Why should we study it?

How should we study it?

What can we learn?

What do we know?

State of Science:
The Judiciary

Bilal M. Siddiqi

Development Impact Evaluation (DIME), World Bank

August 28, 2018

Why should we study the judiciary?

- Resolving disputes, enabling the economy and society to function
  - Contract enforcement
  - Property rights
  - Conflict prevention

- Protecting the fundamental rights of persons
  - Vulnerable populations
  - Crime and violence

- Providing a check on executive power

Some evidence on economic effects...

Property rights

- Investment incentives and the "de Soto effect" in Ghana and Peru (Besley 1995; Field 2005)

- Agricultural productivity in India (Banerjee, Gertler, and Ghatak, 2002; Banerjee and Iyer 2005)

- Land values in China and the US (Chari, Liu, Wang, and Wang, 2017; Hornbeck 2010)

- Labor supply in Peru and Mexico (Field 2007; de Janvry, Emerick, Gonzalez-Navarro, and Sadoulet, 2015)

- Access to credit in Sri Lanka (Besley, Burchardi, and Ghatak, 2012)

- Conservation in Rwanda and the world (Ali, Deininger, and Goldstein 2011; Costello and Grainger, 2015)

Contract enforcement

- Increases credit availability and reduces selective default against vulnerable banks in Italy and India (Jappelli, Pagano, and Bianco, 2005; Schiantarelli, Stacchini, and Strahan, 2016; Chemin 2012)

- Increased entrepreneurship in Pakistan and Brazil (Chemin 2009; Lichand and Soares;

- Better firm performance and survival (Kondylis & Stein 2018; Amirapu 2018; Achino, Bamieh, Coviello, Persico 2018)

...and on protecting rights and reducing conflict and crime

Protecting the poor and vulnerable

- Women, landless, minorities more likely use the formal system to protect from biased customary system (Sandefur & Siddiqi, 2015)

- Legal aid protects tenants' rights in the USA— mixed evidence (Greiner and Pattanayak, 2012; Greiner, Pattanayak and Hennessy, 2013, Frankel, Seron and Ryzing, 2001)

- Biased judicial decisions can seriously harm the vulnerable (Anwar, Bayer and Hjalmarsson, 2012; Abrams, Bertrand, and Mullianathan, 2013; Alesina and Ferrara, 2014)

Reducing conflict and crime

- ADR improves dispute resolution surrounding property; and educational campaigns on ADR lower conflict (Blattman et.al, 2014)

- Reforms in juvenile detention centers can reduce the rate of readmission in the center, which increases education (Heller et.al, 2018)

- Higher judicial quality deters crimes in Europe (Mocan et.al, 2018)

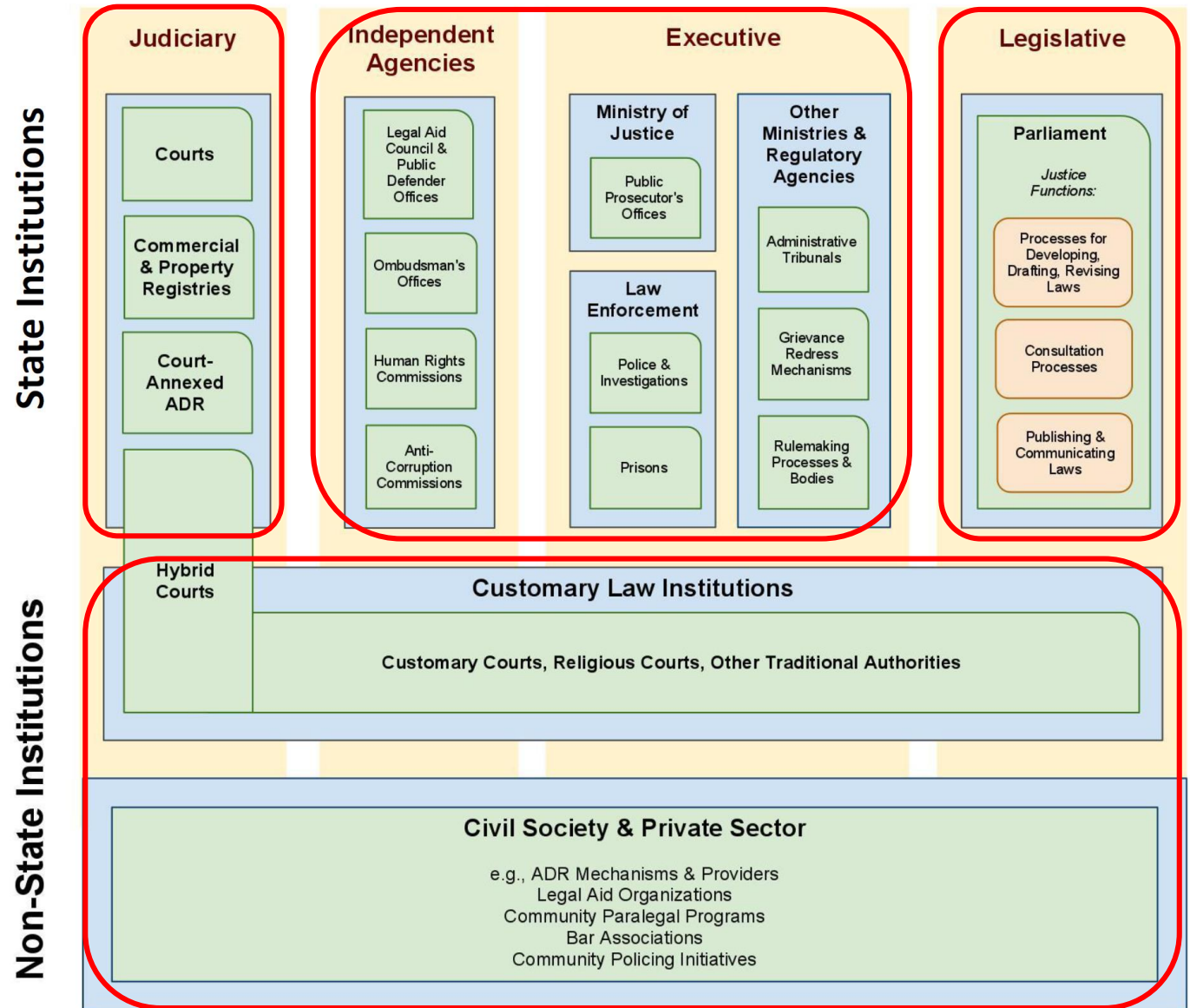# How should we study the judiciary?

I. Data

- Courts are 'data-rich' but 'information-poor'

- Use data systems where they exist, build data systems where they don't

II. Diagnostics

- Identify core issues in justice system functioning and performance

- Measure and document impacts of justice system reforms

III. Experimentation

- Iteratively test interventions to improve justice systems

- Build government skills and create policy feedback loops

PHILIPPINES

CROATIA

INDIA

SENEGAL

UNIFIED JUDICIAL PORTAL
OF THE REPUBLIC OF AZERBAIJAN

MAIN PAGE   COURTS   JUDGES   APPLY ONLINE   USEFUL INFORMATION   E-COURT

CASES
HEARINGS
JUDGEMENTS
ENTER TO THE CABINET

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NJDG

State:- All   GO

SUMMARY REPORT OF INDIA AS ON DATE :-- 22/08/2018

PARTICULARS	CIVIL CASES	CRIMINAL CASES	TOTAL CASES	PERCENTAGE
Cases Disposed In Last Month	353177	1123940	1477117	
Cases Filed In Last Month	320970	1113360	1434330	
Cases Disposed In Last Month(more than 10 years old)	14520	29354	43874	
Pre-Registration				
Cases-Under Objection	32309	95421	127730	
Cases- Under Rejection	1	0	1	
Cases-Pending Registration	247405	467607	714981	
Pending Cases				
Cases Pending over 10 years	599432	1703153	2302585	(8.29%)
Cases Pending (Between 5 to 10 years)	1245821	3228429	4474250	(16.11%)
Cases Pending (Between 2 to 5 years)	2554491	5451818	8006309	(28.83%)
Cases Pending less than 2 years	3955047	9030699	12985746	(46.76%)
Total Pending Cases	8354791	19414099	27768890	(100%)
Category Wise Pending Cases				
Senior Citizen	1061606	316110	1377716	(4.96%)
Filed By Women	1410834	1449694	2860527	(10.3%)
Monitoring Alert				

