INSTITUTO DE ECONOMÍA

DOCUMENTO de TRABAJO

534
2019

The (Other) Effects of Restricting Access to Higher Courts: The Case of Wrongful Terminations in Labor Contracts in Chile

Álvaro Bustos, Pablo Bravo-Hurtado y Antonio Aninat.

www.economia.puc.cl · ISSN (edición impresa) 0716-7334 · ISSN (edición electrónica) 0717-7593

The (Other) Effects of Restricting Access to Higher Courts: The Case of Wrongful Terminations in Labor Contracts in Chile

Álvaro Bustos, Pontificia Universidad Católica de Chile[1]

Pablo Bravo-Hurtado, Pontificia Universidad Católica de Valparaíso de Chile

Antonio Aninat, Pontificia Universidad Católica de Chile

December 2019

Abstract

It is commonly argued that the case overload faced by higher courts (especially in civil law) can be reduced by restricting access to them. In this paper we prove that such restriction can also significantly reduce judicial uniformity among lower courts and alter litigation decisions as well as outcomes. To test our predictions we build a database of wrongful termination lawsuits that took place before and after the implementation of a reform to the Chilean labor justice system. This reform exogenously and drastically reduced access to higher courts. As we predict, this reduction increased the probability of a first-instance pro-plaintiff decision (by 36%); increased the percentage recovered by a plaintiff in court (by 27%) and reduced the probability of a settlement (by 16%). The Priest & Klein 50% hypothesis suggests that prior to the reform plaintiffs recovered too little. Policy implications follow.

JEL: K10, K31, K41

Key Words: higher courts, access to appeal, judicial rationality, labor procedure, judicial uniformity, Chile, Priest and Klein.

---

[1] Alvaro.bustos@uc.cl (corresponding author); pablo.bravo@pucv.cl; antonio.aninat@uc.cl. We thank Scott Baker, Lewis Kornhauser, Diego Pardow, Agustin Barroilhet, Joyce Sadka, Raicho Bojilov, Francisco Tapia, Carmen Dominguez, Catherine Burdick and attendants to ALEA-2019, LAWLE-Santiago for their useful comments. We also thank the excellent research assistance at collecting the data provided by María José Van Bebber, Alejandra Saragoni, Miguel Droguett, Patricia Nuñez, Elisa Perez, Makarena Sulzer, Romina Miranda, Fernando Valdés, Maria Jose Rojas, Gabriela Gonzalez, Damian Azocar, Patricio Jimenez. We also mention the support provided by Professors Matias Zegers, Crispulo Marmolejo and Adolfo Silva, Labor Judges Álvaro Flores, Carolina Luengo and Labor Lawyer Luis Parada. All the opinions are the authors alone.

1. Introduction

Many legal experts (Jolowicz [2000], Silvestri [2001], Taruffo [2001], among others) suggest that restricting access to higher courts is an important solution to one of the most relevant challenges faced by higher courts (both appeal and supreme) worldwide: the overload of petitions to revise lower courts decisions.[2] Besides reducing the overall duration of proceedings, the most important expected benefit of restricting access is to improve the quality of the courts' decisions (O'Connor [1984], Jolowicz [1998], Mak [2013]). While we do not dispute the possibility of these expected benefits, we note that the literature has not studied other relevant effects associated with a restriction in access to higher courts.[3] To address this void we ask: can a restriction in access significantly reduce uniformity in the application of the law by lower courts? Can a reduction in access significantly change the decisions made by and the outcomes obtained by litigating parties? In this paper we find positive answers for these two questions, both at the theoretical and empirical level.

A central objective of a judicial system is to assure uniformity in the application of the law.[4] Citizens should expect that all judges, when confronting identical facts and demands

[2] For instance, in 2014 the French court of last resort (*Cour de cassation*) received 21,295 cassation petitions (Ferrand [2017]). In the same year, the Italian counterpart (*Corti di Cassazione*) received around 30,000 cassation petitions (Silvestri [2017]). In common law a similar overload problem is found at the intermediate appellate courts level. In the US, for example, see Richman and Reynolds (2013).

[3] An exception is Taruffo (2011). He argues that limiting access to the supreme courts acts as a filter that selects the most important cases and ergo may increase the precedential force of the courts' decisions.

