have a substantial advantage over rural women, owning 23 as opposed to 15 percent of couple wealth, respectively. Women's share of couple wealth in Karnataka is also

more favorable in urban areas, with urban women owning 11 percent compared to rural women's 8 percent.

## 5.2 The Form of Ownership of Assets among Couples

The analysis of the form in which major assets are owned by married couples – individually vs. jointly – is particularly revealing of the features of different marital regimes. Table 2 shows the form of ownership of the various assets, with the unit of analysis being assets. In Ecuador, the majority of main residences and agricultural parcels are reported as being jointly owned by the couple; an important share of other real estate (which includes non-agricultural plots, other dwellings, and business locales) are owned jointly as well. Since real estate constitutes the vast bulk of physical wealth, joint ownership of these by the couple partly explains women's relatively high share of couple wealth in this country. In addition, the gender gap in the share of individually owned assets between married men and women is relatively minor with the exception of agricultural parcels, where the gap among married couples strongly favors men. It is interesting that businesses reveal a different pattern of ownership than real estate, with the great majority of these reported as being individually owned by either a man or a woman, although the gender gap favors men. Since self-employment makes up such a large share of the businesses, it is not surprising that the assets pertaining to these are considered to be tied to a person's occupation, rather than as marital property. Family enterprises, which are reported as being jointly owned by the couple or by a member of the couple and someone else, constitute 19 and 13 percent of total businesses, respectively.

In both Ghana and Karnataka, the great majority of dwellings, agricultural land and other real estate are owned individually by men. Ownership of land is particularly concentrated in the

hands of married men. In Ghana, a relatively important share of principal dwellings are owned jointly by the couple, 21 percent, thus the share of these under individual male ownership is less than in Karnataka, and similarly for other real estate, partly explaining the difference in women's share of couple wealth between these two countries with a similar marital regime.

In Ghana and Karnataka married women are more likely to own businesses than any type of real estate individually. Moreover, in Ghana, women individually own the vast majority of businesses, 62 percent. In India, while the majority of businesses are owned by men, 55 percent, and women own only 18 percent, business are more likely than any type of real estate to be owned jointly by the main couple (or by one of them with someone else).

In sum, then, the distribution of the form of ownership of major assets among husbands and wives suggests that the marital regime of separation of property in Ghana and India is prejudicial to married women, resulting in the concentration of major assets in the hands of men. In this comparative perspective, the regime of partial community property in Ecuador appears much more favorable to women since the majority of major assets are jointly owned by the couple, partly explaining why married women's share of couple wealth is much higher in this country.

## 6. Inheritance Regimes

### 6.1 Patterns of Inheritance among Siblings

In the household asset surveys we obtained information on inheritance patterns in various manners. To analyze the general trends in inheritance patterns by gender we collected information on the sex of the respondents' siblings and whether they had inherited or been gifted assets by their parents. In the Ecuador and Ghana surveys, respondents were also asked to evaluate if the siblings of each sex had inherited assets of equal value. Graph 1 presents this

information according to the gender of the respondent for those who had siblings of both sexes and where inheritance has taken place.<sup>14</sup>

Overall, in Ecuador, 62 percent of the respondents replied that their brothers and sisters had inherited equally as compared to 43 percent in Ghana. Moreover, whereas in Ecuador only 29 percent of the respondents considered that brothers had been favored, in Ghana 45 percent reported a gender bias in inheritance favoring men. This information is presented by sex of the respondent in Graph 1 in order to examine whether perceptions of equality in inheritance differ by gender. Interestingly, in Ghana female respondents reported less of a gender bias in inheritance than did male respondents. Particularly noteworthy is that 14 percent of the female respondents considered that a sister or the women had been favored whereas only 9 percent of the men did so. In Ecuador there is a different pattern, with a larger share of male respondents, 67 percent, reporting that the inheritances had been of equal value compared to women respondents, 59 percent. The greatest disagreement was over whether men had inherited more.

In Karnataka, respondents were asked if their siblings had inherited a dwelling or a land plot from their parents. Of the female respondents who had brothers, 47 percent reported that their brothers had inherited one or both of these assets. In contrast, of the male respondents who had sisters, only 3 percent indicated that their sisters had inherited a dwelling or land, illustrative of the degree of gender inequality in inheritance [49].

