
Modest Expectations: Gender and Property Rights in Urban Mexico

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This article examines gender and property in Guadalajara, Mexico, in the light of debates that oppose formal title to the social embeddedness of rights in customary law and assert that titling is bad for women. The article focuses on urban homes, private property, and civil law but finds that qualities regarded as characterizing customary property relations also shape popular understandings of property in urban Mexico. Discussion groups and social surveys in four low-income neighborhoods addressed two aspects of family law and property: whose name should appear on titles, and who should inherit the home. The results show that women, as wives, sisters, and daughters, have a secondary relationship to property. They also suggest that the opposition of individual title to socially embedded rights is a false dichotomy and that generalizing arguments about formalization and especially the negative gender implications of titling risks replicating the universalizing tendencies of Western property models.

In recent years scholars have sought to problematize the concept of property (Humphrey & Verdery 2004). They have identified property as a Western concept and asked whether the term itself should therefore be rejected. While defending the uses of property as an analytical category, Benda-Beckmann et al. (2006:14) express concern about the normative emphasis of many theories:

Models that purport to be universal are . . . largely based on Western legal categories, [especially] the notion of private individual ownership . . . as the apex of legal and economic evolution as well as a precondition for efficient market economies. This has led to a misunderstanding of property . . . encouraging . . . policies that have unintended and deleterious consequences.

A prime example of the resulting policy controversies concerns the formalization of property rights promoted by the World Bank and,

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most vocally, by economist Hernando de Soto. Although de Soto recommends formalization of whatever existing informal rights can be documented, he is confident that most such rights resemble Western property rights (de Soto 2000:146–7, 163). His core argument is that formalization should extend to poorer nations the advantages of Western property systems (2000:41–54). Despite de Soto's endorsement of legal pluralism, these advantages seem closely tied to a paradigm of individual private property, with an emphasis on fungibility and on securing transactions rather than ownership (2000:50–4).

Although de Soto's ideas have been most fully adopted in the cities of his native Peru, he has also been active in sub-Saharan Africa, giving new life to debates about the titling of agrarian land in the continent. As a result, the current literature on formalization is dominated by Africanist scholars writing primarily from a rural perspective (Cousins 2005, 2007; Meinzen-Dick & Mwangi 2009; Sjaastad & Cousins 2009). De Soto's Africanist critics challenge his arguments as a misguided imposition of Western norms. Their position is summarized in the phrase "titling versus social embeddedness" (Cousins 2005). The dualism points to the polarization of debate that has opposed customary group rights to individual private rights. Informal versus formal, local versus state, social versus market—the dualism is expressed in different ways. It has specific historical roots in the struggle for land between Africans and Europeans (Chimhowu & Woodhouse 2006:361; Cousins 2005:423). As such, it resonates with a broader discursive opposition of "African/traditional/good" to "Western/new/bad" (Whitehead & Tsikata 2003:101).

Whereas scholars interested in legal pluralism stress the interconnections between state law and other normative orders (Merry 1988:880), or "legal hybridization" (Santos 2006:70), the debates about formalization thus work in the opposite direction, dichotomizing formal and customary rights. As Peters (2006:91) puts it:

A reactive literature . . . has become caught within the very formulation it sought to dislodge . . . celebrating indigenous or customary systems as flexible and adaptive [and] thus reversing the hegemonic view of them as rigid and outmoded.

Women's property rights have become a touchstone for assessing the merits of formalized or customary tenure. Some authors emphasize the reciprocity and flexibility of customary systems, arguing that they provide robust means for women to access land (Meinzen-Dick & Mwangi 2009:41; Yngstrom 2002:26–7). Others question the extent of this negotiability and point to the inequality of the social relations in which property is "embedded" (Nyamu-Musembi 2006b:1201; Peters 2004:304–5; Whitehead & Tsikata

2003:98). Critics of titling argue that it leads to multiple, overlapping rights being collapsed into full ownership rights for a single holder, typically a male head of household, to the exclusion of women's use rights (Lastarria-Cornhiel 1997:1326; Meinzen-Dick & Mwangi 2009:38; Nyamu-Musembi 2006a:21; Toulmin 2005:45). Although this can be understood as cementing existing inequities (Joireman 2008:1234), another interpretation is that titling is bad for women (Benda-Beckmann 2003:188; UNRISD 2005:239).

Such categorical conclusions run the risk of replicating or reversing the universalizing tendencies of Western property models if conclusions derived from African experiences are presented as general truths. On the one hand, the systematic formalization of ownership is advanced as a universal goal; on the other, titling is condemned as discriminating against women. Whereas Western models often disregard gender, it is almost as though critics use gender as a marker of their commitment to difference but lose sight of what may turn out to be similarly universalizing tendencies in their own models.

In earlier work I have examined evidence from Mexico as one example of how formalization can help women defend their property in the home (Varley 2007b). In this article, I explore legal and popular understandings of property in urban Mexico as a basis on which to question the logic behind generalization of the argument that titling is bad for women. My empirical focus is on the family and on property rights in the home, and specifically on marital property and inheritance, key issues in gendered property relations within the family.

A focus on the family responds to two concerns about arguments that formalization ignores or undermines the "embeddedness" of property rights within social relations.

The first is that the conceptual framing of arguments opposing individual to collective rights neglects the family: The opposing pole is usually identified with a larger group or community. I find, by contrast, that in Mexico family relationships (within and beyond the household) constitute a set of overlapping rights to property in the home reminiscent of the "web of interests" and principle of belonging generally held to characterize *customary* tenure (Cousins 2005:417–8; Meinzen-Dick & Mwangi 2009:37). My second concern is that misgivings about individual private property can suggest that concern for the property rights of individuals is undesirable. Such a negative inference confuses what Benda-Beckmann et al. (2006:15) call categorical property ideologies and concretized property relations. The individual owner of private property at the categorical level is clearly the rational individual or household head of neoclassical economic thought and the unitary

model of the household. Concepts of property and the individual subject are closely related in Western thought, as is evident in de Soto's work (informing his privileging of transactions over security of tenure and references to "the owner of a house and his neighbours" or "his family" [de Soto 2000:157, 176]). But it is precisely because of the problems raised by this mythical figure of "the owner" that one needs to attend to the concretized property relations between individuals within the family (or community), to consider how some members may be disadvantaged by age, generation, and/or gender. As Whitehead argues, differences in the extent of individuation making women less likely to be recognized as owners are not confined to the West: kinship and family ideologies mean that "women's capacity to act as fully acting subjects in relation to objects (property) . . . is always more circumscribed than that of men" (1984:180). I find that women in low-income neighborhoods of urban Mexico are indeed less likely than men to be recognized as freely acting subjects in relation to property: Their ability to "own" a home is to a significant extent conditioned on their status as wives and mothers.

These two concerns are linked, since the habit of reimagining the (Western) family household as an individual actor may be one factor making it more attractive to emphasize broader structures of belonging, even where in practice it is largely relations within households and families that are at issue.¹ Although the legal order of the family is one of the normative orders recognized by scholars of legal pluralism (Merry 1988:870), and although gender specialists address "the rights of individuals within the household," the individual continues to be implicitly opposed to the community in recommendations that rights be registered "in the names of groups rather than individuals" (Meinzen-Dick & Mwangi 2009:37, 42). Intervening levels of social organization are overlooked or underplayed. I have argued elsewhere that the failure to attend to the importance of the family undermines the ability to predict the outcome of formalization (Varley 2002:457–8). I now seek to extend that conclusion by asking the following question: How, if women's property rights are secondary rights both in customary systems and in popular understandings of family property in Mexico, can formalization strengthen those rights in Mexico while it may extinguish them in sub-Saharan Africa?