[4] Justice Sandra O'Connor (1984) said "One of the Supreme Court most important functions is to oversee the system wide elaboration of federal law, with an eye toward creating and preserving Uniformity of interpretation…" And the Italian Professor Piero Calamandrei (1920) said "The Court of Cassation, locating itself at the center of the judicial order so it can resolve with its jurisprudence the disagreements at the inferior case law, tries to reach the goal of case law unification…" (authors' translation).

among different sets of disputing parties, should rule with identical (or very similar) sentences. Both common law and civil law legal systems understand that a paramount role of higher courts is to assure that first-instance judges implement the law with a uniformity of criteria.[5] Such uniformity cannot be taken as a given, however, because the interests of first-instance judges and higher courts are not necessarily aligned for a myriad of reasons.[6] Because of this, the incentives of lower courts to favor their personal views and not the status-quo when deciding legal disputes could be significantly affected by an exogenous change in the probability that their decisions will be revised during an appeal process.

Furthermore, if known differences exist between first-level and higher courts' preferences, a restriction in access to the later will change parties' expectations of court decisions, therefore changing settlement and appeal decisions as well as plaintiffs' compensations.

In order to formalize the previous intuitions, we develop a model in which a continuum of plaintiffs decide whether to settle with the corresponding defendant or move to a trial. In the case of a trial a continuum of first-level courts is called upon to resolve the dispute either by enforcing the status-quo rule or their preferred rule. Given a probability of high court

[5] In the context of *Stare Decisis*, a Common Law Supreme Court has also a central role at the generation, correction and unification of case law.

[6] Cohen (1992) finds some evidence that promotion may affect first-instance judges' decisions. Posner (1993) argues that income, leisure, reputation (Miceli and Cosgel (1994) formalize this point) and voting outcomes are main drivers of judges' decisions. Haire et al (2003) write "Yet the Court's control is far from absolute: the decentralized structure of the federal judicial system, in combination with the Court's limited institutional capacity, provide lower court judges with considerable discretion to fashion case outcomes in accordance with their own legal and policy preferences". Drahozal (1998) writes "trial courts make mistakes and appellate courts… correct those mistakes". Finally, the attitudinal model, Segal and Spaeth (2008), predicts strong vote differences among judges with different ideological preferences or attitudes.

revision of appealed cases (access), plaintiffs decide whether to appeal an adverse first-level decision to a high court. Because the preferences of the first-level court (favoring plaintiffs) and the higher court (favoring defendants) are opposed, an appeal always end in a reversal that generates the first-level judge disutility.

Our model generates two main results. First, it shows that a reduction in access to the higher court reduces the fraction of lower-courts that implement the status-quo rule. Because a reduction in access reduces the incentives of defeated defendants to appeal for a revision to the higher court, more lower-courts can decide cases according to their own preferences and not according to the status-quo. Second, the reduction in access affects the parties' decisions to reach an out of court agreement. More specifically, defendants who expect to appeal an adverse decision will have to make more generous settlement offers to convince plaintiffs, both because there are more first-level decisions favoring plaintiffs and because there are fewer cases that the high court will reverse in favor of defendants. It follows that defendants, make the more expensive high offer less frequently and because of this, both the probability to settle and settlement recoveries decrease.

We empirically test the predictions of our model by using data from a reform to the Chilean labor judicial system that was implemented between March 2008 and October 2009. The reform considerably reduced access to the Chilean Appeal and Supreme Courts.[7] While the parties' access to appeal courts fell from 97% before the reform to 61%, access to the

[7] The reform also introduced other important changes that we consider in our analysis. That said, the restriction in access was so drastic that specialists say that after the reform a dispute "ends" with a first-level decision. That was not the case before the reform.

Supreme Court fell from 29% to 18%.[8] The reason for these declines was the restriction of the scope of review of the Court of Appeals and the introduction of 'access filters' to the Supreme Court. Before the reform, the Court of Appeals reviewed not only the application of the law, but also the facts and the evidence of the case. The labor reform excluded the revision of questions of fact and evidence from the attributes of the Courts of Appeal.[9] As for the Supreme Court, before the reform, 'cassation' granted litigants wide access to a revision when they feared any misapplication of legislation. The reform introduced a 'filtering criteria' according to which only disputes that involved a contradiction in case-law would be revised by the Supreme Court.

In order to test the impact of the restriction in access to judicial uniformity as well as to litigation decisions and outcomes, we collected a sample of 5,712 lawsuits on wrongful terminations of labor contracts (l.w.t.) initiated by former employees (plaintiffs) against former employers (defendants) between 2006 and 2011. The disputes took place in courts of three Chilean cities that implemented the reform at different moments in time.[10] Testing our theoretical predictions was largely possible because Chilean first-level labor courts have

[8] By 'access to a higher court' we mean that the case reaches a point in the appeal process in which the higher court substantially revises the case on its merits. Access to appeal and supreme courts are the fraction of labor cases decided over labor cases appealed, before and after the reform, between 2006 and 2011.