In sum, the evidence on inheritance by siblings for the full sample of survey respondents – the most general indicator of inheritance patterns – suggests that inheritance is extremely male-biased in India, notable in Ghana, and moderately so in Ecuador.

## 6.2 The importance of inheritance in the accumulation of assets

Inheritance is important to the accumulation of assets by individuals in all three countries, but the relative weight of this form of asset acquisition differs among them as well as by the specific asset. As Table 3 shows, for the sub-sample of married couples, inheritance is by far the most important means of acquisition of currently owned agricultural land in the three locales. In Karnataka, inheritance is almost the sole means of acquiring land in this predominantly rural state. While the land market is much more developed in Ecuador and Ghana, the majority of agricultural parcels, nonetheless, were obtained either as inheritances or gifts.<sup>15</sup>

A large share of the dwellings in Karnataka, 61 percent, was also obtained through inheritance. If the house itself was not inherited, it is likely that the plot upon which the dwelling was built was obtained through inheritance. In Ecuador, it is relatively unusual to inherit a house but quite common for the dwelling to be built on a housing lot which was inherited. Separate information on the housing lot was not collected in Ghana, and only 17.5 percent of the dwellings were obtained via inheritance or as a gift.

In terms of other real estate, such as non-agricultural parcels or other dwellings or buildings besides the principal residence, it is also more likely that these were obtained as inheritances in Karnataka than in Ecuador and Ghana, although inheritances and gifts of these are not insignificant in the latter two countries. In none of the locales was it common to obtain a business via inheritance, although it is a more frequent form of acquisition in Karnataka than elsewhere.

We now consider in more detail the form ownership – individual vs. joint- of currently owned real estate which was inherited by the sub-sample of married couples. These assets may have

been received from parents, another relative, a current or previous spouse, or someone else, although in most cases the bequest has come from parents.

For Ecuador, where relatively few primary residences are inherited or gifted, Table 4 reveals only a slight difference in the share of these which were inherited by women (24 percent) as compared to men (22 percent). It is much more common to inherit a housing lot than a dwelling, and here there is a notable gender gap in terms of the share reported as being male (32 percent) as opposed to female (19 percent) individually owned property. There is a similar gender gap in the inheritance of agricultural parcels, with 31 percent of these being owned by men and only 22 percent by women individually. In the case of other real estate, however, the gender gap favors women, with men individually owning 27 percent of these inherited assets and women 42 percent.

A large share of inherited real estate assets – around one-third, overall - are reported as being owned by the principal couple jointly. This is surprising since legally in Ecuador inheritances are treated as individually owned property, unless explicitly designated as being gifted to the couple or in the case that the transfer took place via a sales contract.<sup>16</sup> The data may be capturing the fact that parents often gift a child with an “advance inheritance” at the time of marriage, such as a housing lot or agricultural land, and that couples consider such land to belong to both of them. In addition, in the case of housing lots, since the dwelling is usually built by the couple together, often over a number of years, and would probably be considered jointly owned by the two of them, it may be that the ownership of the dwelling is also being attributed to the lot, irrespective of who inherited it.

In order to check if there is a gender bias in whose inherited assets are being considered as jointly owned, we examined from whom these assets were acquired. For all kinds of real estate, these joint assets were more likely to have been inherited/gifted by the man's parents or other relatives than the woman's, providing further evidence of a gender bias in inheritance in favor of men. However, these findings also suggest how engrained the concept of joint marital property is in Ecuador. Men in effect may be pooling their individually acquired assets as a result of social convention. Nonetheless, as our qualitative work revealed, disputes often arise in the case of divorce or death of one of the spouses over the origin of such property unless the asset has been formally titled in the name of the couple [10].

In the case of Ghana, agricultural land is much more likely to have been acquired as an inheritance/gift than any other asset, and the vast majority of these parcels, 81 percent, belong to men individually with only 12 percent so owned by women. Gifting as opposed to inheritance is also relatively more important for land than for other assets, and particularly so for women, who sometimes receive gifts of land from their husbands or fathers during their lifetime. The male bias in inheritance/gifting also holds in terms of the primary dwelling, with 54 percent of these being owned by men and only 10 percent by women individually. A fairly large number of the inherited dwellings, 26 percent, are owned jointly with other heirs who may not live in the household. Women are more likely to have acquired other real estate as inheritance or gifts, with 31 percent of these assets being owned by them individually. As Table 4 also shows, relatively few inherited/gifted land parcels or other real estate assets apart from the principle residence (and here, only 11 percent) are reported as being jointly owned by the couple, which is as expected.