Given the "cross-contamination" between state and other normative orders (Santos 2006:70)—in Mexico as elsewhere (Azuela

¹ In a different context, Jackson (2003:472, 467) also argues that "kinship and marriage should be the analytical heart" of work on gender and property, but rather than focus on women as a category one should acknowledge their multiple subject positions (as wives, sisters, and daughters).

1989)—I first summarize Mexican civil law’s framing of marital property regimes and inheritance before exploring popular understandings of how property relations are gendered in low-income neighborhoods of Guadalajara, Mexico’s second largest city. Even though two of the neighborhoods were developed through the illegal sale of *ejido* property (legally inalienable land granted to communities in Mexico’s agrarian reform), it is civil law that frames the property relations between family members of those purchasing land. Residents regard their house plot as private property, albeit with clouded title until formalization transfers property from the *ejido* to a government agency that then “sells” the land to its occupiers at an affordable price and issues deeds. Many residents are themselves from rural areas, and research participants sometimes compared rural and urban practices, but without referring to the agrarian legislation that has its own rules, for example, on inheritance. Even within Mexico’s “social” property system, land was worked individually, and *ejido* land was effectively a form of private property well before reforms made full privatization an option in 1992 (Azuela 1989:109–11; Nuijten 2003:495). Private ownership is therefore the institutional context and the dominant ideology to which participants in this study subscribed.

Research Design

The research was part of a study of gender, housing, and home in Mexico based in Guadalajara. The research location was selected on the basis of experience working on related issues in three of Mexico’s major cities (Gilbert & Varley 1991; Varley 1993), as well as the relevant literature on both metropolitan areas and smaller towns (e.g., Bennett 1995; Chant 1991; González de la Rocha 1994; LeVine & Sunderland Correa 1993). Recurring themes such as the significance of patrivirilocality and the belief that it is men’s responsibility to house their family (Napolitano 2002; Varley 1993, 2000; Wilson 1991) suggest that the findings reported below can reasonably be considered as representative of urban Mexico.

Fieldwork in Guadalajara, carried out by Maribel Blasco and the author, lasted a year and focused on four contrasting low-income neighborhoods representing the main housing options for the low-income population. Two were “self-help” settlements where families built their houses on illegally acquired *ejido* land. Los Encinos was less than 10 years old; San Mateo, more than 40. The others were El Ocote, a government apartment-block housing project, and an inner-city area, Las Ánimas, with a high proportion of tenants in multiple-occupation properties (names are pseudonyms.)

In each area, two discussion groups were recruited—one of women, one of men—via the local Catholic church. High levels of church attendance mean that, despite the growing presence of evangelical organizations, we had no concerns about how well the groups could represent the local population. Groups averaged seven to eight members and met six times; discussions in the women's groups were facilitated by Blasco; those in the men's groups by Martín Ortíz González. The themes covered included property and tenure, family relations and living arrangements, and housing design and the meaning of home. Quotations from group members are indicated by the use of the speaker's pseudonym; summary biographical descriptions are given in the Appendix. All translations are by the author.

In addition, two social surveys were conducted in each area with the help of students from the Universidad de Guadalajara. The first gathered socioeconomic and housing data for 405 randomly selected households and brief residential histories for 1,058 adult household members. The second followed up subjects from the discussion groups with 538 randomly selected women householders to assess how representative findings from the groups were of women's opinions and experience in the four areas. All quotations without names are from survey respondents.

Family Law and Property in Mexico

In the late nineteenth century, new civil codes replaced the colonial laws that had remained in force after Mexico's independence. They drew on both the Napoleonic Code and colonial law in defining a husband's principal obligation toward his wife as "protection" (Deere & León 2005; Ramos Escandón 2001:127). "Protection" was, however, a two-edged sword, meaning, for example, that a wife could not enter into contracts without her husband's permission. As legislation fostered the development of a capitalist economy and modern nation-state, however, the principle of protection lost ground to a liberal emphasis on freedom. Reforms increased individual freedoms underpinning the operation of economic agents, and aspects of family law at odds with this trend were sidelined. The civil codes of 1870 and 1884 gave couples the option of separate property, whereas community property had previously been compulsory. The aim was to increase the freedom to manage property independently, facilitating economic change, but separate property denied women the access to a husband's earnings implicit in community property, which effectively recognizes the contribution of reproductive labor to the household economy (Arrom 1985:313–5; Deere & León 2001:54).

The 1884 code also introduced testamentary freedom, replacing the equal division of parental property. Testamentary freedom removed restrictions on the free movement of property and accumulation of capital (Arrom 1985:315). A widow could now find herself either in full control of her deceased husband's individual and community properties or disinherited. Partible inheritance still applied when someone died intestate, but a widow received only the same amount as each child, and only if she was in economic need (Deere 2007:270).

Reviewing the nineteenth century reforms, García Peña (2006:236–8) concludes that their individualism deprived women of protection. Denied privileges they had enjoyed in the colonial era, women lacked the resources with which to construct themselves as individual subjects as readily as men, and married women in particular were disadvantaged.

The laws changed with the Revolution. The 1917 Law of Family Relations supposedly answered to the imperative of extending revolutionary change to all social institutions, especially the family (Varley 2007a:146–9). It made separation of property mandatory and gave wives the right to manage their property without their husband's consent. The authors of the law presented this as a measure favoring women, in view of the recent introduction of divorce—to protect them from adventurers who would discard them “once their beauty and fortune were gone” (Law of Family Relations 1917, preamble). They also reinforced the requirement that the husband meet household expenses and allowed couples to grant each other a share of their earnings, with the proviso that the wife should always receive more than the husband. In 1928, however, when a new civil code was issued for the Federal District, the ability to choose community or separate property was reintroduced. The legislators did not stipulate which should apply if couples failed to choose, and it was not until 2000 that community property and joint administration were clearly established as the default (Civil Code for the Federal District 1928, Article 182: reform published 25 May 2000).²

Each of the country's states also has its own civil or family code, and these codes vary significantly.³ The default marital regime in most states (including Jalisco, of which Guadalajara is the capital) is community property. Couples can draw up their own property agreements, but few do so. Instead, spouses keep any property they already have and can acquire individual property through inheritance or gift; but any income from these properties and any

² For explanation of legal citations, see Statutes Cited.

³ Ten states have issued a new civil code since 1990; five have issued a separate family code since 1986.

other property acquired while they are married becomes community property, divided equally on dissolution of the marriage. This is not, then, a full community but a “participation in profits” regime (Deere & León 2001:50–2). In other states, the default is separation of property (Campeche, Coahuila, Guanajuato, Guerrero, Hidalgo, Estado de México, San Luis Potosí, Tlaxcala, Yucatán, and Zacatecas). Michoacán, Querétaro, and Morelos have recently switched from separate to community property as default, while Hidalgo and México have moved in the opposite direction.