Total pending cases

over 10 years

Ministarstvo pravosuđa
suradnjom do uspjeha

S1.1.2 Statističko izvješće o broju neriješenih predmeta po godinama za datum zaprimanja po vrsti postupka

Datum uzimanja podataka iz eSpis baze: 12.7.2011 19:21:31
Broj neriješenih predmeta na kraju: 2011/06

OS Županijskog suda u Osijeku

Data: Surveys

Legal needs

- Dispute incidence, forum choice, experience
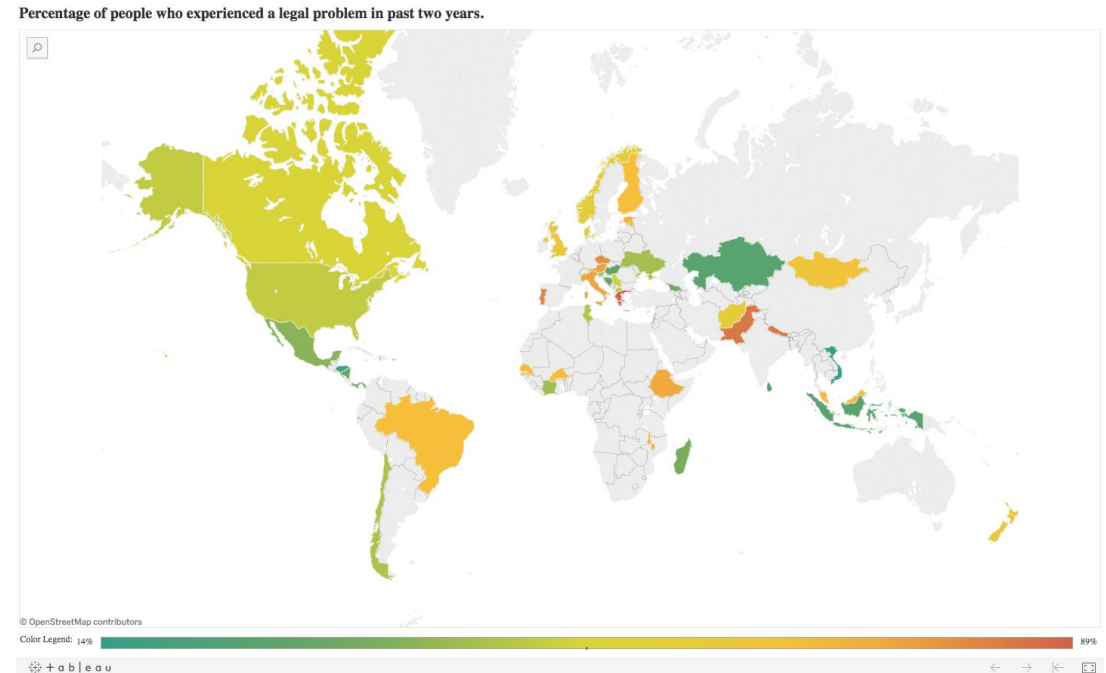- World Justice Project, HIIL, OSJI

Litigants

- Cost of justice (money, time, stress)
- Quality of the procedure (voice, respect, clarity)
- Quality of the result (fair distribution, damage restoration, resolution and explanation)

Judicial officers

- Norms, procedures
- Time use, behavior, biases

Courtroom observation

Percentage of people who experienced a legal problem in past two years.

Source: World Justice Project

Data: Measurement

"[T]he judge applies the norm, interprets it in light of the case at hand, and justifies her decision with recourse to jurisprudential precedents and legal doctrine." (Basabe-Serrano, 2016)

Efficiency

- Speed: Clearance rates, backlog reduction
- Value for money: Best use of available resources

Quality

- Predictability, consistency with law, lack of bias
- Judicial review: Appeals upheld, quality audits

Access

- Affordability: Fees, transaction costs,
- Reach: Distance, time

Integrity

- Independence from politics, ideology
- Corruption: Bribery, extortion

Impacts

- Economic gains: Firm growth, investment, increases in employment and productivity
- Citizen welfare: socioeconomic gains, income, employment, less conflict and violence
- Citizen perceptions: trust in judiciary, trust in government, political participation

Diagnostics and experiments:
Methods

Data analytics

- Used to diagnose problems with the judiciary
- Careful analysis of judicial data, other data sources

Quasi-experimental studies

- Used to understand the impact of judicial reforms (past and future)
- Event studies, difference-in-difference, regression analysis, etc.

Experiments

- Test possible interventions/reforms when the impact is unknown
- Can measure cost-effectiveness of multiple interventions/reforms

Diagnostics and experiments:
What can we learn?

Data ⇨ information ⇨ monitoring ⇨ response

Incentive systems

- What information is created? Who receives the information? What is the (expected) response?
- Electronic systems, dashboards, e-courts
- Rewards: financial, non-financial, status, career concerns
- Accountability: top-down, peer-based, bottom-up

Behavior and preferences

- Subjective biases: co-affiliation, politics
- Behavioral biases: salience, availability, present bias
- Managerial constraints

Dispute ⇨ reporting ⇨ adjudication ⇨ enforcement

Reporting

- Legal information and civic education programs
- Building and upgrading courts
- Legal aid, mobile courts, paralegal programs

Adjudication

- Changes in law
- Case management, court procedures
- Alternative dispute resolution, specialized courts, other litigation alternatives
- Hiring and training judicial officers
- Assignment of roles and responsibilities

Diagnostics: the "cost" of slow justice in Croatia (simple approach)

GDP (2013):
€ 47.8 billion

Value of case backlog (2013):
€ 24.8 billion
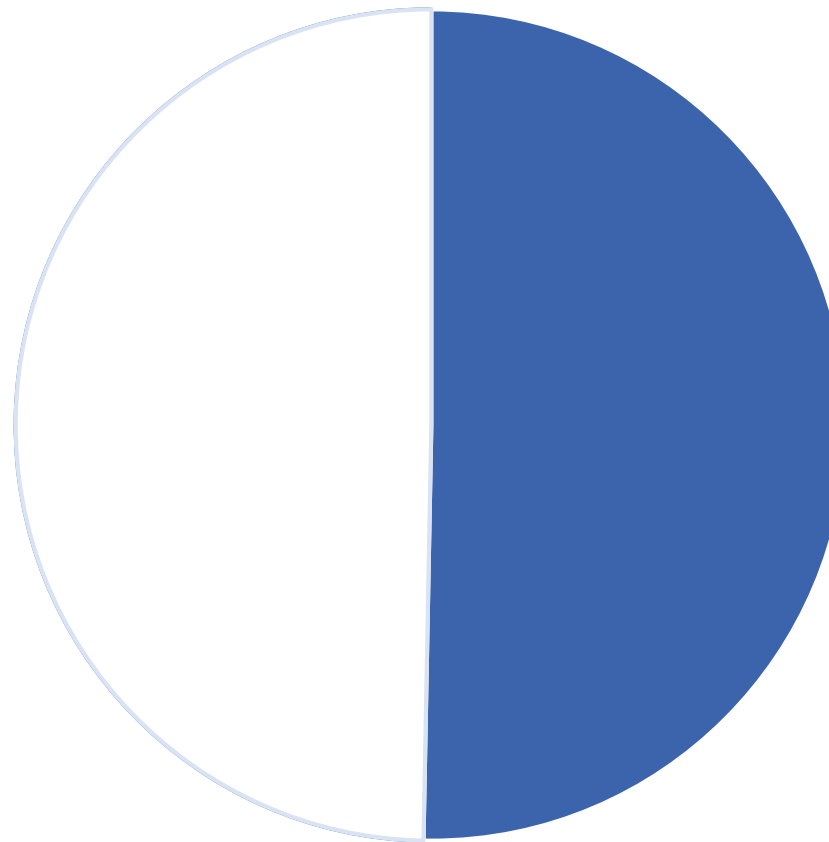
Diagnostics: the cost of slow justice in Croatia (careful approach)