In Karnataka, which is much more rural than either Ecuador or Ghana, it is even more likely that the main residence and/or land parcels have been acquired through inheritance.<sup>17</sup> Ninety-one

percent of the agricultural parcels were inherited and of these, 85 percent are individually owned by men and four percent by women. Of the inherited residences, 80 percent are reported as the individually owned property of men, with only 8 percent belonging to women. Of the inherited housing lots, 85 percent belong to men and less than four percent to women. A similar gender bias against women is also apparent in terms of the inheritance of other real estate. As Table 4 also shows, between 7 and 10 percent of all the real estate assets (dwellings, lots, parcels and other real estate) that have been inherited are owned by one of the spouses jointly with other family members residing either in or outside of the household; relatively few of these assets are reported as jointly owned by the couple.

## 7. Discussion and Conclusions

The laws and norms regarding marital property and inheritance have a substantial impact on the distribution of wealth among couples. In all three countries, inheritances are treated legally as individual property. Thus, patterns of inheritance among siblings are an important factor that will shape the gender distribution of wealth. Ecuador has the most gender egalitarian pattern of inheritance; it is also the country where, in practice, it is most likely for people to consider inherited property as jointly owned by the couple in spite of the legal norm treating such as individual property. In Ghana and Karnataka, social and legal norms tend to converge.

In Ecuador, when considering currently held, inherited assets, fewer of these were acquired by wives than by husbands. There is more of a male bias than would be expected based on the data on inheritances by siblings, which suggested that the gender gap should be relatively small. This might result if women who inherited were more likely to sell their assets than men who inherited;

in this case, they would not show up in the data on currently owned, inherited assets, a proposition we need to investigate further.

In Ghana, the data on inheritance of currently owned assets conforms to the gender biases seen in the reports of inheritances across siblings. The customary laws and norms reinforce the gender bias in favor of men. The same is evident in Karnataka, where inheritance patterns are highly biased towards men even though the state has provided for equal inheritance rights for daughters and sons for a majority of its population since 1994. The inheritance trends are not surprising given the entrenched social norms and attitudes that privilege sons over daughters in general and particularly where property is concerned. The results speak eloquently to the fact that while progressive legislations are necessary, they are not sufficient to effect social transformation.

The marital regimes interact with the inheritance regimes to determine asset ownership when a spouse dies. The question of whether or not a widow inherits from her deceased spouse is less important in the partial community property regime, in which the wife owns half of the marital property. When there is no marital property and most if not all, of the property acquired during the marriage belongs to the husband, then it is especially important whether or not the widow inherits from her husband upon his death.

If men and women had equal opportunities and achieved comparable outcomes then perhaps the specific marital and inheritance regimes would not matter as much. But in situations where inheritance is important to the accumulation of wealth, a gender bias inherently creates an unequal playing field. The fact that real estate constitutes such a large share of couple wealth in all three countries suggests that the gender bias in inheritance is one of the major factors driving the low share of married women's couple wealth in Ghana and India as compared to Ecuador.

Agnes Quisumbing and colleagues argue that in developing countries, parents may invest in children of different sexes in different ways, so that inheritance of physical assets, such as land may be compensated for by differential investments in education [37, 38]. Although we have not examined this proposition analytically, aggregate trends for Ghana and Karnataka suggest that adult women are at a disadvantage compared to men in the level of schooling attained, implying that they have not been compensated for their lack of inheritance by investments in their education. Our analysis goes a step further than previous studies by examining a broader range of assets and demonstrating that for our three locales, land inheritance is the most male biased of all major assets.

Ecuador seems to be following a pattern, not unlike that of most developed countries, whereby as agricultural land becomes a less important component of overall wealth, inheritance trends become less biased in favor of men. The policy implication of this is that it should be easier to ensure more gender egalitarian patterns of inheritance as countries urbanize and other assets become more important in wealth portfolios. Legislation can anticipate this trend and facilitate it. Ghana and India have recently passed or are currently deliberating legislations that reduce gender disparities in inheritance and marital regimes.