There is less variation as regards inheritance. Testamentary freedom applies, subject to the requirement that pensions be provided for a spouse and minor children without assets (but a widow/er retains his or her share of community property). The pension should be no more than the amount inherited in the absence of a will, but no less than half that amount. When people die intestate, however, the widow/er is at a disadvantage compared to counterparts elsewhere in Latin America: They are only entitled to the same amount as each child (Deere 2007:223).

Unmarried partners—approximately one in eight heterosexual couples (INEGI 1998)—have more limited rights. Partners are generally entitled to inherit on the same basis as a widow/er, in certain circumstances—typically, if they have lived together for five years and/or had children together. The property of consensual couples is treated as community property in a few states (Guerrero, Querétaro, Tabasco, Tlaxcala, Zacatecas), and the general trend of reform is toward greater similarity with marriage. There is also some recognition of same-sex unions, creating the same inheritance rights as consensual unions, in the Federal District (since 2006) and Coahuila (since 2007).

Mexican law on family property is, then, permissive. People can choose between marital property systems or invent their own, and they can bequeath their property as they please, subject only to making limited provision for relatives. It is only in the absence of express choice that the state defines a default, and the default emphasizes equality: between sons and daughters in inheritance and husband and wife in marriage. The principle of equality is becoming ever more firmly entrenched. For example, whereas in some states pensions for the surviving partner of a consensual relationship used to be available only to women, men too can now benefit in all but three (in two of which—Campeche and Durango—only women can inherit from a consensual partner still). Similarly, the identification of the husband as default administrator persists only in Baja California Sur; elsewhere it has been replaced by joint administration (although couples may still choose to name one administrator).

A preference for equality does not, however, mean that the principle of protection has been entirely abandoned. Despite the

advantages for women of community property, separation of property could at first sight appear more progressive, and uncertainty about which regime best protects an economically vulnerable partner may in part explain variation between states in this respect. That there is a concern to protect women is evident in some recent reforms. In Zacatecas, for example, separate property is the explicit default, but partners nonetheless enjoy an equal share of property acquired “through the work and effort of both,” including a spouse or consensual partner fully engaged in homemaking (Family Code of the State of Zacatecas 1986, Articles 138, 141). Until 2007, this provision applied only to wives, but it now includes husbands (Article 141: reform published 3 Oct. 2007). Colima has introduced a reform giving those married more than 10 years, with separate property and markedly fewer assets than their spouse, the right to claim up to half of any property acquired during the marriage, providing they have been engaged primarily in housework or child care or providing for the children (Civil Code for the State of Colima 1954, Article 287 bis; reform published 26 May 2007). Such measures go some way toward combining community and separate property, equality and protection.

Marital Property: Popular Understandings

Property and Persons

In practice, people from lower-income groups are unlikely to have any property when they marry or move in together (although some may receive a housing plot informally as a gift from parents). They may see little point in discussing property arrangements, and some women have no idea what they are getting into. As Mercedes, from Los Encinos, lamented, “I didn’t know [. . .] Ay! I didn’t even know. I only saw that they put something down and then afterwards my husband explained it to me: that if we broke up, they’d divide things up equally between us.” Ironically, an absence of calculation serves women well. Most choose the property regime that is in their best interest, seeing it as a symbol of full commitment to the relationship:

What’s mine is yours and what’s yours is mine [. . .] Yes, it’s nice that way, because I say that if you find a real love together, without thinking about your own interests [. . .] that way there’s no temptation to say “you had money,” or “you made more,” “you worked more”; no, both of us put our shoulder to the wheel, so I say, it’s right that it should be that way (Remedios, Los Encinos).

Partners could and should be equal because they started from nothing and worked together to build whatever they achieved together. Having assets would, however, make a difference: “If the

wife's rich and he isn't, don't think the wife is going to want community property!" (María, Los Encinos).

Despite the preference for community property and equal partnership, many people expressed somewhat different ideas about who owned the marital home. Their views showed considerable variation, although the same underlying gender ideology could lead to radically different conclusions. Different discourses could inform what individuals thought about a given topic. For example, in Los Encinos, Eloisa argued that:

the house, above all, it belongs to the two of you, and then, if there are children, then to the children. Like in my case: in that paper that they gave him, he presents himself as—that is, they ask him “single or married?” and he says “married, with so-and-so” [*fulana de tal*]. Saying that, he's protecting me, he's leaving me the house, he presents himself as a married man.

Eloisa argued in principle that the house belongs to both spouses equally, but in elaborating placed herself in a secondary position. The paper is given to her husband, the questions are asked of him, and he *chooses* to acknowledge his relationship with her and to “leave” her what is by implication *his* property; she does not query any of this. Through his acknowledgment of their relationship and his protection, she gains an identity as a wife with rights to the property: She is no longer the anonymous *fulana de tal* (“Jane Doe”) because “*me está protegiendo a mí* [he's protecting me],” emphasizing “*me*.” The notion of “protection” defining the husband's duty to his wife, especially in providing a home for her, is deeply rooted (Varley 2000, 2007a). Married women thus gain agency as property owners secondhand. Eloisa's husband does so, in her account, by *renouncing* exclusive title to property in recognition of his wife; he defines himself as an autonomous being in the very act of restricting, voluntarily, his freedom to own property or dispose of it as he pleases.

Such simultaneous invocation of contradictory principles need cause no surprise. As de la Peña (1984:225) argues, “Open and latent contradictions are part and parcel of [kinship] ideology . . . people have to manipulate moral values and ideal norms to prevent cognitive dissonance and social conflict.” (As an example, he cites the contradictory principles that “all siblings are equal before their parents” and “males are superior to females” [1984:210].) Alternatively (or in addition), the contradictions may be signs of changing values.

Whose Name Should Appear on the Deeds?

Although people often choose their marital property regime when they have no property to worry about, the situation changes

Maribel: Who should have their names on the title deeds of the house?

Remedios: Both of them.

Margarita: The husband.

Maribel: Why both of them? Why the husband?

Mercedes: Well, because he bought it and he's the one who pays for it.

Eloisa: Yes, his name as the main owner [*primer titular*] and then afterwards the wife's.

Maribel: Why? Because he bought it?

Mercedes: Well yes. Then, if he dies or—

Maribel: And in your case, for example, did you help to build the house?

Mercedes: But I didn't give any money or anything. It belongs to both of us but I only helped him out.

Los Encinos

Figure 1

when the property acquired illegally for self-build housing is regularized and title deeds are issued. As Azuela (1989:129) notes, the development of these areas creates new property relations, and their legalization means that occupants have to decide who should be recorded as owner. Although, in theory, it does not matter whose name appears if the house is community property, in practice it is generally the man's name that is entered on the deeds. We sought to find out why by asking whose name should appear. Women and men gave a variety of responses.

Many people believe that the person who *pays* for land and building materials is entitled to ownership (see Figure 1). In San Mateo, Lucia told how her brother-in-law and his wife were getting divorced and fighting over the house, and how her mother-in-law would weigh in: "The house isn't yours and it cost him and it didn't cost you, so go and get a job!" Such views overlook women's contributions to income generation, often seen, at best, as "just helping" (see Figure 1). Yet many women save money from their earnings or housekeeping for a deposit on a plot of land, and it is often the wife who eggs her husband on to buy the land (see Figure 2). Nor was this simply a question of women "talking themselves up." The men also mentioned their parents but acknowledged that the wife often plays a key role.

Maribel: Which member of the family is normally the one who encourages the others to buy a plot of land and build a house?