Electronic case management system

- 1.5 million unique commercial cases
- 2010 to 2015
- 90,000 unique firms

Orbis database

- 345,000 total Croatian firms
- 73,000 firms matched with Croatia case data

Analysis of impacts:

Method:
Random assignment of cases to judges

Treatment:
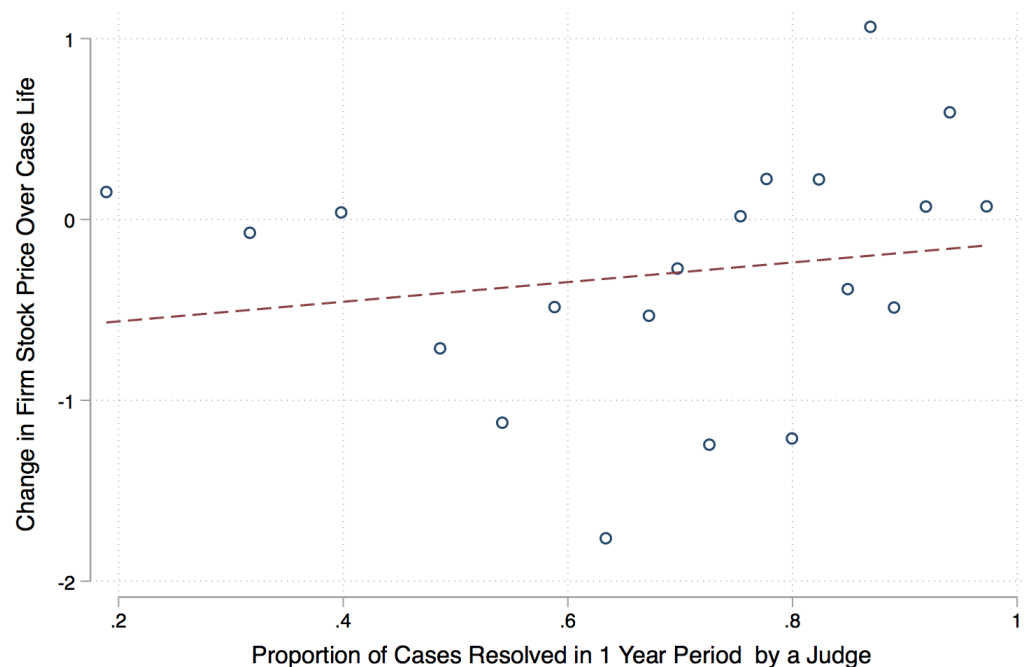Judge speed

Outcomes:
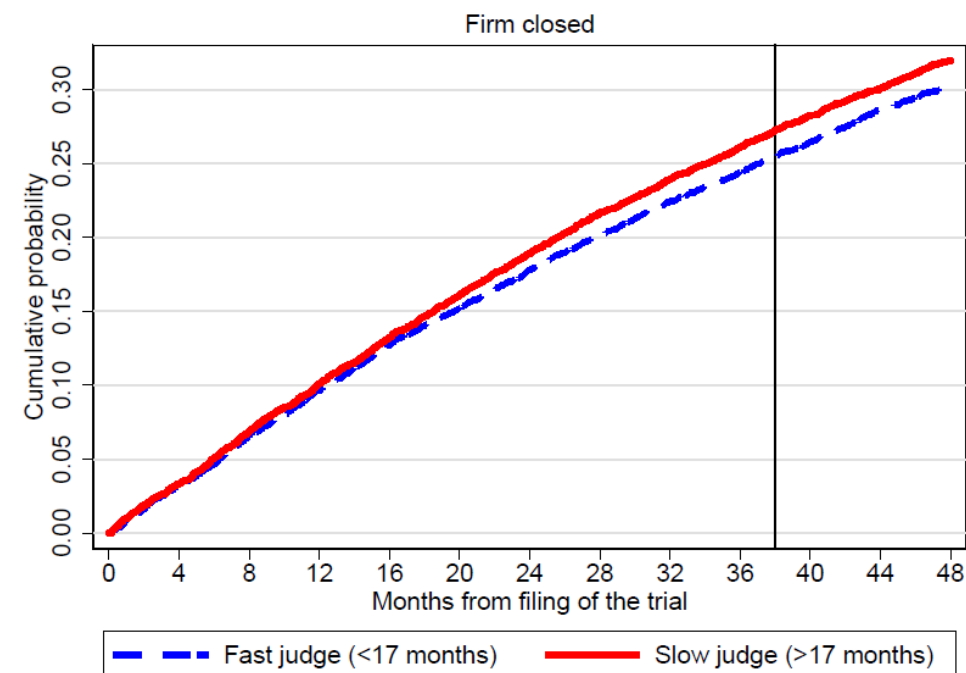Revenue
Assets
Stock valuation
Survival

Diagnostics: the cost of slow justice

Croatia: firm stock prices

Italy: firm death (Bamieh et. al. 2018)

Diagnostics: Who benefits from formal justice in Liberia? (Sandefur & Siddiqi, 2015)

% disputes taken to formal system by...

13%	5%	0%	10%
Men suing men	Men suing women	Women suing women	Women suing men
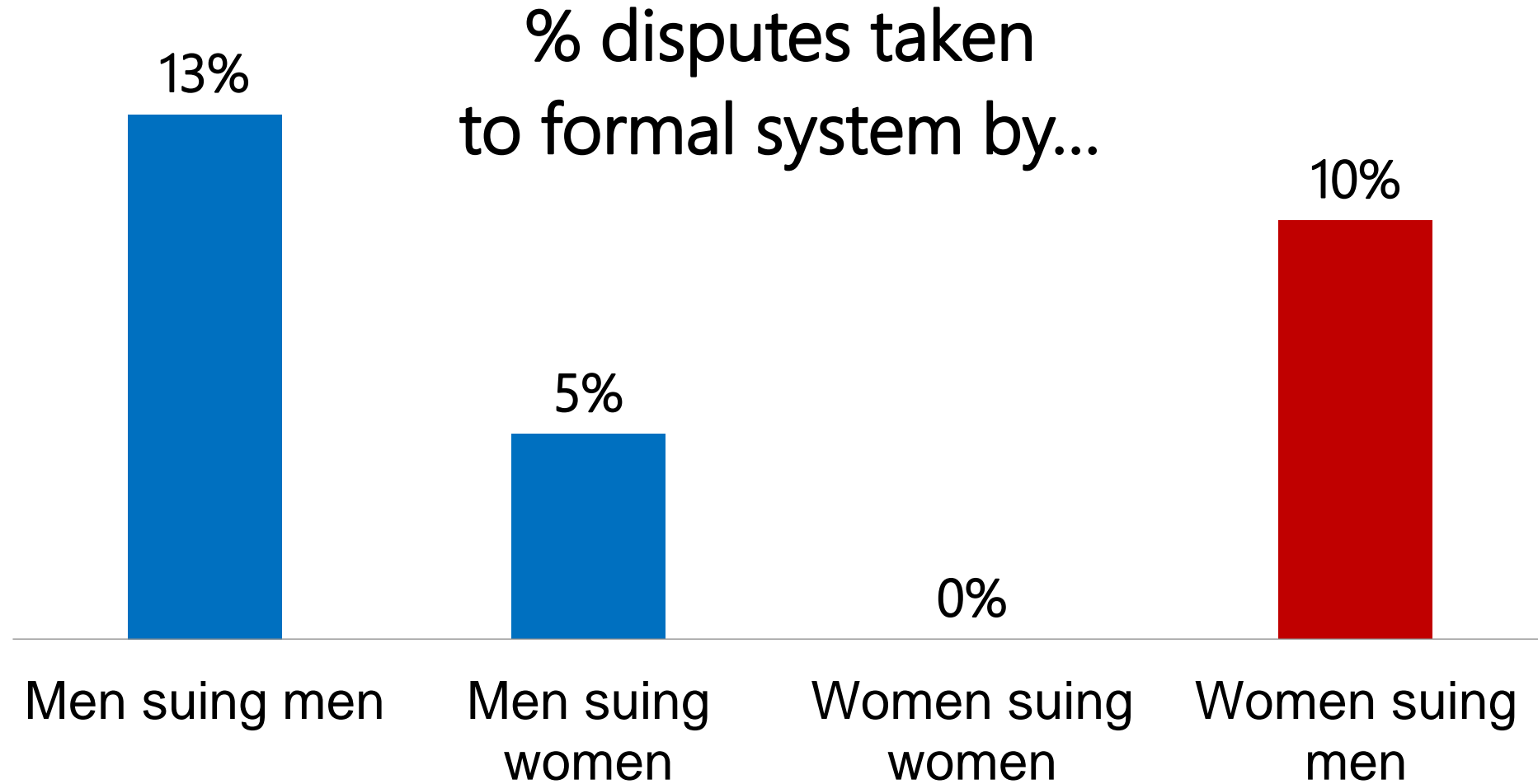
Diagnostics: judges are people too