The Intestate Succession Bill currently before the Ghanaian Parliament seeks to remedy weaknesses in the Intestate Succession Law of 1985. It has gone through two readings in Parliament and may be passed soon.<sup>18</sup> The Property Rights of Spouses Bill, on the other hand, has not yet gone through a first reading. Both bills have faced resistance because of the perception that they favor women. The Intestate Succession Bill has been criticized on the grounds that it will undermine the extended family system. Dissatisfaction has been expressed with the provisions concerning the distribution of property in the Property Rights of Spouses Bill

because they do not take into account children and partners outside the matrimonial home who have an interest in the property. In addition, it is the view of some that unpaid domestic work should not be considered as a contribution to the acquisition of marital property, for these tasks are the responsibility of wives.<sup>19</sup> Happily, the 2012 Supreme Court judgment has set a precedent regarding this matter. Despite the absence of a legal framework that clearly defines how marital property should be distributed when a marriage is dissolved, the Supreme Court has made what can only be described as ground breaking judgments in defining the parameters for any subsequent laws [34].

The Indian Government is debating the 2010 Marriage Law Amendment Bill which makes divorce easier under the Hindu Marriage Act (1955) and the Special Marriages Act (1954). This bill also refers to the division of matrimonial assets at the time of divorce. After considering the suggestions of various groups, the 2012 amendment to the bill provides women (and her children) with rights to one-half of the residence, while the division of moveable assets is left to the discretion of the court. This revision falls short on several counts: lack of clarity on what defines marital assets or how women's non-monetary contribution will be assessed. Further, the bill does not provide women a share of other immovable assets which were acquired during the marital union (see 43 for a detailed critique). Both cases illustrate how contentious changes in marital and inheritance regimes can be, but we hope to have illustrated the importance of reforms to these regimes if gender economic equality in marriage is to be achieved.

The analysis in this paper indicates the importance of considering the gender distribution of couple wealth in studies of economic inequality. Most studies use the household as the unit of analysis and do not consider who within the household owns the property. The Gender Asset Gap project has demonstrated that it is both important and feasible to go beyond the household as

the unit of analysis to collect individual level asset data. As more asset data is collected at the individual level in developing countries, it should be possible to test in other settings the main conclusions reached herein regarding the importance of community property in marriage and equality in inheritance among children to reach a gender equitable distribution of couple wealth.

This study has also demonstrated that simply granting women basic property rights is not sufficient; rather, marital and inheritance regimes matter greatly. Moreover, it has illustrated the complicated dynamic between legal and social change. Customary practices that discriminate against women are difficult to change, but without a gender-equitable legal framework change might not take place at all.

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<sup>1</sup> By default regime we are referring to what prevails legally if nothing else is declared at the time of marriage.

<sup>2</sup> Exemptions were possible under common law, such as the establishment of separate estates for women through prenuptial contracts. These were generally only used by the upper class, and less commonly practiced in the US compared to the UK [23, 40, 41].

<sup>3</sup> On the specific processes and factors associated with the adoption of the Married Women's Property Acts in the US and Canada, see [45, 23, 6].

<sup>4</sup> Most US states established gender equality among children in intestate by the early nineteenth century, but since in the US those with some wealth to transmit tended to favor wills, and only men had testamentary freedom until the MWP acts, the change in women's wealth holdings largely depended upon a change in the behavior of fathers [42].

<sup>5</sup> The only cross-cultural study of marital regimes that we have seen, by Ekert-Jaffe and Grossbard [19], examines whether marital regimes make a difference in the likelihood of women having unpartnered births. They find that the

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likelihood of unpartnered births is lower in countries with community property regimes where women are in a more advantageous position with respect to property in the case of divorce. See their Table 1 for a summary of the default marital regimes in twelve developed countries.

<sup>6</sup> In Latin America these rights were known as *potestad marital*, “the sum of rights that the law gives to the husband over the person and property of his wife,” a definition embodied in Article 132 of the 1855 Chilean civil code. This code, authored by Andres Bello, was copied by a number of other Latin American countries, including Ecuador [13].

<sup>7</sup> Ancestral property stems from the concept of the Hindu Undivided Family property, where the right to property ownership was through birth and only for male members. This was meant to protect agricultural land holdings and thus the right of ownership did not confer the right of alienation, except under special circumstances [3].