Cecilia: The wife. She encourages her husband, because if you don't put some effort into it, as their wife or *compañera*, they won't do anything.

Maribel: Why?

Cecilia: Well, because there are a lot of men who prefer to spend their money on something else, on drink—

Anita: —or something else! [general laughter]

Cecilia: —I don't know ... or they spend it on—whatever, they take their children out for the day or something like that, and, well, when you buy a plot you end up spending a bit more then, building the house ... but you're the one who has to get the man to buy.

Maribel: Is it sometimes the man, too?

Teresa: Yes, because sometimes the wife likes to go around all dolled up [*andar muy catrina*] and—well, there just isn't enough money [...]

Lucia: [...] There are a lot of women who spend a lot of money on that, instead of buying a house, so sometimes it *is* the man, too.

Maribel: But in general?

Anita: In general it's the wife because we don't like living with our mother-in-law! [general laughter]

San Mateo

Figure 2

When asked whose name should be on the deeds, the men talked about their children rather than their wife (see Figure 3). In San Mateo, no one seemed interested in taking up Raúl's suggestion that the property should be in the name of both spouses (except, perhaps, indirectly, in Jesús's reference to "the *main* head"). Instead, participants embarked on a complex and ambiguous discussion of the relationship between the purchaser and the head of the family. The difficulty seemingly caused by Jaime's observation that it might not be the father who buys the plot could be interpreted as trying to hide self-interest behind "objective" criteria (we did come across cases of sons or daughters in employment helping

Mariano: In the man's name—[the name] of the person who bought it.

Raúl: Both of them.

Jaime: If your daughter bought the plot then it's got to be in her name, presumably. Or if your son bought it, then what? Should it be in my name just because I'm the head of the family? That's not right either.

Adolfo: It should be in the name of the person who bought it and then if the family agree it should be in my name [...] If they don't want [that], let them put it in their name—

Héctor: In the mother's name.

Jaime: There's something else here, too. If it's the head of the family who buys [it], it should be his name on the deeds because he's the only one who can divide it up between his children [...]

Because if you leave it to one of your sons [*hijos*] ...

Jesús: They'll kick the others out.

Jaime: If you put it in the name of one of your sons, then he's the owner, and the family no longer counts for anything [*la familia ya no es nada*].

Héctor: Your son will sell it [...]

Adolfo: That's why we're saying, in the name of the purchaser. If you're my father but you're not the one who buys it, I'm not going to put it in your name, because I'm the one who needs it. In other words, it's the purchaser's. When it's the family, it should be the head of the family.

Mariano: If we all agree and we buy a plot for all the family, it should be in the father's name.

Jesús: Yes, the main head [*la cabeza principal*].

Mariano: But only if they bought it.

San Mateo

Figure 3

their parents in this way). Some anxiety was evident, however, around the men's sense of their responsibility to both provide a house for their family and ensure that their sons behave themselves, suggesting that the argument for putting their own name on the titles was not simply about self-interest.

The men's sense of responsibility for their children, yet mistrust of them, was echoed in Los Encinos, where group members gave a resounding "No!" to the suggestion that someone "getting on a bit" might put one of the children down as the owner. Rodolfo went straight to the point: "No, because they'll chuck him out."

The men's thinking echoes a tradition in rural areas of the father using control over property to maintain his headship of the family, giving out housing plots to his sons when they marry but not dividing up farm land until he is near death (Deere & León 2001; González Montes 1988; Núñez Madrazo 2000). A similar logic may apply in urban areas. As Adolfo, from San Mateo, argued:

[The father] can say "this is yours" or they can talk to the family, while they're still alive, so as not to let go of the reins, "this is the way your father wants it." If you do it while you're still around—"Listen, lads, this is for this, and this is for this, right?" If one of them's an operator [*vividor*], he'll screw the others [*se jode a los demás*], but I think that while he [the father] is alive he can keep the deeds in his name because the head of the family, he's head of the family until he dies.

Because of his *responsibility* to be a good father, a man has to keep control of the family property. It is his duty to show those who will live on after him how to live an upright life—which includes looking after one's wife and mother, since this moral lesson is addressed primarily to sons. The father-son relationship seemed to dominate the men's thinking about property, while women focused on the marital relationship. Men talked about protecting their wives and children; women, about being protected. Women's relationship with property is, then, a more indirect, passive one, contrasting with the agency assumed by men.

Inheritance

Preferences and Practice

When asked about inheritance, most women householders said they would leave property to their children, generally in equal shares (see Table 1). Almost one in five indicated, however, that they would favor one or more of their children who met certain criteria, and the criteria varied dramatically. It seems that inheritance preferences in Guadalajara echo the complexity noted for rural Mexico (Cuaquentzi Pineda 2007; González Montes 1988; Mulhare 2004; Nuijten 2003; Robichaux 1988; Robles Berlanga et al. 2000). Authors writing about rural or indigenous populations nonetheless observe a persistent preference for leaving the house to the youngest son, to the extent that Robichaux (1997:158–60) now describes this practice, along with recently married couples going to live with the man's parents, as defining features of a "Mesoamerican family system." Initial patrivorilocality is followed by establishment of separate households for married sons, but the

Table 1. Preferred Heirs of Women Householders

Property to be left:	Percentage of responses	
to children:	75.2	
equally		43.8
unspecified		27.5
youngest		1.2
unmarried or living with her		0.6
most in need		1.6
oldest or has contributed most		0.6
to son/s:	7.2	
equally/unspecified		2.5
youngest		2.5
unmarried or living with her		0.6
most in need		0.4
oldest or has contributed most		1.2
to daughter/s:	6.6	
equally/unspecified		2.7
youngest		2.3
unmarried or living with her		0.6
most in need		0.6
oldest or has contributed most		0.4
to husband/husband and children	2.0	
to no one	2.7	
Other	6.3	
All	100.00	
N	512.00	

Source: Author's questionnaire survey of 538 women householders (excluding respondents who did not know how to/did not wish to answer).

Notes: Respondents were asked to whom they would leave a house (plot). The question was an open one. When respondents not specifying how they would divide property between children had only one child, no preference for a son/daughter was inferred from responses relating only to that child. Percentages may not sum exactly because of rounding.

youngest son remains in the parental home, looking after his parents in their old age in exchange for inheriting the house after their death (Robichaux 2002:75; see also Mulhare 2004; Nuijten 2003; Ruiz Meza 2006).⁴

The logic of leaving the house to the youngest son in exchange for support and care in old age underlines that it is not only what happens when someone dies that is at issue. People in Guadalajara often spoke about property received from (living) parents as an "inheritance" or said they had already left their house to their children, making no distinction between inheritance post mortem and *inter vivos* [*herencia en vida*]. In El Ocote, Rosana said of a cousin: "She didn't leave it to them [*no los heredó*], she made her will [i.e., instead]."

For the women surveyed, however, leaving property to the youngest son constituted only one option among many, and those favoring sons were only slightly more numerous than those favoring daughters.

⁴ The validity of Robichaux's attribution of a Mesoamerican family system to pre-Hispanic origins has been questioned by McCaa (2003).

In practice, inheritance may be less even-handed. There is some evidence that (rural) women favor daughters, and men, sons (González Montes 1988:71; Valenzuela & Robles Berlanga 1996:52). If husbands' views carry greater weight, sons are likely to benefit, and some women believed their opinions would be discounted (if not always to their daughters' detriment—one woman said she would leave the house to her oldest son, while her husband favored their youngest daughter).