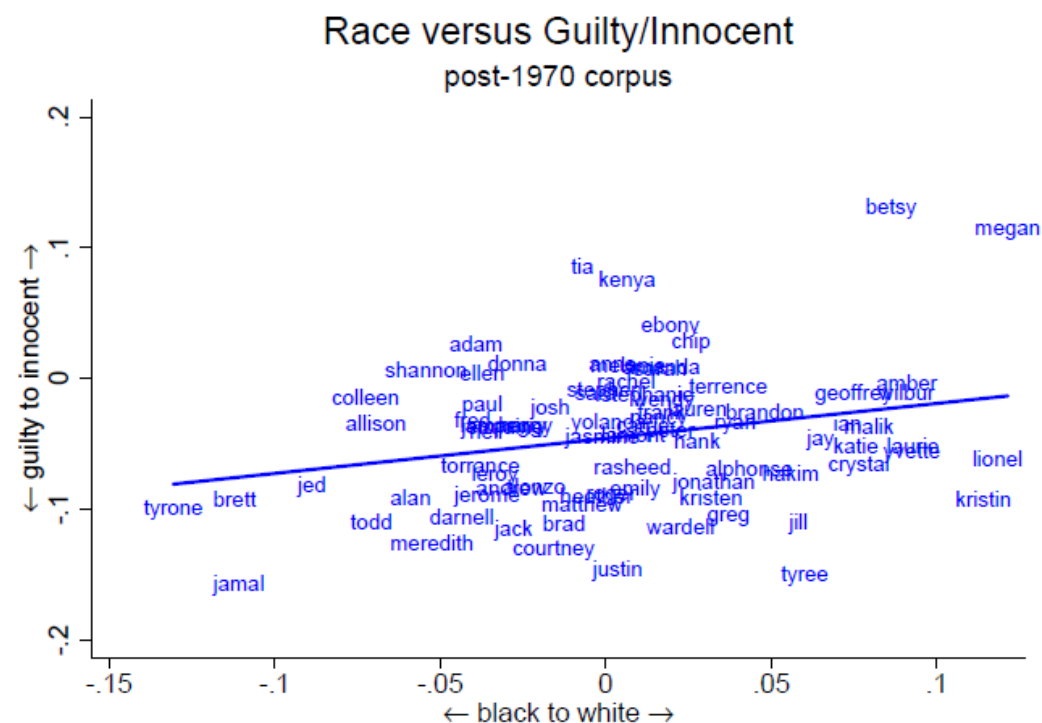**US: Gamblers fallacy** (Chen et al. 2016)   **Israel: Calorie counts** (Danziger et al. 2011)

Diagnostics: subjective biases (Ash et al. 2018)
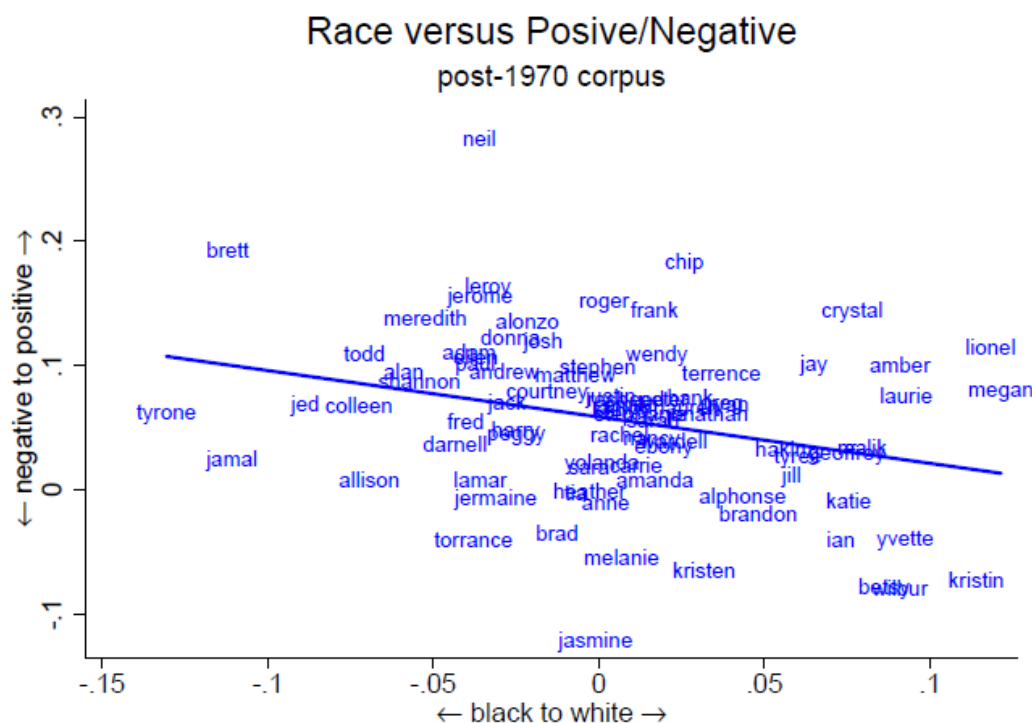
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Quasi-experiments: changing rules in Senegal
(Kondylis & Stein 2018)

Pre-trial duration (days)

