

# The consequences of extending equitable property division divorce laws to cohabitants

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# Preview

- ▶ In 2009, Australia introduced federal legislation that treated all unmarried (de facto) couples in the same way as married couples for property distribution at relationship breakdown
  - ▶ Division based on future needs, not just past contributions
- ▶ Prior to this, variation by state and territory
- ▶ Use a triple-difference fixed effects empirical strategy to estimate how this changed couple behaviour
- ▶ Affected couples increase specialisation, investments in children, and home ownership
- ▶ Supports the importance of divorce (equivalent) property laws for enabling couple-specific investments

## Literature – divorce laws and married couples

- ▶ Consent vs. unilateral (eg. Wolfers 2006, Bellido and Marcen 2014, Roff 2017, Stevenson and Wolfers 2006, Gruber 2004)
- ▶ Property division (eg. Chiappori et al 2002, Fahn et al 2016)
- ▶ Ability to divorce (eg. Bargain et al 2012, Gonzalez and Ozcan 2013)
- ▶ Child custody (Halla 2013, Maiti 2015)
- ▶ Child support (Walker and Zhu 2006)

## Literature – unmarried couples

- ▶ Rangel (2006) – extension of alimony rights to unmarried couples in Brazil reduced female labour supply and increased investments in children
- ▶ Chiappori et al (2016) – extension of alimony rights in Canada reduced female labour supply for existing couples
- ▶ Gousse and Leturcq (2018) – further examination of Canada, finding property division expansion reduced female labour supply even more

**Contribution: add housework, fertility, home ownership, life satisfaction to evaluate cooperative investment mechanism; legal change is independent of child support, custody, welfare payments**

# Legal and policy responses to the growth in cohabitation

- ▶ Recognition of unmarried couples varies substantially across jurisdictions and across domains
  - ▶ Welfare, tax policy – legal marital status typically matters in the US, elsewhere cohabitation status matters
  - ▶ Child support – assumption of paternity linked to marital status
  - ▶ Family law – wide range of approaches, particularly for property if relationships break down
    - ▶ US – Family Law remedies do not apply to unmarried relationships
    - ▶ England and Wales – no Family Law remedies; common law marriage does not, and has never, existed
    - ▶ Canada – unmarried couples subject to alimony requirements (can be substantial), but not to marriage-like laws for property division (in most provinces)
    - ▶ New Zealand – cohabiting couples treated as married if relationship has lasted for three years
- ▶ Different treatments are often poorly understood

# Property laws on relationship breakdown – Pre 2009

- ▶ Married:
  - ▶ Determined by Family Law Act 1975 (Cth) section 79 – across Australia
  - ▶ Broad discretionary framework – ‘just and equitable’ in all the circumstances
  - ▶ Considers financial, non-financial and homemaker contributions, as well as needs going forward
  - ▶ All property, including retirement savings, can be reallocated (future income is not property, though sufficiently certain income streams can be capitalised)

## Property laws on relationship breakdown – Pre 2009

- ▶ Unmarried: determined at the state or territory level, range of approaches:
  1. Modelled on FLA: present and future needs, financial and non-financial contributions  
(WA, TAS, QLD)
  2. Intermediate: financial and non-financial contributions, and *other relevant matters*  
(SA, ACT)
  3. Restrictive: financial and non-financial contributions  
(NSW, VIC, NT)
- ▶ Different gateway requirements – length of relationship (usually 2 years), or a child

# Property laws on relationship breakdown – Post 2009

From 1 March 2009 (2010 in South Australia; no change in WA)

- ▶ *Family Law Amendment (De Facto and Other Financial Measures) Act 2008* (Cth)
- ▶ Extended provisions of the Family Law Act to all unmarried cohabiting couples where:
  - ▶ Relationship lasted two years, or
  - ▶ Had a common child
- ▶ Part of a package of reforms targeted at providing same-sex couples with the protections of married couples
- ▶ Considers contributions and present *and future* needs

## Press coverage of the 2009 FLA extension

“Unless you’ve been living under a rock, you would have heard that there’s bad news for philandering husbands. Thanks to the new reforms of the Family Law Act, mistresses are now entitled to gain compensation from the bloke they’ve been bonking for the last two years, if indeed they do fall pregnant.”

