

## Separate marital property and divorce: a self-fulfilling prophecy?

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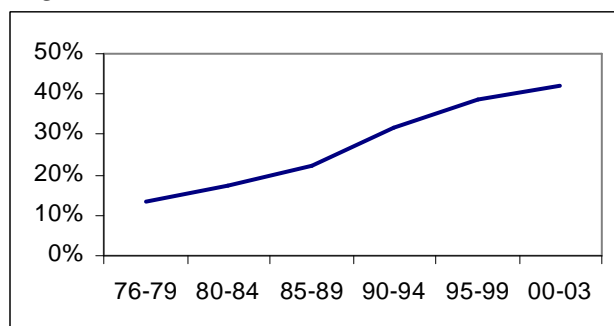
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### 1. Research issue

Since the reform of family law of 1975, in Italy the marital property regime is fixed as community property unless otherwise specified. Therefore, the separate property (i.e. not community property) implies an explicit choice at the time of marriage (Rosina et al, 2008). This choice has been increasingly popular over time, reaching 42% for the proportion of marriages celebrated in the early 2000s (figure 1).

**Figura 1.** *Percentage of couples who choose the system of separation of property by year of marriage. Istat 2003.*



The life course perspective theorises the fact that events and transitions experienced in the early phases of a biography may influence the subsequent behaviour (see, among others, Elder and Giele 2009; Billari 2001, 2003; Mills 2007). This may also be true for a couple's history. In this sense, we may hypothesize that choices related to the separation of property may have an impact on marital stability.

Table 1 shows, indeed, that the separation of property seems to be positively related to instability: the percentage of marriages ended in divorce or separation is significantly higher among those who have chosen the system of separation of property.

**Table 1.** *Percentage of marriages ended in divorce or separation according to the system of separation of property (marriages celebrated between 1976 and 1999). Istat 2003.*

|                    | % divorce | % legal separation |
|--------------------|-----------|--------------------|
| Community property | 3.6%      | 5.7%               |
| Separate property  | 6.4%      | 9.5%               |

These descriptive results may suggest the presence of a causal effect: the choice of adopting a system of separation of property may shed a latent shadow on mutual trust, especially if it has been

proposed by only one partner. Moreover, in this situation the couple could think that separation as a final solution of a marital crisis could be less problematic. This could be considered as a sort of a self-fulfilling prophecy: the protection from the risk of divorce and its consequences encourages the choice of the separation of assets, however this option itself promotes marital instability.

The alternative explanation hypothesises the action of a selection effect due to the fact that more fragile couples prefer the non-community property. In other words, the separation property regime would be an explicit choice pursued by a selected subgroup of the population with a less traditional view of marriage.

## 2. Methodology and data

Statistical analyses are based on multi-process models with simultaneous equations including hazard regression. These kinds of models, as proposed by Lillard (1993), are particularly useful, since causal effects can be disentangled by selection effects. The estimate of the parameters of the model via maximum likelihood can be obtained using aML, a suitable software for the estimation of advanced statistical models (Lillard and Panis, 2003)

Data for our analyses come from a multipurpose, nationally-representative survey called “*Famiglia e soggetti sociali* (FSS)”. Carried out at the end of 2003 by ISTAT, the Italian National Statistical Institute, this survey contains wide retrospective information on life course trajectories, including data on the history of marital unions, cohabitations (followed by a marriage or not) and marital disruption, for a large sample of the resident population. We use a sub-sample of the main survey selecting 7057 women born between 1940 and 1980 who have ever been married at the interview. Given that divorce has been introduced in Italy in 1970 and that it cannot be asked before 3 years of marriage (5 before 1987), we consider only first marriages celebrated after 1974 and lasted at least 3 years before the interview.

## 3. Provisional outcomes

The main results show that the apparent increased disruption risk among couples who choose the separate property system is not causal and can be explained as a selection process. Simultaneous equation models do not confirm the presence of a protective effect towards the risks of instability caused by the sharing of assets between the two spouses.

This result, which still requires further investigation and confirmation from the empirical analysis, would seem to be in contradiction with marital-specific capital theory developed by Becker et al. (1977) which argues that common ownership should reduce the divorce risk (Bruderl and Kalter 2001).

## References

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