43 days reduction
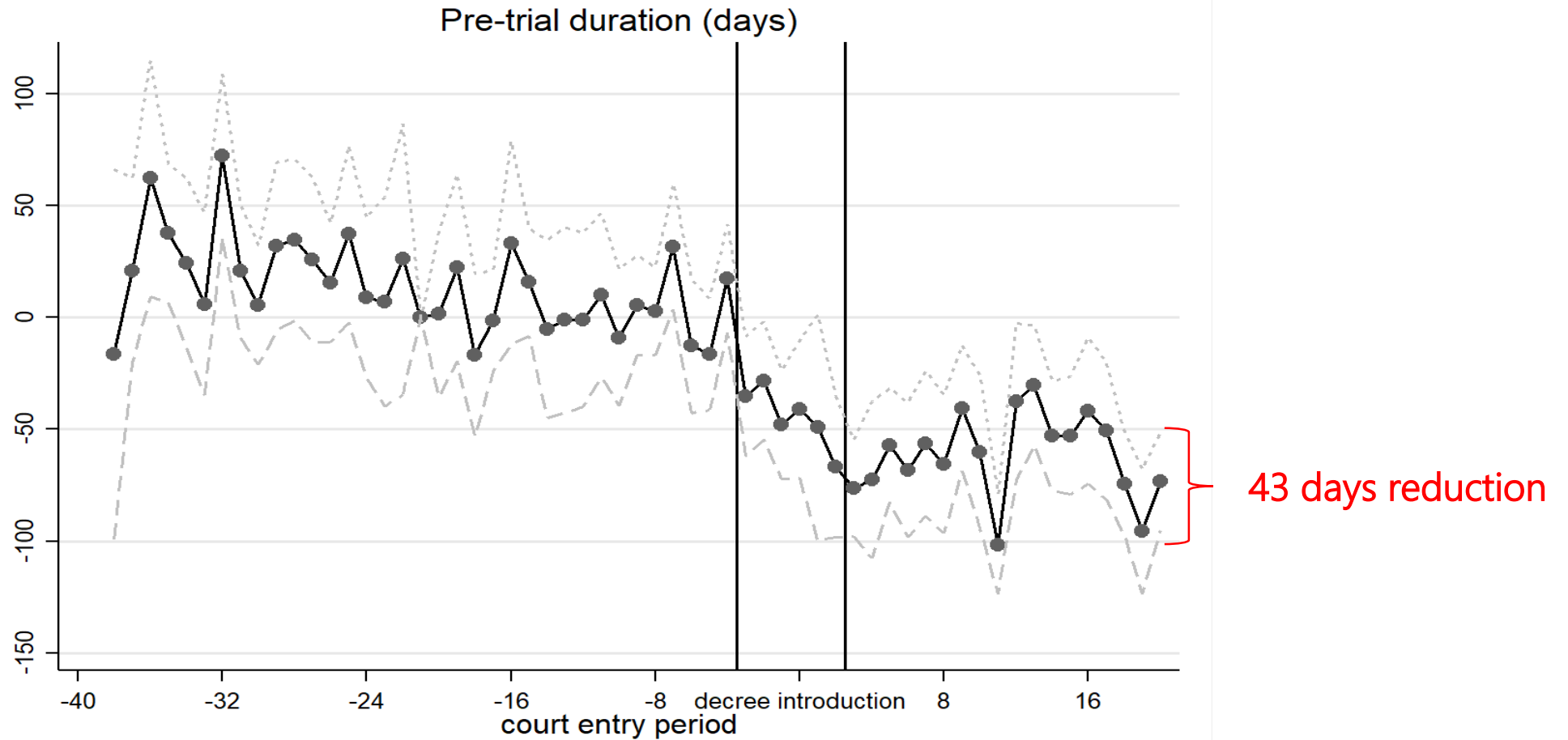
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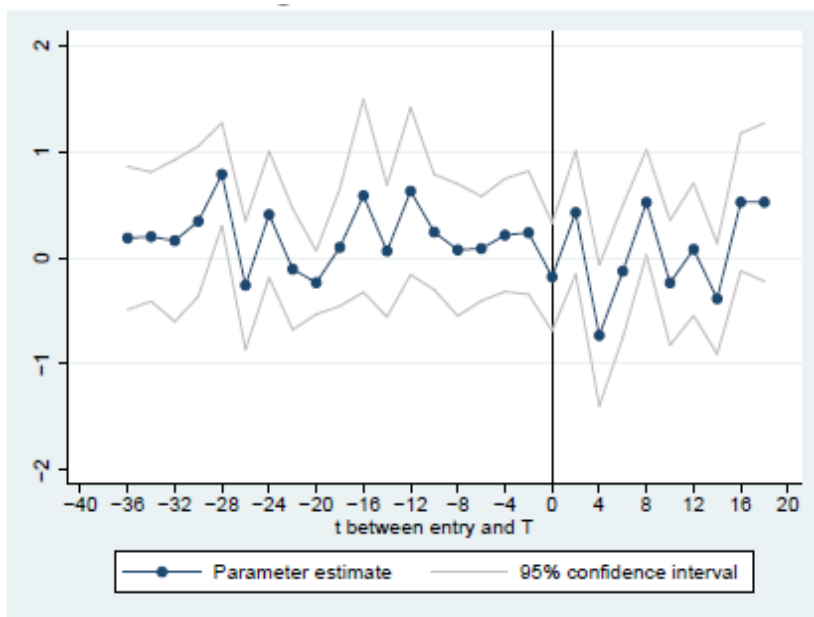
Number of articles cited
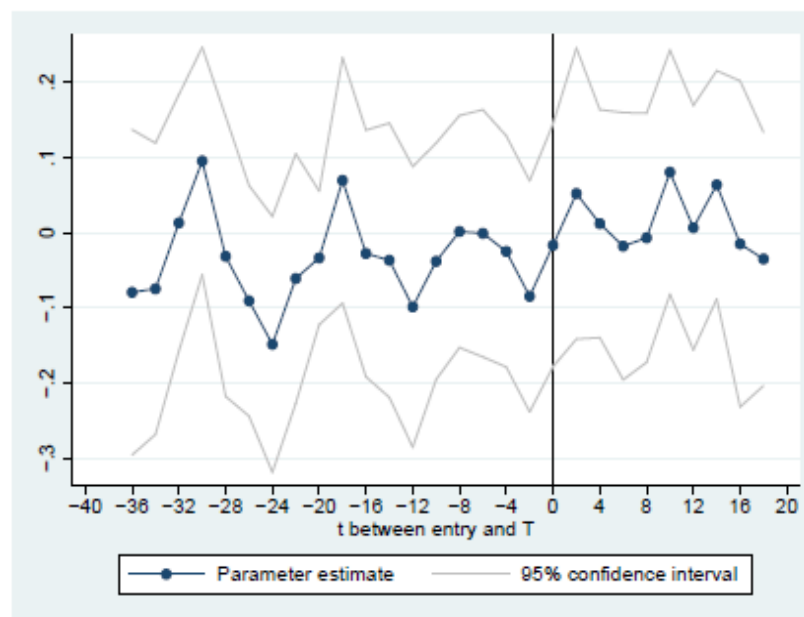
Length of decision text
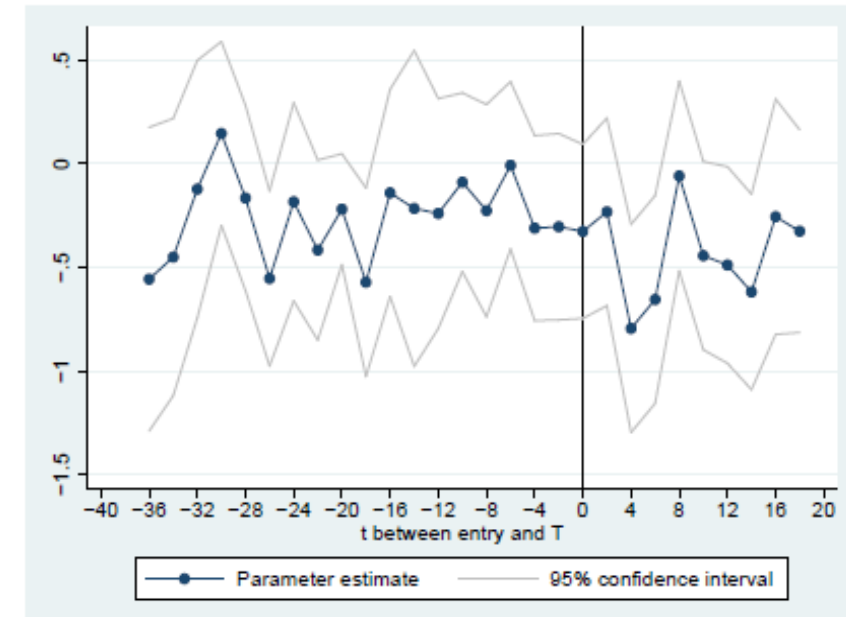
Decision to appeal

Quasi-experiments: Event studies can be done everywhere!