*Sydney Morning Herald, March 17 2009*

# Why do property division laws affect couple behaviour?

## 1 Change in **bargaining power**

- ▶ Transfer of bargaining power from lower-asset to higher-asset partner (typically man to woman)

## 2 **Increase in cost** of relationship breakdown

- ▶ Increases expected return to relationship-specific investments

## 3 Increased ability to make **relationship-specific investments**

- ▶ Provision of compensation for costs incurred – prospective grounds for property reallocation
- ▶ Eg. having children, household specialisation, location choice

# Empirical strategy

- ▶ Triple difference fixed effects
  - ▶ Compare the behaviour of cohabiting couples before and after FLA expansion
  - ▶ Control 1: cohabiting couples in states that already had FLA-equivalent legislation
  - ▶ Control 2: married couples (already covered by marriage legislation)

$$Y_{ist} = \beta_1 Cohab_{ist} + \beta_2 equitable_{st} + \beta_3 Cohab_{ist} * equitable_{st} \\ + X_{ist} + \mu_s + \gamma_t + \theta_i + \varepsilon_{ist},$$

- ▶ Fixed effects: response for previously existing couples observed before and after equitable property division laws introduced
- ▶ *Not capturing changing selection; will address this later*

# Empirical strategy

- ▶ Key assumption: no other factors that differentially affect married and unmarried couples in affected states
  - ▶ State-specific variation controlled for using married couples as a comparison group
  - ▶ No other changes in family law or policy that affect married and cohabiting couples differently: married and unmarried couples subject to the same rules for child custody, child support, family and welfare payments across this period
  - ▶ FLA expansion was not in response to pressure from unmarried opposite-sex couples in states without these provisions

# Empirical strategy

- ▶ Problem: inference
  - ▶ Australia has 8 states and territories
  - ▶ Too few clusters to rely on cluster robust standard errors (large sample theory requires number of clusters  $\rightarrow \infty$ )
- ▶ Solution: **wild cluster bootstrap** (restricted)
  - ▶ Suggested by Cameron, Gelbach and Miller (2008)
  - ▶ Implemented using Stata command `boottest` (Roodman et al 2018)
- ▶ Generates bootstrap p-values

# Data

- ▶ Household, Income and Labour Dynamics in Australia Survey (HILDA)
- ▶ Household panel covering 2001-2015, base sample of 7,682 households
- ▶ Select all opposite-sex couples aged 18-65 with consistent reports of relationship status, married and unmarried
- ▶ Sample of 7,714 couples, 3,562 cohabiting at some stage
- ▶ Outcomes: employment status, hours of work, hours of housework, home ownership, number of children, fertility intentions, time spent with children, satisfaction across a range of domains
- ▶ Controls: state and time fixed effects, state time trends, education

## Summary statistics

	<b>Women</b>		<b>Men</b>	
	Married	Cohabit.	Married	Cohabit.
Employed	0.72 (0.45)	0.73 (0.45)	0.90 (0.30)	0.86 (0.35)
Hours worked	31.0 (14.1)	34.6 (12.9)	45.4 (12.6)	43.5 (12.3)
Housework hours	18.6 (13.0)	13.2 (11.8)	6.2 (6.2)	6.4 (6.3)
Number of children	1.49 (1.23)	0.74 (1.08)	1.43 (1.22)	0.52 (0.89)
Time with children	16.7 (22.3)	11.9 (21.4)	7.7 (10.2)	6.2 (12.0)
(Max) N	36,119	11,884	36,119	11,884
(Max) couples	4,152	3,562	4,152	3,562

## Main results: employment, work hours, and housework

	Employed	Work hours	Housework hours
Women			
Equit*Cohab	-0.023 (0.011) [0.232]	-0.738 (1.164) [0.580]	<b>1.974</b> (0.884) [0.091]
Men			
Equit*Cohab	<b>0.029</b> (0.005) [0.005]	1.425 (0.569) [0.240]	0.121 (0.184) [0.555]

Bold indicates significance at 10%. Clustered standard errors in parentheses; wild cluster bootstrap p-values in brackets. Controls: time and state fixed effects, state time trends, education.