<sup>8</sup> On the British role in shaping customary law in Sub Saharan Africa, see [27].

<sup>9</sup> Civil Appeal No J4/20/2011 of February 22, 2012.

<sup>10</sup> 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 separation of property is the default. 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 [13].

<sup>11</sup> The Ecuador Household Asset Survey (EAFH, Encuesta de Activos FLACSO-Florida) was carried out by the Latin American Faculty of Social Sciences (FLACSO), Ecuador, and the University of Florida. The Ghana Household Asset Survey (GHAS) was implemented by the University of Ghana, Legon, and the Karnataka Household Asset Survey (KHAS) by the Indian Institute of Management Bangalore.

<sup>12</sup> Both Ecuador and Karnataka faced a high level of refusals among households in the upper income groups, particularly in the cities of Quito and Bangalore. For further detail on the surveys, see [9, 36, 48 and 17].

<sup>13</sup> In the case of Ghana and Karnataka, the individual questionnaire repeated the ownership questions, asking the two respondents in privacy whether they themselves considered themselves to be owners or co-owners of the assets listed in the household inventory or of any other assets. This procedure was followed since field work revealed that women, in particular, might not claim ownership or co-ownership of assets in the presence of their spouses, or husband’s might not know or reveal assets owned by them. In the case of Ecuador, where these issues were less of a concern, only if the spouse was not present for the household questionnaire, was this person asked in the individual questionnaire a series of questions relating to their ownership of household assets. The rationale for many of the differences in the survey instruments is explained in [17].

<sup>14</sup> The Ecuador data, due to nuances in language, includes the respondent among the brothers or sisters in the valuation of relative inheritance shares; the Ghana data refers strictly to a comparison of the respondent’s siblings. In both cases, inheritances may also include *inter-vivo* transfers. Approximately three-quarters of the respondents in each of the two countries had either not inherited or not inherited yet, or did not know if the inheritances had been of equal value. Respondents who do not have siblings or siblings of the opposite/ each sex have also been excluded; in Ecuador, these make up 7.5 percent of the total sample and in Ghana, 10.8 percent.

<sup>15</sup> In Ecuador the survey instrument distinguished between donations (or gifts) given by parents *inter vivo*, and inheritances that were received upon their death. These terms, however, are used interchangeably in common parlance (as in “me heredó en vivo”, “he bequeathed me in life”), thus we do not make any attempt to distinguish between them. Our qualitative research revealed that the general pattern is for parents to devolve their assets to their children while they are still living [10]. In Ghana, in contrast, the distinction between gifts and inheritances is important, although in this discussion the two forms will be discussed as one process. Also, in the case of Ghana the data on inherited agricultural parcels excludes family land which pertains to the lineage. For Karnataka, where gifts were not quantitatively important, only the data on inheritances as reported by the primary respondent is presented here.

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<sup>16</sup> In the past in Ecuador it was common for assets to be devolved to children through fictitious “purchase and sale” contracts, in part, to avoid problems among the siblings by having the division of property clearly delineated, and in part (among upper income groups), to avoid estate taxes. Legally such contracts, if entered into by someone who is married, transfer the assets to the marital society; i.e., they become the joint property of the couple. However, our field work revealed that the legal ramifications of such contracts were not very well understood, nor how they differed from “donations” which legally are treated in a similar fashion to bequests [10].

<sup>17</sup> However, since the data for the capital city of Bangalore has been excluded from these calculations, this result may reflect a rural bias.

<sup>18</sup> Deliberation on the Intestate Succession Bill was suspended in June 2012 in order for Parliament to obtain the views of the public.

<sup>19</sup> Views expressed by members of the Constitutional, Legal and Parliamentary Affairs Committee and Gender and Child Committee of Parliament <http://politics.myjoyonline.com/pages/parliament/201201/79963.php> Accessed 11 August 2012.