Croatia

- 5,000,000+ cases over 5 years
- 2,064 judges across 104 courts

Philippines

- Several million cases over 4 years
- 2,700 courts

India

- 13,000,000+ cases over 14 years
- Many, many courts
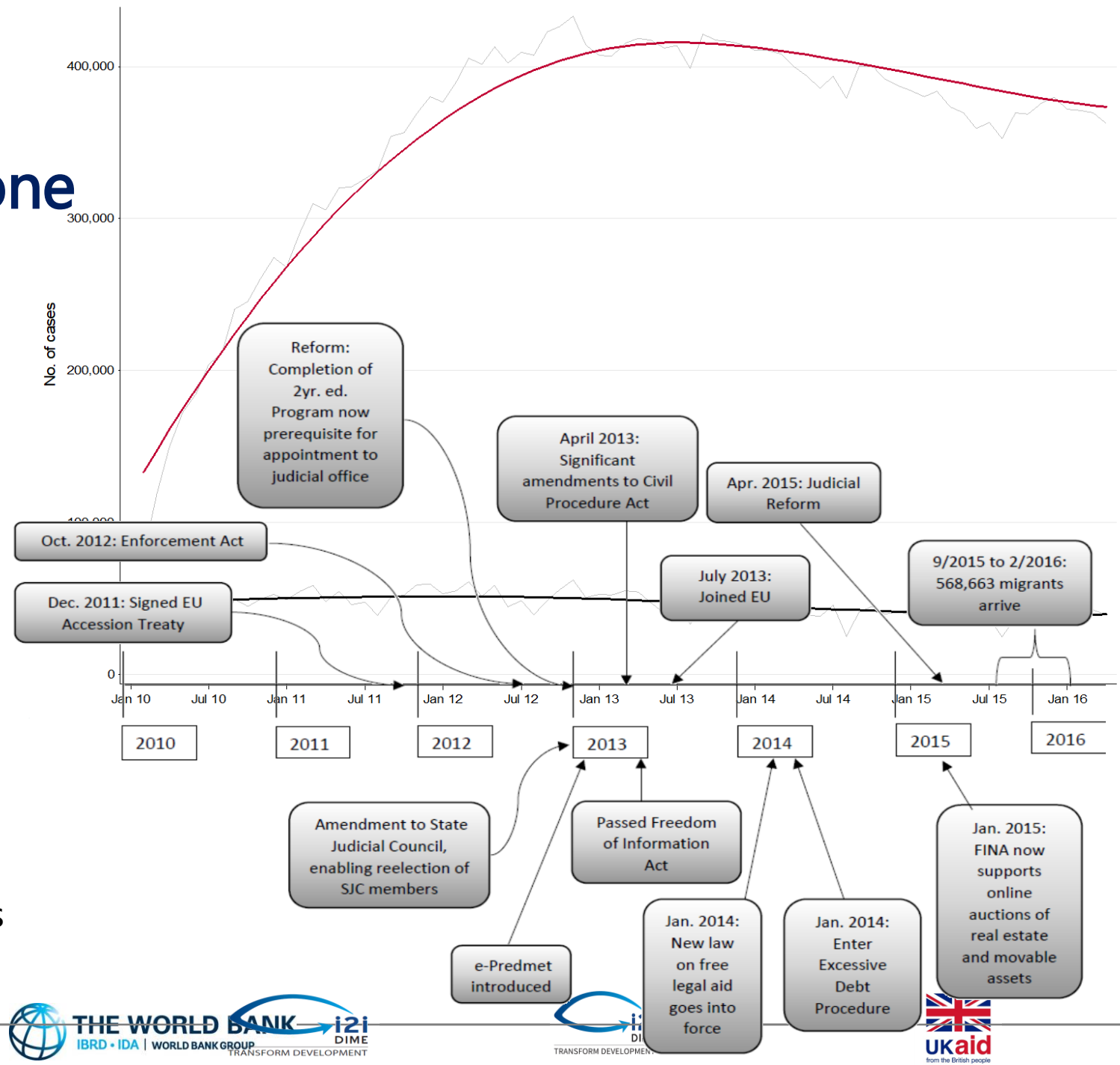
India: are judiciaries independent?

Philippines: Impacts of electronic systems, specialized courts, improved case management

eCourts

- Less paperwork
- Assisted case management
- Better information

Small Claims Procedures

- Cases fast-tracked
- Reduced congestion

Continuous Trial Guidelines

- New rules for case management
- Faster case resolution

Fair judgment
Satisfied
Better off
Other party relations
Community relations

-0.1 0 0.1 0.2 0.3 0.4

Legal knowledge
Did not bribe
Not harassed
Reported to formal
Reported to custom

-0.1 0 0.1 0.2 0.3

Food security (hhld)
Food security (child)
Land gained
Less GBV
Child support

-0.1 0 0.1 0.2 0.3 0.4
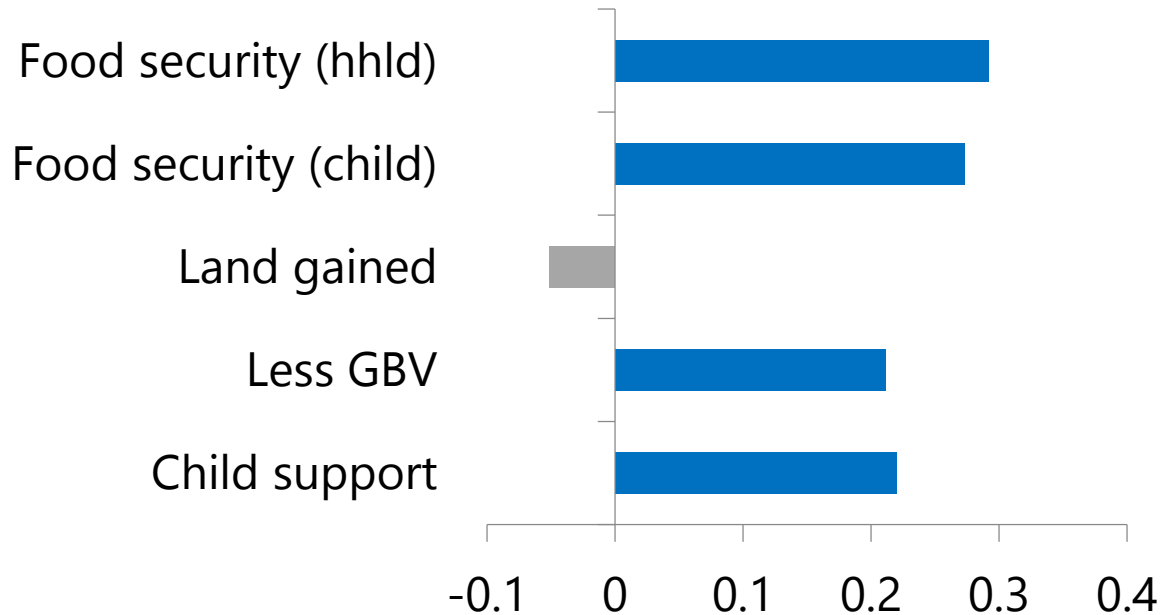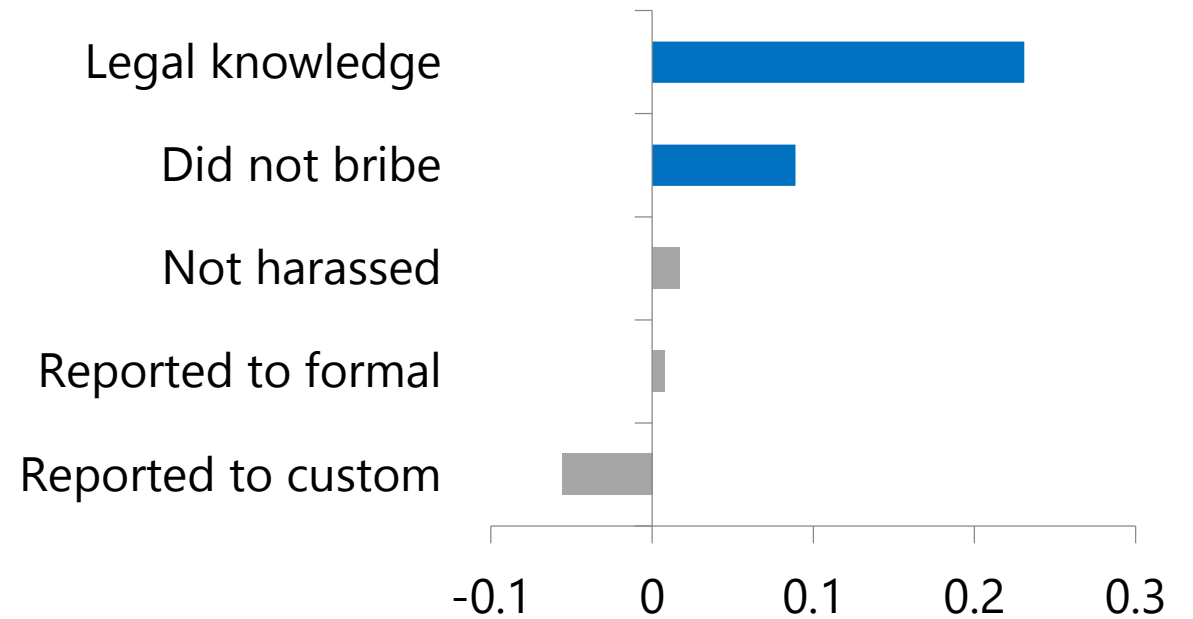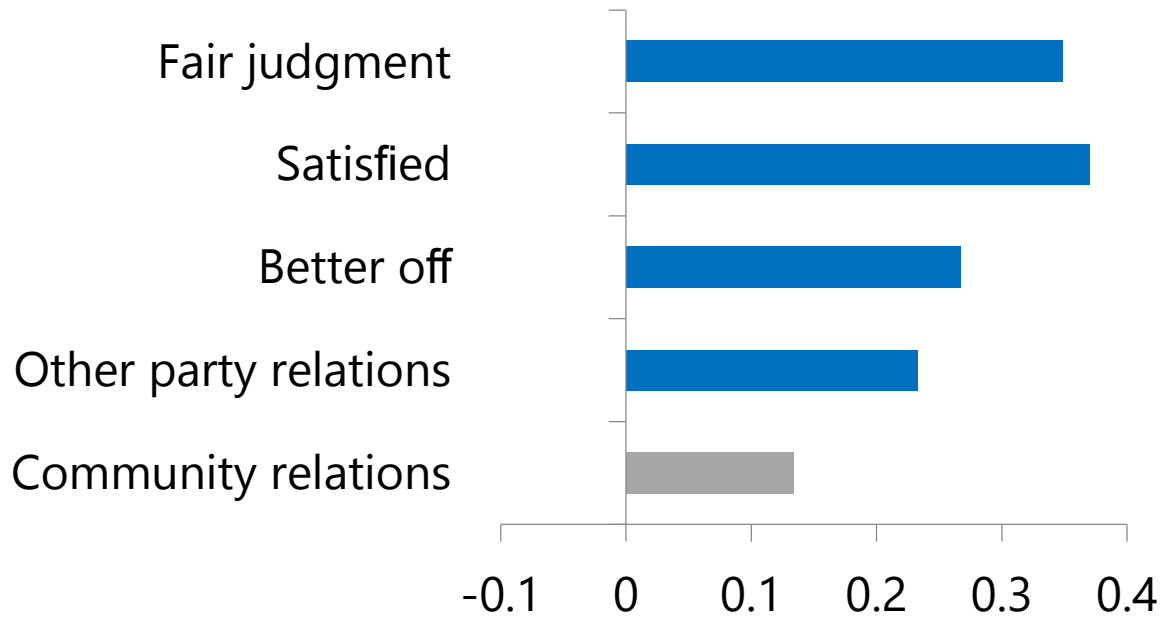
Experiments