[9] With that, the Appeal Court revision attributes were limited to the application of the law and correction of procedural violations. As stated by a decision of an Appeal Court in 2008 "*The petition of nullity introduced by the Labor Code has the objective, considering the invoked cause, to assure the respect of the basic rights or achieve law abiding sentences, as it is mentioned in articles 477 and 478 of the mentioned Code, petition which in the structure of the new labor procedure has the character of extraordinary, which is made evident because of the exceptionality of the assumptions that conform each of the causes required to invoke it, situation which equally determines the restricted realm of the revision by higher courts, and as counterpart, imposes the affected party the obligation to detail rigorously the foundations behind the request*."

[10] The reform was implemented in Valparaíso in 11/2008, in Concepción in 05/2009 and in Santiago in 09/2009.

stronger 'revealed preferences' in favor of employees than Chilean higher courts. Consistent with an employee protection principle within the Chilean labor law, first-instance judges (hereafter 'judges') tend to decide in favor of employees.[11] In our data, judges decided in favor of employees in 84% of all cases.[12] This fact contrasts the findings of Díaz et al (2014), who concluded that 95% of the 169 labor sentences dictated by the Supreme Court between 2008 and 2013 favored the employer. We can conclude that judges, who care about revisions and potential reversals, should have decided more frequently in favor of employees or awarded more generous compensations after the reform was implemented.[13]

We find that the probability with which plaintiffs win a l.w.t. in the first instance, on average, increased by 36% with the access restriction. In addition, the percentage recovered by an average plaintiff went up by 27% and her expected total compensations (indemnities) increased by approximately US$ 2,000.[14]

Data shows that, on average, employers would have won 23% of the suits prior to the reform, but only 16% following the reform. This constitutes a 31% reduction in the ex-ante overall probability of winning.[15]

---

[11] Asymmetries of information, wealth and power typically leave the employee as the weakest part in a dispute with her employer. The Chilean law takes an active role in leveling these differences by encouraging judges to choose the most employee-favorable norm or interpretation of a norm (if many are available).

[12] Rational preferences, behavioral considerations, evidence interpretation, *sana critica* (fair criticism), or judicial independence are all potential explanations for this bias. For a general discussion on standards of proof see Taruffo (2007) and Fenoll (2012), for one tailored to labor law see Palomo and Matamala (2012).

[13] Two plausible explanations for the high court preferences: First, Chilean justices usually are not experts in labor law and because of that they may give less value to the employee protection principle. Second, Chilean justices may be former private lawyers which might have helped them develop pro-employer preferences.

[14] After we correct by attributes of the employee, the employer and the dispute itself.

[15] According to our data, the probability of a pro-employer decision for a first-instance, appeal and Supreme Court, before and after the reform were (0.19, 0.15); (0.29, 0.23) and (0.95, 0.95) respectively. In addition, the

The common law literature has studied judicial uniformity at different levels. Some papers question whether uniformity is sensitive to external factors such as courts, judges or parties at dispute. For example, Cotropia (2009) and Petherbridge (2009) study whether the creation of the U.S. Court of Appeal for the Federal Circuit (USCAFC) as a single Court to deal with Patent Law appeals would have generated excessive uniformity in jurisprudence.[16] Other papers question whether uniformity is sensitive to internal factors such as political ideologies. For example, Niblett (2013) analyzes 174 decisions made by the California Court of Appeal and finds that lack of uniformity can be linked to political inclination.

A number of studies address uniformity in jurisprudence in civil law legal systems. For example, Diaz *et al* (2014) takes up the case of Chilean labor law and Fon and Parisi (2006) examine the evolution of jurisprudence for civil law systems. Martin-Roman *et al* (2015) find evidence of a peer effect on decisions in labor disputes in Spain and Kaplan *et al* (2008) study the plaintiffs' recoveries in labor disputes in Mexican courts. In these papers, however, there is no reform or restriction in access nor a discussion of how these elements may impact the implementation of the law. To our knowledge, no literature directly addresses uniformity in the implementation of the law by first-level civil law courts.[17]

---

percentages of appeals before and after the reform were (0.30, 0.13) and (0.18, 0.11) respectively. And the percentages of revisions before and after the reform were (0.96, 0.61) and (0.29, 0.18) respectively.