We also asked women householders about whether they had inherited property. Thirty-two (6.0 percent) had inherited a house or land, nine on their own and 23 with other siblings, while 41 (7.7 percent) reported that one or more siblings had done so, but they themselves had not ($N = 535$). Together with differences in family composition, these low numbers of women inheriting property ruled out a quantitative analysis of gender bias. An overview of responses to questions about who in the women's family had inherited property suggests, however, that men benefit more than might be expected from Table 1. It reveals very few cases where daughters were clearly favored over sons (although some women reported being cheated out of an inheritance by their brothers). One woman's mother had benefited from an inheritance divided between the daughters of the family only, but the opposite was more common. The parents of a 28-year-old woman had left their house and large plot to three brothers, to the exclusion of four sisters. She and her husband had built their own home, but none of her sisters were homeowners, and she did not think it fair that they should have lost out. A 32-year-old objected to her father having left his home in Guadalajara to her four brothers: "We were all his children, so it should have been divided between all of us equally." Another woman born in Guadalajara reported that in both her family and her husband's, everything had been left to just one son, making them determined not to discriminate between their own children.

Choosing an Heir

Despite the sense of injustice expressed by some participants about property being left to male heirs, other women who had seen brothers inherit were more resigned to the situation, either because of their own circumstances (for example, that they had moved to Guadalajara), or because it was "tradition." "Tradition" meant that "women get a house when they marry, and men, no"; "women are not supposed to maintain their man"; and "sons bring their wife here, but they take your daughter away." It is a husband's duty to provide a home for his wife, but on marrying it has been the custom for couples to move in with the man's parents:

33.4 percent of the women householders who had (had) a partner had lived in his parents' home and 19.5 percent in their own parents' home after marrying, with little variation by age or origin ($N = 512$; some had done both). Giving a son a house or land helps him fulfill his responsibilities as a married man. The consequences for women go beyond being denied a gift or inheritance from their own relatives: Legally, such property does not become community property.

The same gender logic could, however, lead to the opposite view about inheritance. A woman in her thirties from Los Encinos would leave her home to her daughters precisely *because* it was the sons' responsibility to house their wives, so they should be independent; another would do the same because "the boys [can] work." A 26-year-old worried about what would happen if her daughters were unlucky in their choice of partner. As a woman from El Ocote put it, "If they end up with a bad husband, they'll [still] have somewhere to live."

Other women added conditions to their preference (see Table 1). The most common was that the house should be left to the youngest son (or, sometimes, daughter)—or "not exactly the youngest [but] the one who is living there [. . .] has the right because he has been living with his parents, suffering everything with them or helping them" (Esther, Las Ánimas). The logic of exchanging a legacy for care in old age was not, however, so tied to a *male* heir as in rural areas. People also suggested that the custom was more common in the past: "They used to say that legally it was him, the youngest [who would inherit]" (Saúl, Los Encinos) and "in the past you often found that it was left to the youngest son or the youngest daughter" (María, Los Encinos). In San Mateo, Mariano described it explicitly as a rural custom: "in *el rancho*, the majority, to the youngest son: he keeps the house."

Alternatively, the youngest child could be named on the grounds that the house should be left to the one who most needed somewhere to live. Eduardo, a 27-year-old tenant from the central area, said that the youngest son should inherit "because he's yet to make his way in life [*no tiene un futuro ya hecho*]." María (Los Encinos) disagreed with the practice: "The youngest is always the baby of the family [*el chiquito nunca crece*] and they [parents] needed to protect him." A 48-year-old woman from San Mateo chose her youngest son "because you always give more opportunities to the eldest and I feel that the youngest is the most vulnerable [*más desprotejido*]." An older woman from the same area would leave her home to "to the one who hasn't got [a home] [*al que no tenga*]."

Some men condemned the practice of leaving the house to the youngest or neediest son. Rafael (El Ocote) complained about an unmarried brother in his forties: "There with my father you can

see who's got his eye on the house, who doesn't want to leave [...] even though he didn't do much when we were building the house [...] he still wants to hang around to see what gives [...] with certain expectations." Francisco (Los Encinos) thought the house should go to the eldest brother: "He's the one who's been there with you the longest [...] who's knocked himself out with you making something of the house [...] The youngest [...] has it all laid out on a plate [...] but the oldest ends up as moth-eaten as you are [*ya se está apolillando con uno*]." And in San Mateo, Anita said her mother-in-law intended to leave her home to her youngest boys, but the older men protested, "But, mamá, why only to them? If we're all your sons and we were the ones who helped you build the house and the kids didn't do a thing, while we knocked ourselves out [*nos fregamos*]?"

Leaving the house to the eldest son is a way of repaying his help in building it or helping his parents out financially. A 46-year-old woman from Los Encinos would leave the house "to those who have contributed most," and in the discussion group María argued that it would be fairer to leave it "to the oldest son [...] because he's the one who has worked most." In San Mateo, Héctor said simply, "the one who behaves best." The same principle could apply to daughters: In Las Ánimas, a 34-year-old tenant would leave property to her eldest daughter: "Being the oldest, she's the one who helps you most." Some women felt that their parents' house should be theirs, as the eldest child and in some cases the one who had helped her parents find a home. In El Ocote, Isabel had bought land and building materials for her mother; when her mother moved to Zacatecas she said that she was going to leave Isabel the house "because it's hers by right as the oldest because she gave us everything."

The eldest son may also inherit his father's role as head of family and assume responsibility for his mother and siblings. In rural areas, he is often named as *albacea* [executor] (Robichaux 1988:92), but the role is not necessarily a transitory one: Rather than simply dividing farmland between his siblings, he may be expected to carry on managing it and looking after them (Nuitjen 2003:486). Some people in Guadalajara followed a similar logic. In Los Encinos, a 40-year-old woman would leave the house to her eldest son "as the one who's responsible for the rest of the family," and a woman from Las Ánimas would leave it to her older children because they "would have to take care of the younger ones." Sometimes, however, leaving the house to the eldest son or daughter appeared to be a way to avoid making a decision about who exactly should benefit. In San Mateo, a 27-year-old woman would leave the house "to the eldest, because it will be up to him whether he gives [anything] to the others," and Lucia said that the oldest

daughter may inherit “as she’s the one who can decide how things should be divided up.”

Inheriting Family Property

The implication of choosing the eldest son or daughter to represent other family members is that property rights are not fully individualized. Rather, the house remains in some sense family property. Sixty-eight-year-old Beatriz raised a laugh from the San Mateo women when she said that “there’s a room for each of them [her sons], so they have somewhere to go the day their old lady kicks them out.” Anita described how her husband’s siblings had agreed that their younger sister should inherit their parents’ house, but when she married and her husband started wanting to make some changes, her brothers objected: “You don’t do anything without our say-so: he’s got no business saying ‘we’ll pull that down and put this in its place.’ If you say so, OK, but if he does, no.” The group heard of one planned legacy that was strictly provisional. Rosalia said her father would cancel his plans to leave the home to her youngest sister if she married and “I see that the husband wants to move in just to laze around [*mangonear*] [. . .] she’ll have to withdraw and I’ll sell it and give them all equal shares.” It seems that when a woman stands to inherit, the home is particularly likely to be seen as still belonging to the entire family.