Liberia: Does access to formal justice improve welfare?
(Sandefur & Siddiqi 2015)

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Experiments:

Information and conciliation in Mexico (Sadka, Seira, Woodruff 2018)

Control group:
Hearing as usual

Treatment 2:
Parties were required to talk to a conciliator

Conciliation

Calculator

Treatment 1:
A "calculator" that informs on expected outcomes of their case. Then optional access to a conciliator
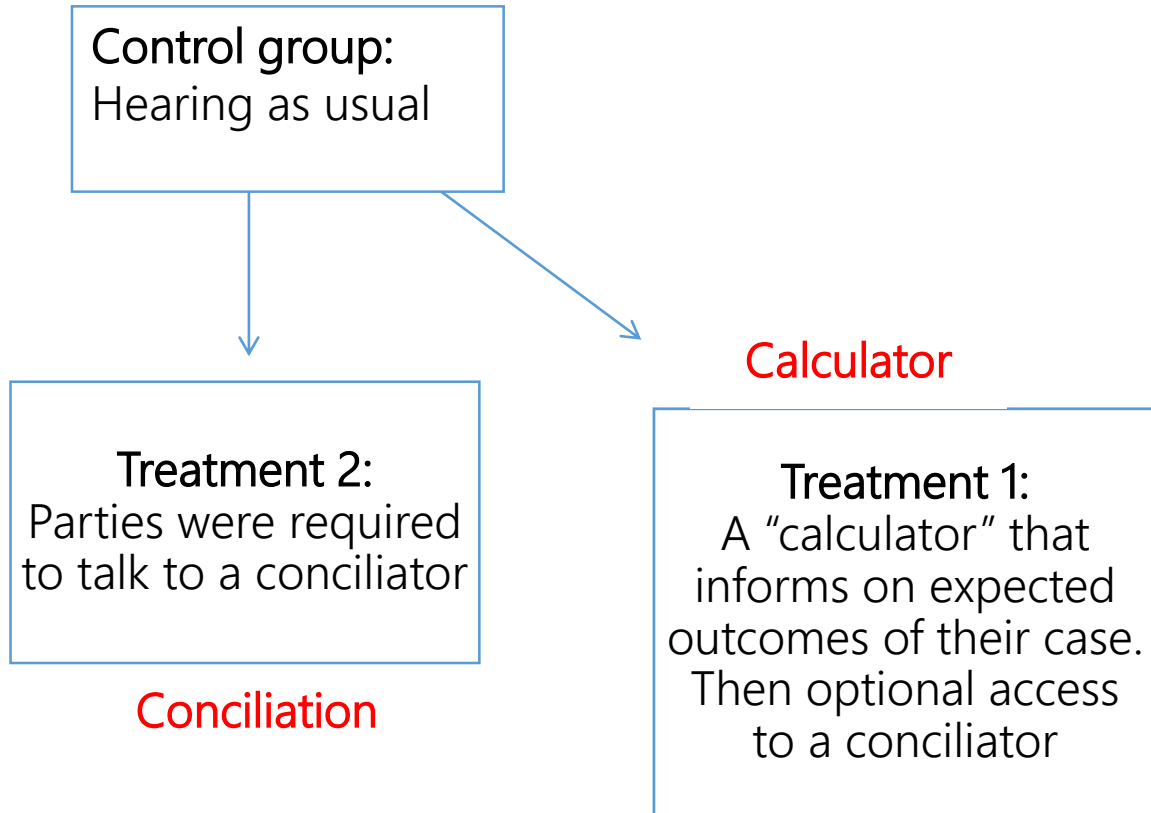
CÁLCULO DE COMPENSACIÓN TRABAJADOR
MARZO 2016

Datos del Trabajador
Género: Hombre   Salario diario: $350.00 mxn diarios   Antigüedad: 6.23 años

En caso de despido injustificado, la Ley Federal del Trabajo le otorga al trabajador las siguientes prestaciones mínimas:

1.- Indemnización Constitucional - consistente en 90 días de salario diario integrado: $31,500.00

2.- Prima de Antigüedad - 12 días por año laborado a razón del salario base con tope de 2 veces el salario mínimo: $9,687.39

3.- Aguinaldo - Parte proporcional de 15 días por año, a razón del salario base, del último año calendario laborado: $1,861.80

4.- Vacaciones - Parte proporcional de vacaciones del último periodo laborado, a razón del salario base: $1,060.50

SU COMPENSACIÓN DE LEY: $44,109.68

SETTLEMENT RATES

	CONTROL	CALCULATOR (TREATMENT 1)	CONCILIATION (TREATMENT 2)
Settlement rate	5.05%	9.75%	9.24%

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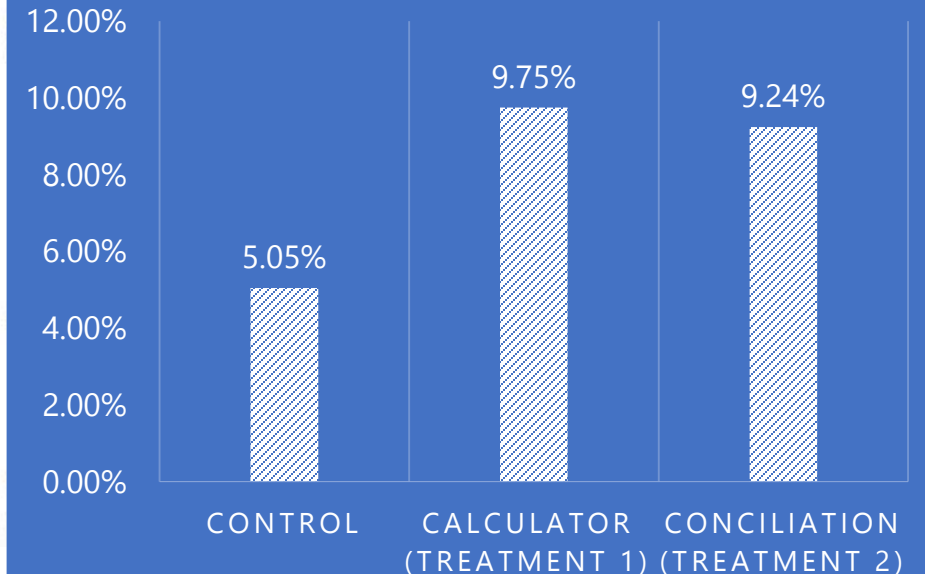
Experiments:
Improving judicial performance in Kenya