## References

1. Agarwal, Bina: A Field of One’s Own. Cambridge Univ. Press, Cambridge, UK (1994)
2. Agnes Flavia: Family Law, Volume 2. Marriage, Divorce, and Matrimonial Litigation. Oxford Univ. Press, New Delhi (2011a)
3. Agnes Flavia: Family Law, Volume 1. Family Laws and Constitutional Claims. Oxford Univ. Press, New Delhi (2011b)
4. Appiah, Estelle Matilda, Oduro, Abena D., Baah-Boateng, William, Boakye-Yiadom, Louis: Situation Analysis of the Intestate Succession and Property Rights of Spouses Legislation in Ghana. Department of Economics, University of Ghana, Legon (2011)
5. Archampung, E.A.: Matrimonial Property Division at Marriage Breakdown: The Way Forward. KNUST Law Journal 4, 78-98 (2007/08)

- 
6. Backhouse, Constance B.: Married Women's Property Law in Nineteenth-Century Canada. *Law and History Review* 6(2), 211-57 (1988)
  7. Champappily, Sebastian: *The Christian Law of Succession in India*. Southern Law Publishers, Kerala, India (1997)
  8. Combs, Mary Beth: Cui Bono? The 1870 British Married Women's Property Act, Bargaining Power, and the Distribution of Resources within Marriage. *Feminist Economics* 12(1-2), 51-83 (2006)
  9. Deere, Carmen Diana and Contreras Díaz, Jackeline: *Acumulación de Activos. Una Apuesta por la Equidad*. FLACSO-Ecuador, Quito (2011)
  10. Deere, Carmen Diana, Contreras, Jacqueline, Twyman, Jennifer: Property Rights and Women's Accumulation of Assets over the Life Cycle: Patrimonial Violence in Ecuador. *ALASRU, Nueva época: Análisis latinoamericana del medio rural* No. 5, 135-176 (2010)
  11. Deere, Carmen Diana, Doss, Cheryl R.: The Gender Asset Gap: What Do We Know and Why Does It Matter. *Feminist Economics* 12(1-2), 1-50 (2006)
  12. Deere, Carmen Diana, León, Magdalena: *Empowering Women: Land and Property Rights in Latin America*. Pittsburgh Univ. Press, Pittsburgh (2001)
  13. Deere, Carmen Diana, León, Magdalena: The Impact of Liberalism on Married Women's Property Rights in Nineteenth Century Latin America. *Hispanic American Historical Review* 85(4), 627-78 (2005)
  14. Deininger, Klaus, Goyal, A., Nagarajan, H.: *Inheritance Law Reform and Women's Access to Capital: Evidence from India's Hindu Succession Act*. World Bank Policy Research Working Paper 5338. World Bank, Washington, D.C. (2010)
  15. Desouza, Shaila: 'Just' Laws are Not Enough: A Note on the Common Civil Code, Marriage and Inheritance in Goa. In Krishna, Sumi (ed.) *Women's Livelihood Rights: Recasting Citizenship for Development*, pp. 277-285. Sage Publications, New Delhi (2007)
  16. Doss, Cheryl R., Deere, C.D., Oduro, A. D., Swaminathan, H., et al.: *The Gender Asset and Wealth Gaps: Evidence from Ecuador, Ghana, and Karnataka, India*. Indian Institute of Management Bangalore, Bangalore (2011)

- 
17. Doss, Cheryl R., Deere, C.D., J.Y., Suchitra, Oduro, A. D., Hillesland, M.: Lessons from the Field: Implementing Individual Asset Surveys in Ecuador, Ghana, India and Uganda. Indian Institute of Management Bangalore, Bangalore (2012)
  18. Ecuador, Republic of: Código Civil. Actualizado a junio de 2009. Corporación de Estudios y Publicaciones, Quito (2009)
  19. Ekert-Jaffe, Olivia, Grossbard, Shoshona: Does community property discourage unpartnered births? *European Journal of Political Economy* 24, 25-40 (2008)
  20. Esposito, J.L. with De Long-bas, N.J.: *Women in Muslim Family Law*. Univ. of Syracuse Press, Syracuse, NY (2001).
  21. Fay, Mary Ann: From Concubines to Capitalists: Women, Property, and Power in Eighteenth-Century Cairo. *Journal of Women's History* 10(3), 118-40 (1998)
  22. Fenrich, Jeanmarie, Higgins, Tracy E.: Promise Unfulfilled: Law, Culture and Women's Inheritance Rights in Ghana. *Fordham International Law Journal* 25(2), 259-341 (2001)
  23. Geddes, Rick, Lueck, Dean: The Gains from Self-Ownership and the Expansion of Women's Rights. *American Economic Review*, 92(4), 1079-92 (2002)
  24. Geddes, Rick, Lueck, Dean, Tennyson, Sharon: The Effects of Expanding Women's Rights. Paper presented at the 18<sup>th</sup> American Law and Economics Association Annual Meetings, Paper 73 (2008). Available at <http://law.bepress.com/alea/18th/art73>.
  25. Harbury, C.D., Hitchens, D.M.W.N.: Women, Wealth, and Inheritance. *Economic Journal* 87(345), 124-31 (1977)
  26. Holcombe, Lee: *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England*. Toronto Univ. Press, Toronto (1983)
  27. Joireman, S. F.: The Mystery of Capital Formation in Sub-Saharan Africa: Women, Property Rights and Customary Law. *World Development* 36(7), 1233-1246 (2008)
  28. Keister, Lisa A.: *Wealth in America: Trends in Wealth Inequality*. Cambridge Univ. Press, Cambridge, UK (2000)
  29. Khan, B. Zorina: Married Women's Property Law and Female Commercial Activity: Evidence from United States Patent Records, 1790-1895. *Journal of Economic History* 56 (2), 356-388 (1996).