[16] Within the classic argumentation of Landes and Posner (1976) or Priest (1977), the evolutionary convergence to an efficient Common Law rests in the process of allowing different and competing legal doctrines/theories to be contrasted and compared so that with time the best one will be selected. In this line, excessive uniformity will not allow the healthy emergence of alternative principles.

[17] The only exception, known to us, is work in progress by Kaplan and Sadka (2015) and Caplin *et al* (2016) who study judges' incentives within Mexican legal courts.

In our study we not only find that a reduction in access significantly affects uniformity of first-level judicial decisions but we also find that this significantly impacts the offers made by defendants and the probabilities that the parties settle a case. While the amounts offered and accepted by an employer fell in 15%, the percentage of settlements decreased by 16% with the restriction. These results are aligned with our theoretical predictions. In addition, we find that the impact of the restriction in access and the reform as a whole sometimes had opposing effects. For example, our empirical estimations show that the ratio of settlements increased in the years after the reform largely because a positive 1-year trend reverted the negative impact of access restriction. The 1-year effect may capture adjustments made by parties to adjust to any post-reform reality beyond the restricted access.[18]

An important amount of literature develops structural models and test the accuracy of their predictions on settlements, amounts recovered and appeals (e.g., Sieg [2000]; Waldfogel [1995]; Watanabe [2005]; Prescott, Spier and Yoon [2014]). However, to our knowledge there are no studies that empirically analyze the impact of restrictions in access to higher courts over these same variables in the way that we do in this article.

Our work can also be linked to the prolific literature that studies the veracity of the Selection Hypothesis (Priest and Klein [1984]), which predicts that the probability that a decision favoring the plaintiff approaches 50% when errors of perceived probabilities of

[18] In Santiago, the percentage of settlements reduced from 53% to 21% right after the reform but increased over the next three years to reach 80% in 01/2012. In contrast the percentage of recoveries, with a judicial decision, jumped from 52% to 61% only for that number to continue increasing in the years following the reform.

winning approach 0.[19] Other authors have found evidence that supports the hypothesis (Gross and Syverud [1991], Schultz and Patterson [1992], Siegelman and Donohue [1994], Hansen [1999] among others), others detract it (Danzon and Lillard [1983], Eisenberg [1991], Clermont and Eisenberg [1992], Eisenberg and Henderson [1993] among others) and a third group extends its meaning and predictions (Shavell [1996], Waldfogel [1995], Kessler et all [1996], Waldfogel [1998b], Klerman and Lee [2014] among others).[20]

At first glimpse our results seem to only partially support the Selection Hypothesis.[21] However, after splitting the data between the periods before and after the reform we find a positive correlation between trial percentage and amounts recovered by plaintiffs as predicted by the hypothesis (Waldfogel [1995]). If the rate of trials becomes very small then, after the reform the percentage recovered by plaintiffs converges to 50% but before the reform that percentage converges to a number significantly smaller than 50%. This suggests that before the reform plaintiffs recovered an abnormally low percentage of their claims.

Few can deny that the labor reform benefited Chilean society in many ways. The working conditions for labor judges improved (higher salaries and reduced work load). The time needed to resolve a dispute was substantially reduced.[22] The ratio of cases abandoned during the process fell dramatically.[23] Judges became more engaged participants in the resolution of

[19] In parallel the probability of a trial also tends to 0.
[20] See Waldfogel (1998a), Spier (2007) or Kessler and Rubinfeld (2007) for a more extensive discussion.
[21] Trials became rarer with the reform but the probability of a pro-plaintiff decision went up.
[22] In average, in 2007 a first-level labor court in Santiago took 387 days to resolve a representative wrongful termination dispute sometimes taking more than 1,300 days and never taking less than 134 days. After the reform a representative l.w.t. presented in Santiago was resolved in 76 days.
[23] Gazmuri (2004) notes a 20% of abandoned cases before the reform. After the reform this became negligible.

disputes. Despite these benefits, the restriction in access introduced by the reform also generated unexpected effects that regulators should keep in mind.

First, countries that value judicial uniformity at the lower level and are considering reducing access to higher courts should keep in mind the importance of mitigating the negative impact of such reduction on uniformity. One mitigation possibility is to increase the levels of monetary or non-monetary disutility suffered by first-level judges when they face reversals. In Bravo-Hurtado and Bustos (2019) we discuss access and reversal disutility as two alternative approaches to reach a given level of uniformity.