Control group:
PMD's standard Monthly Court Statistic Report

Randomized controlled trial on all 126 court stations

Information

Treatment 1: Simplified Feedback on Performance

Treatment 2:
Simplified Feedback on Performance + Sharing with Court User Committees
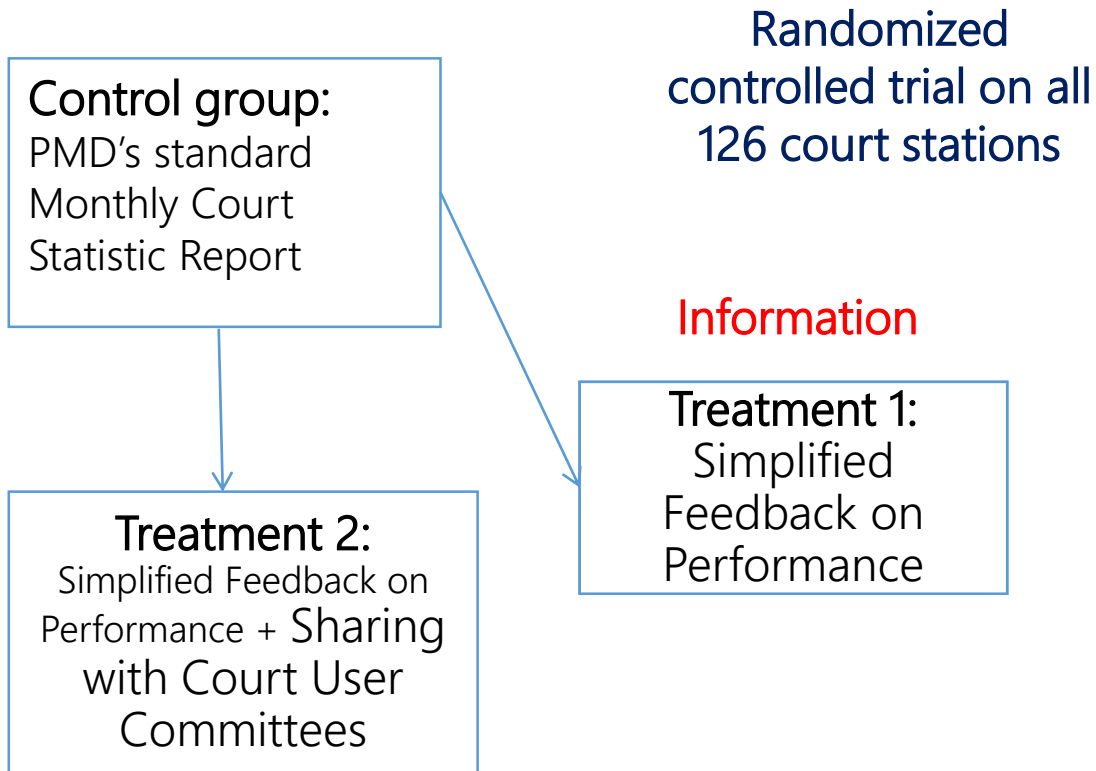
Bottom-up accountability

COURT MONTHLY FEEDBACK REPORT
Baricho Magistrate Court
NOVEMBER 2018

"By the end of my tenure in December 2020, we shall have no cases in court older than 3 years"

Honorable Justice David Maraga, Chief Justice

CRIMINAL CASES

CASE CLEARANCE RATE: LAST 3 MONTHS
(Cases resolved ÷ cases filed) × 100

PMMU target

53% 46% 56% 75%

September October November

TOP THREE REASONS FOR ADJOURNMENT

Prosecutor not present	30%
Typed proceedings not ready	20%
Both parties not present	13%

RECOMMENDED ACTION

Ensuring prosecutor is **always** present could increase your CCR from 56% to 75%

CIVIL CASES

CASE CLEARANCE RATE: LAST 3 MONTHS
(Cases resolved ÷ cases filed) × 100

PMMU target

35% 38% 51% 75%

September October November

TOP THREE REASONS FOR ADJOURNMENT

Reason not recorded	21%
Both parties not present	12%
Ruling not ready	9%

RECOMMENDED ACTION

Ensuring reason is **always** recorded could increase your CCR from 51% to 75%

What do we know about...
more resources?

Hypothesis	Findings
Problem: lack of funding Response? More resources, i.e. more training, better computer systems, and more courts and judges	<u>More resources alone will not solve the problem</u> • Resources effective if they introduce specific technologies/reforms (Botero et.al, 2003) • e.g. computerized systems contributes can reduce delays (Dimitrova-Grajzl, et al. 2012; Yeung and Azevedo, 2011)

What do we know about... fewer litigants?

Hypothesis

Problem: excessive and indiscriminate access to justice leads to frivolous litigation and ties up courts

Suggested Solution

Increase the costs/raise the bar for going to court

Findings

Reducing access is a terrible idea

- Judges have weak incentives and high slack (Buscaglia and Ulen, 1997)

- Efficiency is not affected by wider access to lower-level courts, e.g. through simplified procedures and restricting lawyers' involvement (Botero et.al, 2003)

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What do we know about... better lawyers?

Hypothesis

Inefficient judges are not the main problem; lawyers often pursue delay and reduce efficiency

Suggested Solution

Increase competition and quality of lawyers

Findings

Better legal services may enhance efficiency (Mitsopoulos and Pelagidis, 2009)

A) Deregulate legal services

B) Increase requirements for practicing law

C) Bar associations to certify quality

More competition and accountability

Greater efficiency

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What do we know about...
better rules?

Hypothesis

Problem: rigid procedures and misaligned incentives

Suggested Solution

Simpler procedures, streamlined processes, specialized institutions, ADR

Findings

Simpler Procedures decrease time and costs, and increase access to justice (Mitsopoulos et.al, 2009)

Streamlined Processes: Better case management enhances judicial efficiency (Coviello et.al, 2015)

Specialized Courts

- Streamlined debt collection, labor tribunals or commercial courts improve efficiency (Blankenburg, 1999)

- Small claim courts reduces time and expands access (Bermudes, 1999)

Alternative Dispute Resolution (ADR) increases competition and choice, thus enhancing efficiency (Sadka et.al, 2017; Hendrix, 2000)

Some key areas for reform – maybe?

1. Better rules and institutions seem to be the most effective in improving efficiency
   a. **Strengthening accountability** increases efficiency
   b. **Judicial databases** make it easier to track cases, and hard to manipulate or lose them
   c. **Individual calendars link case management** to a particular judge increases accountability
   d. **Statistics on judicial performance** reduce delay, even without enforcement mechanisms – most effective when information is generated for each judge (Dakolias and Said 1999; Hendrix 2000)

2. Alternatives to the standard court system improves competition and choice
   a. **ADR and specialized courts** provides alternative resolutions and save time for the courts
   b. **Simplifying procedures & deregulation of legal services** increases efficiency
   c. **Simple rules and procedures** for developing countries, which have excessive formality, increases efficiency (e.g. enhance community-based mechanisms for resolving conflicts)

Other considerations...

Limits of Measurement

- Accuracy is hard to measure (main tool: satisfaction surveys)
- Studies do not tell us about cases never filed (for procedural problems, distrust or ignorance)

Partial vs. General Equilibrium Effects

- Reforms that work may increase congestion temporarily

Politics of Judicial Reform

- Politics of reform are difficult: forces that benefit from the status quo will attempt to block reforms
- Feasibility also depends on pressure from civil society (media, opposition, businesses) & foreign governments

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