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30. Kuenyehia, A. and E. Ofei-Aboagye: Family Law in Ghana and its Implications for Women. In Akua Kuenyehia (ed.) Women and Law in West Africa. Situational Analysis of some Key Issues Affecting Women, 23-61, University of Ghana, Legon (1998)
31. Lapman, Robert J.: The Share of Top Wealth-Holders in National Wealth, 1922-56. Princeton Univ. Press, Princeton (1962)
32. Matthaei, Julie A.: An Economic History of Women in America. Schocken Books, New York (1982)
33. Mensa-Bonsu, H.J.A.N.: The Intestate Succession Law of Ghana: Practical Problems in Application. Year Book of African Law 8, 105-127 (1994)
34. Mensa-Bonsu, H.J.A.N.: Ensuring Equitable Access to Marital Property when the 'Holy Estate' becomes an Unholy 'Ex'-State – Will the Legislature Walk the Road Paved by the Courts? Unpublished manuscript, University of Ghana, Legon (2012)
35. Moors, Annelies: Women, Property, and Islam: Palestinian Experiences, 1920-1990. Cambridge Univ. Press, Cambridge (1995)
36. Oduro, Abena D., Baah-Boateng, W., Boakye-Yiadom, L.: Measuring the Gender Asset Gap in Ghana. Department of Economics, University of Ghana, Legon and Woeli Publishing Services, Accra (2011)
37. Quisumbing, Agnes R., Estudillo, Jonna P., Otsuka, Keijiro: Land and Schooling: Transferring Wealth across Generations. Johns Hopkins Univ. Press, Baltimore (2004)
38. Quisumbing, Agnes R., Hallman, Kelly: Marriage in Transition: Evidence on Age, Education, and Assets from Six Developing Countries. In: Lloyd, C.B., Behrman, J.R., Stromquist, N.P., Cohen, B. (eds.) The Changing Transitions to Adulthood in Developing Countries: Selected Studies, pp. 200-269. National Academies Press, Washington, D.C. (2005)
39. Roberts, Evan: Women's Rights and Women's Labor: Married Women's Property Laws and Labor Force Participation, 1860-1900. Paper presented at the Economic History Association meetings, Pittsburgh, 14-16 September 2006.
40. Salmon, Marylynn: Women and the Law of Property in Early America. Univ. of North Carolina Press, Chapel Hill (1986)