The belief that the home remains family property is strongest when the heir is the widow (and most women in Mexico outlive their husband; INEGI 1998). People in the discussion groups generally made no mention of the surviving spouse or mentioned the widow only in the same breath as the children: “When the husband dies, the wife . . . and then the children” (Andrés, El Ocote). Roberto (Los Encinos) said, “Logically, when you [husband] die, the heir is the mother, yes, and when the mother dies, who should be the heir, it’s for her to decide.” Although Roberto defined the woman only in relation to her children, as a mother, he did allow her the right to dispose of the property as she sees fit. Other commentators portrayed the widow only as a sort of executor with a life interest in the property, implementing a prior decision on its eventual fate. The house comes into her safekeeping only “in transit” on its way to the next generation. Remedios (Los Encinos) argued that “the father should make his children agree: ‘Look, your mother’s the one in charge [*la encargada*—as distinct from the owner] and you—if she passes away then you do this.’ And get them to agree that way: to sell it or give it to the one in most need, or the one who stays at home, the youngest.”

As authors writing about rural areas have observed, widows inherit primarily as “a bridge in the transmission of land between

generations” (Deere & León 2001:285) or “caretakers of the family patrimony” (Hamilton 2002:122; González Ortiz & Vizcarra Bordi 2006; Nuijten 2003; Robichaux 1988; Vázquez García & Flores Hernández 2002; Venosa Peña & Cortés Ruiz 2007). Their rights to land are therefore “lesser, insecure, and temporary” (Ruiz Meza 2006:16). The bias arises in part from the belief that agriculture is men’s work (Cuaquentzi Pineda 2007; Córdova Plaza 2003; González Montes 1988; Núñez Madrazo 2000; Vázquez García 2001). This explanation clearly cannot apply to the urban home, yet the conclusions about women’s secondary relationship to property still resonate with people’s views about rights to the home in Guadalajara.

Securing Care in Old Age

Hamilton (2002:140) observes that rural women’s welfare is protected at the cost of their individual rights to property. The same applies in cities insofar as care for the elderly is linked to inheritance of the family home.

How best to use the home as a bargaining counter to ensure care in old age is, however, a tricky question that causes older people anxiety. It can no longer (if ever it could) be assumed that the youngest son will stay in the parental home to look after his aging parents before inheriting the home; so what are older people to do? Participants expressed a wide variety of opinions about the best strategy: to make a will and/or let relatives know one’s intentions—risking alienating those who are excluded and staking everything on the heir’s respecting his or her end of the bargain—or keeping everyone guessing, at the risk of no one shouldering the responsibility. “Not sorting things out” also raised the prospect of dying intestate and an ensuing free-for-all over what happens to the house. Participants mentioned brothers and sisters who no longer spoke to each other because of inheritance conflicts: Siblings can end up “killing” each other over who gets the house (Francisco, Los Encinos).

Most people thought it better in principle to get everything sorted out, either making clear their wishes to the children or, ideally, drawing up a will: “Words get lost on the wind but paper talks [*papelito habla*]” (Roberto, Los Encinos). People may nonetheless be more reluctant to commit themselves to paper than these views suggest, partly because of the cost and bureaucracy of official procedures and fear of dishonest notaries. Some people are tempted to take a shortcut by putting property directly in the name of their heir; but several group members spoke of people who had abused a parent’s trust. Teresa told the women from San

Mateo how her father-in-law had left the house to his wife and younger children, but one son had sold it:

My mother-in-law is still living and she cries, but she too [...] she told him that when she died it would be for them, but she says, "It's not fair that he took it off me before I gave it to him" [...] She's living with him now but still she's suffering [...] It's not good to give someone an inheritance before you die.

Similarly, Lucia's mother-in-law was resisting her daughters' pleas for her to make a will: "Why should I do it yet? I give them everything and then they throw me out." Beatriz agreed:

I wouldn't do it before I died either, no, because before long the daughter-in-law is going to say "Listen, your mother left us [the house]," and the son, all innocence [*muy creído*], "Well, let's throw her out then" [laughter from group], "It's ours now and we've got the deeds" [...] A woman had a son [...] who got married and was living there with his mother, and the wife didn't like *la señora* and she was left going from house to house [...] because the daughter-in-law didn't like her [...] So let them fix it [the inheritance], when it's not sorted out, because I'm not going to leave it sorted out, because that's my place [*mi rincón*, my corner], and if they want to see me there I am in my place and if not, they don't have to show their faces [...] You become a nuisance, "your mother doesn't even do anything around the house any more, she's always eating but she doesn't do any work" [laughter], but there in your own place you do eat well, and if you don't eat well, if a daughter-in-law wants to take pity on you and she comes and brings you a taco, she's very welcome, but if not, tough luck [*ni modo*].

Beatriz's pungent comments underline how, when wives generally outlive their husbands and inheritance is linked to care of the elderly, it becomes a special concern for women. Although the rationale for leaving the house to the youngest son is that he will care for his aging parents, it is his wife who is often responsible for delivering that care. The relationship between mother- and daughter-in-law is often fraught with tension. It has long been associated with domination of young wives by their husband's family, such that recent generations of women have rebelled against patrivirilocality, particularly in urban areas (Wilson 1991); but it can also spell trouble for older women, when the tables are turned in later life (Varley & Blasco 2003). Hence Beatriz's remarks about daughters-in-law and the laughter they provoke.

Changing Views on Inheritance?

As Nuijten (2003:488) argues, "The notions which guide the inheritance decision can lead to many different outcomes in the

ultimate choice of an heir.” It might be objected, however, that in examining the logic leading to selection of an individual heir or heirs, I have distorted the results of our survey, since seven out of 10 women said they would leave any property they might own to “my children,” mostly in equal shares (see Table 1). Are there grounds to argue that equality is now the guiding principle?

It is wise to be cautious for a number of reasons. First, respondents who gave only a general answer could be tacitly refusing to discuss private matters. Second, respondents might not have given the matter much thought, particularly where they were not owners—as a young woman sharing with her husband’s relatives said, “I’d like to have [a property] and then I’d think about it.” Although Table 2 shows that it is younger women who were most likely to say they would leave their property to “their children” (in general or in equal shares), they were just as likely not to elaborate as to specify equal shares, whereas older women were least likely to leave their preference unspecified—pointing to the possibility that younger women might simply not have thought about the question much as yet, because of their age and because they were more likely to have had only one child to date. Inheritance choices are likely to be age-sensitive: Older women are more likely to know that they will have no children to name as heirs or to have fallen out with one or another of their adult offspring. They are also more likely to have a greater sense of their own future need for care, though whether this will lead them to favor a son (with the prospect of a daughter-in-law providing care) or a daughter, or neither (in the hope of maximizing attention from all their children), is not easily foretold.

Another possible reading of Table 2, however, would be that things are changing. Older groups are considerably more likely to specify a preference for a daughter or son—and, specifically, a daughter rather than a son. Rather than expressing concerns about their own needs, older women’s responses may reflect a sense of daughters’ vulnerability that is not shared by younger women. Younger women, by contrast, appear to subscribe more readily to a

Table 2. Summary of Preferred Heirs of Women Householders, by Age

Property to be left:	Percentage of responses in each age group				Median age	N
	18–30	31–50	> 50	All		
to children (equally)	42.0	48.7	33.3	43.8	35.0	224
to child/ren (unspecified)	42.0	24.7	13.1	27.5	32.0	141
to child/ren, with condition	1.3	4.9	5.1	3.9	42.0	20
to sons, with/out condition	5.3	7.6	9.1	7.2	40.0	37
to daughters, with/out condition	3.3	6.1	13.1	6.6	47.0	34
Other	6.0	8.0	26.3	10.9	49.0	56
All	100	100	100	100	36.0	512
N	150	263	99	512		

Source and notes: See Table 1.

discourse of equality—and perhaps an assumption of greater equality of opportunity—between their children, regardless of sex.