## Results: children, time with children, home ownership

	No. of children	How many more children?	Hours with children	Home owners
Women				
Equit*Cohab	<b>0.255</b> (0.048) [0.086]	<b>0.109</b> (0.025) [0.020]	<b>4.080</b> (1.422) [0.053]	
Men				
Equit*Cohab	<b>0.283</b> [0.047]	<b>0.143</b> [0.069]	<b>1.948</b> [0.027]	
Couple				
Equit*Cohab				<b>0.109</b> (0.015) [0.024]

Bold indicates significance at 10%. Clustered standard errors in parentheses; wild cluster bootstrap p-values in brackets. Controls: time and state fixed effects, state time trends, education.

## Results: self-reported satisfaction

	Financial satisfaction	Partner satisfaction	Overall satisfaction
Women			
Equit*Cohab	<b>0.155</b> (0.059) [0.084]	-0.170 (0.055) [0.141]	-0.032 (0.039) [0.647]
Men			
Equit*Cohab	0.151 (0.094) [0.355]	<b>-0.175</b> (0.016) [0.004]	-0.043 (0.057) [0.745]

Bold indicates significance at 10%. Clustered standard errors in parentheses; wild cluster bootstrap p-values in brackets. Controls: time and state fixed effects, state time trends, education.

# Changing selection and composition of unmarried couples

- ▶ FLA expansion can change selection into (and out of) population of cohabiting couples
  - ▶ Couples separate before expansion (after introduction of bill in July 2008)
    - ▶ To avoid the expansion – those who didn't want to specialise
  - ▶ Couples remain unmarried post-expansion when they would otherwise have married
    - ▶ No need to marry to get protections – may explain specialisation result
  - ▶ New couples forming after expansion are differently selected
    - ▶ More specialisation – as easier to specialise?
    - ▶ Bargain with knowledge of the new property division regime, so women have a lower share of resources

## Are affected couples more likely to separate, or to marry?

- ▶ Look directly for change in relationship status (separate or marry), both post-reform and in anticipation of reform. No change in separation pre- or post; marriage more likely in anticipation of change

	Post-reform		Anticipation	
	Separate	Marry	Separate	Marry
Equitable	0.004 (0.008) [0.794]	-0.031 (0.020) [0.260]	-0.003 (0.003) [0.575]	<b>0.024</b> (0.011) [0.020]

Bold indicates significance at 10%. Clustered standard errors in parentheses; wild cluster bootstrap p-values in brackets. Controls: time and state fixed effects, state time trends, education. Sample includes only cohabiting couples (married couples are not at risk of getting married).

## Does changing selection explain the specialisation result?

- ▶ Holding relationship status fixed at pre-reform status: magnitude of significant results increases

	Employed	Work hours	Housework hours
Women			
Equit*Cohab	-0.027 (0.011) [0.274]	-0.903 (0.913) [0.586]	<b>2.501</b> (0.807) [0.087]
Men			
Equit*Cohab	<b>0.047</b> (0.007) [0.012]	1.934 (0.554) [0.157]	-0.200 (0.233) [0.618]

Bold indicates significance at 10%. Clustered standard errors in parentheses; wild cluster bootstrap p-values in brackets. Controls: time and state fixed effects, state time trends, education.

# Conclusion

- ▶ Existing couples who have marriage-like property division imposed on them respond by making more couple-specific investments
  - ▶ Increased home ownership, more children, increase in man's labour supply, increase in woman's housework
- ▶ Symmetric effects on life satisfaction suggest this is not a transfer of wellbeing due to changing outside options, but a Pareto-improving enabling of cooperative investments
- ▶ Not explained by couples choosing not to marry
- ▶ Potentially unintended consequences of legal reform