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41. Shamma, Carole: Re-Assessing the Married Women's Property Acts. *Journal of Women's History* 6(1), 9-28 (1994)
  42. Shamma, Carole, Salmon, Marylynn, Dahlin, Michel: *Inheritance in America, from Colonial Times to the Present*. Rutgers Univ. Press, New Brunswick (1987)
  43. Singh, K.: Towards Achieving Equal Rights in Marriage. *Economic and Political Weekly*, 47 (24): 17-19 (2012)
  44. Soltow, Lee: *Men and Wealth in the United States 1850-1870*. Yale Univ. Press, New Haven (1975)
  45. Speth, Linda E.: The Married Women's Property Acts, 1839-1865: Reform, Reaction, or Revolution? In Weisberg, D. Kelly (ed.) *Women and the Law: A Social Historical Perspective*, Vol. II, 69-91, Schenkman, Cambridge (1982)
  46. Staves, Susan: *Married Women's Separate Property in England, 1660-1833*. Harvard Univ. Press, Cambridge (1990)
  47. Subramanian, S., Jayaraj, D.: The Distribution of Household Wealth in India. In: Davies, J. (ed.) *Personal Wealth from a Global Perspective*, pp. 112-133, Oxford Univ. Press and UNU-WIDER, Oxford, UK (2008)
  48. Swaminathan, Hema, J.Y., Suchitra, Lahoti, Rahul: *Karnataka Household Asset Survey. Measuring the Gender Asset Gap*. Indian Institute of Management Bangalore, Bangalore (2011)
  49. Swaminathan, Hema, Lahoti, Rahul, J.Y., Suchitra: *Women and Property: Evidence from Karnataka*. Unpublished memo, Indian Institute of Management Bangalore, Bangalore (2012)
  50. Wanitzek, Ulrike: Integration of Personal Laws and Women's Access to Property in Ghana: The Matrimonial Causes Act of 1971. *Third World Legal Studies* 10(1), 75-107 (1991)

**Table 1** Married women's share of couple wealth (%)

	Physical	Financial	Total
Ecuador (n=1776)	44.2	27.7	43.7
Ghana (n=944)	18.8	26.6	19.0
Karnataka, India (n=2511)	8.1	30.4	8.9

n=couples; Karnataka excludes Bangalore

**Table 2** Distribution of assets by form of ownership, couples sample (%)

	Asset	Individual male	Individual female	Couple	Other joint	Total	n
Ecuador	Residence	13.8	10.6	63.4	12.2	100	1060
	Ag parcels	27.3	14.9	47.9	9.9	100	357
	Other real estate	22.8	23.3	40.6	13.3	100	273
	Businesses	36.7	32.1	18.7	12.5	100	1095
Ghana	Residence	66.9	4.6	20.7	7.9	100	492
	Ag parcels	83.1	9.8	3.5	3.5	100	682
	Other real estate	71.1	15.0	10.2	3.6	100	301
	Businesses	30.5	62.0	2.9	4.5	100	703
Karnataka, India	Residence	83.7	5.1	5.7	5.6	100	2118
	Ag parcels	85.5	3.4	2.7	8.5	100	1916
	Other real estate	80.0	8.0	5.4	6.6	100	645
	Businesses	54.9	17.6	13.3	14.3	100	594

n = total assets owned by either member of the couple; percentages are weighted; other joint includes ownership by either spouse with another household or non-household member and cases where everyone in the household owns the asset

**Table 3** Share of assets that inherited, couples sample (%)

Asset	Ecuador	Ghana	Karnataka, India
Principal residence	8.1	17.5	61.4
Housing lot	44.0	N/A	39.2
Agricultural parcel	52.9	58.7	91.2
Other real estate	34.1	26.9	46.7
Business	2.5	9.5	14.3

Based on total number of assets owned by either member of the couple; percentages are weighted; inheritance includes bequests and gifts except for Karnataka

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**Table 4** Distribution of inherited assets by form of ownership, couples sample (%)

	Asset	Individual male	Individual female	Couple	Other joint	Total	n
Ecuador	Residence	22.4	23.7	37.2	16.6	100	86
	Housing lot	32.1	18.3	31.1	18.5	100	309
	Ag parcels	31.4	21.8	36.0	10.8	100	189
	Other real estate	27.3	41.9	10.6	20.2	100	93
Ghana	Residence	53.8	10.1	10.5	25.7	100	99
	Ag parcels	80.6	11.8	3.7	3.9	100	400
	Other real estate	57.9	30.9	6.5	4.7	100	81
Karnataka	Residence	79.6	7.8	3.8	8.8	100	1300
	Housing lot	85.3	3.5	4.6	6.6	100	236
	Ag parcels	84.9	3.7	1.8	9.6	100	1748
	Other real estate	78.4	5.6	5.7	10.3	100	301

n= total number of assets which were inherited by either member of the couple;  
percentages are weighted; inheritance includes bequests and gifts except for Karnataka

**Graph 1** Did Brothers and Sisters Receive an Inheritance of Equal Value?