The clear age differences shown in Table 2 could, then, point either to life course influences or to historical change in inheritance preferences. In our research, some people described practices like leaving the house to the youngest son as more common in the past, particularly a rural past, and those who spoke most strongly in favor of equal shares did so as though reacting to practices they viewed as unfair. For example, in El Ocote, Rosana argued that:

[it should be] the same for all of them. Neither the oldest [daughter] nor the youngest [son] should be made less of, because they're all children of the same mother and the same father and some worked to build the house and others didn't but they all have the same rights.

Women arguing for equality also stressed that sex should make no difference:

As they're all children [of the same parents] they all have a right. They mustn't treat any one of them differently, neither a woman nor a man; it should be the same for all of them [. . .] Supposedly the woman gets married and has her husband and he has to get her what she needs so the man gets [inherits] more [. . .] No, no way does that strike me as fair; no: I think men and women should all be treated the same and all get equal shares (Marta, San Mateo).

Those evoking a rights discourse may explicitly reject moral evaluation of some potential heirs as more deserving than others. Jaime, from San Mateo, complained that “some fathers are so selfish: ‘This one who behaved badly, I’m not leaving him anything.’ Well, there I think that person is not acting properly, because the layabout [*vago*] has the same rights as the one who isn’t a layabout, right?”

In practice, to benefit all children equally is normally taken to mean selling the house and dividing up the proceeds—“It’s a house, so they’re not going to get bits of it [*no les va a tocar de a pedazo*]” (Eloisa, Los Encinos). Remedios hoped to persuade her children that this was a good idea, because otherwise “the five of them are going to have different opinions, so I’d be leaving them problems rather than an inheritance.” Some people are saddened by the prospect of selling the house; others, more pragmatic. Lola’s partner really wanted to leave each of their children part of their property in Los Encinos, but she argued that it was too small to make three homes, and that if all three were living there together it would just lead to continuous fights [*una peleadera*].

One strategy people employ to deal with the problem is to ensure that each child has somewhere to live: leaving the house to

one of the children but buying plots for the others and helping them to build their own homes. They do not need to look far to see what can happen otherwise. In San Mateo, Anita told how:

We held a family meeting, just the five of us [...] we could all do with the money so we'd do better to sell it and [divide the money in] equal shares, pay off the intestate charges between us and everyone [would be] happy. Because right now my brother has two of his children who've got married and they're all living there and there's my other brother who lost his wife and he got together with another woman and they live there, but they ask us all to pay for the water and the property tax—so we say no. But they say to us, "No, but the house belongs to all of us," but I say "But you're the ones living there; if I was living there I wouldn't ask you for anything." But the thing is that I have a very temperamental [*alebrestada*] sister-in-law [...] The one who rules the roost there is my sister-in-law [*ahí la que manda es mi cuñada*].

Despite the depth of engagement with a home that people have worked so hard to acquire, the difficulty of accommodating several daughters or sons and their families means that equal inheritance is likely to promote commodification. If the house is not sold, ownership is likely to remain legally undefined, particularly when the owner died intestate and heirs wish to avoid probate.

Women and Property: Modest Expectations?

The findings discussed above demonstrate the intimate connection between popular understandings of property rights and gender and kinship ideologies. Challenging gender bias in property relations means challenging received ideas about the sexual division of labor, since the arguments for both preferring sons to daughters as heirs and putting property documents in a husband's name largely hinge on the belief that it is first and foremost men's responsibility to work and to house their family. The participants in this research did not generally contest that belief, although Lola provided one example of how women's secondary relationship to property can be contested:

[the title] should be in both their names, because there are some men who say, "No, the thing is that the property [*el terreno*] has to be in my name"—just like that. Like with my man and me [...] he says, "Everything that you get made out, when it's to do with the house and all that, should be in my name." But I say to him "Why? If I'm the one who's paying for it." "Yes but I give you the money." "No, you give me my housekeeping money each week and I pay for it out of the housekeeping." So that's how I can go and pay for the water and the electricity, because he doesn't like

having to deal with that sort of thing. That's why he says "It's a good job that it's in both our names, because I'm not as smart [as you] [*yo soy más tonto*]."

Lola was, however, the only participant to turn the link between work, money, and entitlement to property round in this way.

Many women do not assert their rights to property for fear of being seen as less than fully committed to the relationship. It is surely no coincidence that Lola, the only member of the group to say that she was not married, had taken a job and started to buy a plot only after her partner had left her for some months; when he returned and asked if they could buy together she agreed, but only on condition that both were recorded as owners—"because you've already screwed me over once and I won't stand for it again." All too often, the need to assert a right to property becomes apparent only when a relationship ends in separation, divorce, or death. As Ruiz Meza (2006:19) observes in a rural context, "Although the discourse of exercising their right to land is present in women, it has not yet been translated into an effective demand."

Is it possible, however, that the very dependence of women's property rights on family relationships could lead to greater assertiveness on this score, as a side effect of discontent with the gender division of labor? A full discussion is beyond the scope of this article, but lengthy debates in the discussion groups indicated that the difficulties men encounter in fulfilling their provider role are at present met by women's "helping" with income generation, and men, in theory, then "help" with women's household responsibilities. Women frequently suggested, however, that men are freer to renege on their side of the deal, such that the reciprocity in this exchange remains an ideal rather than a reality. Could a sense of injustice resulting from this asymmetry reduce women's tolerance of arguments that "men get the house because women get a husband"?

Conclusion: Questioning Formalization

What are the implications of this study of urban Mexico for international debates about property formalization?

The context of the work in Guadalajara is one of civil, not customary or indigenous, law, and private, not collective, property. Yet the evidence discussed above shows that property rights in the home are based on a principle of belonging and comprise a web of overlapping entitlements that are to some extent negotiable. They are embedded in social relations: kinship norms and living arrangements, the gendered division of domestic labor and income generation, together with the intergenerational relations of

paternal authority over children, parental support enabling offspring to “get ahead,” and the provision of care for elderly parents.

The complexity of property relations in the home can be expressed by the notion that it is family property, as illustrated by the brothers who imposed limits on what their sister’s husband could do with the home she had inherited. Formalizing home ownership rarely creates truly individual property. As Benda-Beckmann (2003:188) has pointed out, theories about formalization focusing on capital accumulation overlook “the significance of property for the social continuity of groups, for social security [or] as fall-back reserve.” The need to secure welfare in old age leading people to delay writing a will, together with probate costs and a desire for family continuity, mean that one or more heirs may be left informally in possession of the house after title holders die. It is ironic, in light of the fierce international debates about formalization, that many legalized properties will return to a state of informality within a matter of years. Formalization produces a freeze-frame image of property holdings at a particular time but cannot prevent life, death, and property relations moving on. It does not, therefore, offer the definitive resolution of tenure that some assume. The new informality is a good example of how failing to think about the family hinders the ability to predict the outcomes of formalization. In this new informality, however, clouded title can be consigned to the category of private rather than public problems.

I have argued that, in urban Mexico as in many customary systems, popular understandings of property allocate women a secondary relationship to property. Although Mexican civil law emphasizes equality between women and men, the findings from Guadalajara show that women’s ability to “own” a home is to a significant extent contingent on their status as wives and mothers, whereas men can more readily assume agency in this respect. As Whitehead (1984) suggested, property rights are more closely intermeshed with social relations for women than for men. Men’s obligation to provide for their family (morally as well as materially) legitimates their assumption of ownership, and the resulting sense of entitlement can override their responsibilities to others. Such agency is not generally ascribed to women, who can fulfill gendered expectations of their roles in the family without having to be “fully acting subjects” in relation to property (Whitehead 1984:180).

These findings suggest that the dichotomies of individual versus community and formal versus customary informing recent debates about formalization suffer from the same excesses as other dualisms—the result, I suggest, of a tendency to pass over the family in the search for plural legal orders on a broader scale.

What are the implications for those debates of the finding that popular understandings of property in urban Mexico share some of the features described as characterizing customary institutions: the web of multiple, overlapping, interests and the secondary status of women's rights?

Those who criticize the effects of formalization on customary tenure systems argue that titling "cuts the web of interests" (Meinzen-Dick & Mwangi 2009:40) and "leads to the exclusion of weaker and temporary property rights" (Benda-Beckmann 2003:188). In Mexico, I suggest, first, that titling does not cut that web of interests, because family members continue to regard themselves as having a right to say what should happen to the family home, and, second, that titling can help women overcome their secondary relationship to property.

If the "starting points" of property systems subject to formalization are more similar than might be expected, then different outcomes might best be explained by differences in the context and in the process of formalization. It would be better to avoid promoting conclusions about formalization "in the global South" that are derived principally from experiences in one region. The same applies whatever the region, but given the focus of many development agencies on sub-Saharan Africa, it is perhaps more likely that conclusions drawn from this region will be extended as universal truths informing development policy globally.

Why might formalization in Mexico be favorable to women if it is unfavorable in customary tenure systems in sub-Saharan Africa? One answer is that the legal context in Mexico means that formalization does not normally entail the collapse of overlapping rights in property into full ownership rights for a male head of household. The community property regime under which most couples marry means that the property is generally jointly owned.

Legal equality is not, however, enough to guarantee wives' security of tenure (and it is wise to reinforce community property by joint titling: Deere & León 2001; Varley 2007b). Some men do try to act as sole owner, and if they succeed their wife can be left homeless. But formalization can hinder attempts to deprive women of their property, partly because of the public nature of the records created (taking them out of reach of friends of the husband, unlike some locally held records) and partly because of measures employed by formalization agency personnel to help those who are vulnerable, such as abandoned wives (Varley 2007b:1744–7). In other words, the intervention of state agencies can be advantageous for women, challenging what has been called a "moral geography of law and space" (Khadiagala 2001:59) or "the local trap" in which we "equate the local with the good" (Purcell 2006:1924).

Khadiagala (2001) reaches her conclusions about this “moral geography” on the basis of research on popular justice and customary property rights in Uganda. She and other authors writing about sub-Saharan Africa and Latin America have observed that women can welcome the role of government agencies helping them to circumvent local constraints on their ability to defend their property (Varley 2007b:1747). The potential costs of focusing exclusively on the local are also suggested by experience in the formalization of rural landholdings, involving community surveying and allocation of parcels, in Bolivia. Women and men who believe they are being denied ownership by community leaders feel “anguished” because there is no one to whom they can appeal (Giovarelli et al. 2005:51). It is noteworthy that those favoring customary systems as the vehicle for securing property rights in sub-Saharan Africa also look to family law or to statutory intervention to counter discrimination against women, either in the rights regulated by local authorities or in their representation within those authorities (Cousins 2007:309; Meinzen-Dick & Mwangi 2009:42; Yngstrom 2002:34).

That women in Latin America’s cities see property titling as an advantage, especially when carried out with measures to counter “cultural factors” favoring men, is suggested by the contributions of community leaders to the Regional Consultation on Women and Adequate Housing convened by the United Nations Special Rapporteur on Adequate Housing (Emanuelli 2004:24, 31–104). The point, however, is not to oppose one regional experience to another: just as the “re-turn to the customary” in sub-Saharan Africa has its critics (Whitehead & Tsikata 2003:67), it would be unwise to assume that views or outcomes in Latin America will all be positive. Whether the property models are “Western” or “customary” makes no difference to the need to avoid universalization.

Appendix

Participants in Los Encinos and San Mateo lived in houses built by their family, with or without assistance. All in El Ocote were buying apartments, and in Las Ánimas all were tenants.

Los Encinos: Women

Most women were in their thirties and forties. Only half had completed primary education. One had trained as a secretary but none had a job, although one worked with her husband on a food stall. One 40-year-old was a widow; others were married or living with a partner. All but one had children: the youngest (22 years) had two, and the oldest (55) had ten.

Los Encinos: Men

Most were in their thirties. Most had completed primary school; two had completed secondary school. Three worked in construction, two as watchmen, one in the police, and one as a musician. The oldest (65 years) was retired. All were married. The youngest had two children; others had between four and eight.

San Mateo: Women

Participants ranged from 31 to 68 years. Three had completed secondary education, and one had trained as a secretary. The oldest had no schooling, and two had not completed primary school. Most were married, mostly with four or five children. Several sold food or sweets from a stall or the house; one rented out an apartment. One was a domestic cleaner. One woman, who had separated from her husband, lived with her daughter and looked after the grandchildren.

San Mateo: Men

Most were in their thirties and forties; all were married. The youngest lived with his parents but then rented an apartment. Younger men had one to three children; the oldest had six to 10. Most worked in construction (some in specialist trades). One was a gardener; another sold fast food. The oldest (67) had no education, and two others had only two or three years of schooling, but others had completed primary and, in some cases, secondary school.

El Ocote: Women

Most of the women were in their thirties, married, with two to four children. Most had completed secondary education and three had further studies (nursing, accountancy, or pre-university), but none had paid work, although two had worked while single.

El Ocote: Men

The men were mostly in their thirties. All were married, mostly with three children. They were the best educated group: three had finished pre-university education, although two had not completed secondary schooling. They included a factory worker, electrician, mechanic, long-distance bus driver, barman, teacher, and self-employed jeweller working from home.

Las Ánimas: Women

This group was diverse in age (23 to 66) and status. One woman was single and childless, living with her brothers; a single

mother was living with her own mother; two were living with their partners and children; and one with her second husband and children from her first marriage. The older women had not completed primary education, but two younger women had completed secondary schooling. One had trained to be a nurse but worked from home trimming shoes; a few others also had paid work. The two oldest had seven and eleven children, but younger women mostly had just two.

Las Ánimas: Men

Half were in their twenties or early thirties; the others ranged from 59 to 70. Two were single and childless. Others had partners and one to 10 children; younger men had fewer children. Two younger men had completed pre-university education, but half the group had incomplete primary education. Some had casual employment, parking or cleaning cars; some worked in construction, one as a gardener, and one in home-based work for the shoe industry. Two were out of work, and two were pensioners.

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