Second, if restriction in access to higher courts is necessary, authorities should expect an adjustment in the dispute outcomes favoring the legal inclinations or interpretations of the first-level courts. Alternatively, one can also argue that a restriction in access will favor the decisions of the more expert provider of justice, in this case the first-level specialized judge.

Finally, authorities should be cautious when deriving conclusions based on averages, because reforms of this sort will both change individual decisions as well as distribution of individual types. We found that the reform decreased the plaintiff's marginal benefits to settle, but on average plaintiffs settled more frequently.

The rest of the paper is structured as follows. In Section 2 we derive our main theoretical predictions when access is restricted. In Section 3 we describe judicial procedures for wrongful terminations in Chile; we also describe the 2008-09 reform. In Section 4 we present the empirical estimations. In Section 5 we discuss the results and in Section 6 we conclude.

2. The Model

First we describe the problem faced by courts for any area of the law, later we add the decisions of the parties in dispute and tailor the model to labor disputes.

2.1 Judicial Uniformity

There is a continuum of first-tier courts parameterized in the interval $[0,1]$. Court i has utility function $u_i(x) = u(x, r_i)$ which is concave in both arguments with $\frac{\partial u(r_i,r_i)}{\partial x} = \frac{\partial u(x,x)}{\partial r_i} = 0$ together with $u(r_i, r_i) = u(r_j, r_j)$ for all $r_i \neq r_j$. Given a case, $x \in [0,1]$ represents the legal rule enforced by court i and r_i is the legal rule it would ideally like to enforce. We assume that r_i is uniformly distributed in the interval $[0,1]$. To understand this characterization more intuitively, suppose that a company is disputing the items that should be included in the calculation of the salary associated with a compensation demand.[24] Suppose that the possible items are a fixed salary x_F; a variable salary x_V and additional issues such as money for transportation and food x_A. According to the law the salary includes fixed and variable payments but it does not include additional items, that is $r_L = (x_F + x_V)/(x_F + x_V + x_A)$.[25] Hence a law abiding first-tier court should enforce $x = r_L$. However in the spectrum of the judiciary, there is an equal number of courts that would like to enforce any compensation, from $r_i = x_F/(x_F + x_V + x_A)$ to $r_i = 1$ instead of r_L.

[24] Salary is a key variable in order to calculate indemnities.
[25] In MJCH_MJJ21563Rol:5675-09, the fourth room of the Chilean Supreme Court established that additional issues such as money for transportation and food (transporte y colación) should not be included in the calculation of salary because they are temporary compensations.

Consider that at t = 1, all first-tier courts face a case of the same type. If the court enforces the existing legal rule r_L then the dispute ends there, there is no appeal, and court i gets utility $u(r_L, r_i)$. Instead if court i decides to enforce rule r_i (court i prefers rule r_i to any other rule $x \neq r_L$) then at t = 2 its decision could be appealed to the Supreme Court with probability p. In case of an appeal the Supreme Court overrules the first-tier r_i decision and replaces it with rule r_L. In case of an appeal the court suffers disutility D.[26] There is no discount factor. Under these conditions, court i's expected utility when it decides r_i is $(1-p)u(r_i, r_i) + p(u(r_L, r_i) - D)$. It follows that court i enforces the legal rule r_L if and only if

$$\frac{p}{1-p} D > u(r_i, r_i) - u(r_L, r_i) \qquad (1)$$

Due to the concavity of the utility function we know that (1) defines cut-off rules $\underline{r}$ and $\overline{r}$ such that (1) is satisfied by all $r_i \in [\underline{r}, \overline{r}]$ but not otherwise (see the proof of Lemma 1). The exact expressions for the cut-offs are defined by:

$$\frac{p}{1-p} D = u(\overline{r}, \overline{r}) - u(r_L, \overline{r}) = u(\underline{r}, \underline{r}) - u(r_L, \underline{r})$$

Furthermore: while $\underline{r}$ is decreasing in p and D, $\overline{r}$ is increasing in the same parameters. These results are summarized in the next Lemma.

Lemma 1 (Judicial Uniformity):

i) Only courts with optimal rule $r_i \in [\underline{r}, \overline{r}]$ enforce rule r_L.

[26] D is monetary or non-monetary disutility which can be associated to career, reputational or legacy harm.

ii) The set of courts that enforce rule r_L increases with parameters p and D.

Proof: See the Appendix.

Because we are mainly concerned with uniformity we consider a legal system to be more uniform the closer parameter U is to 1. In which: $U = \overline{r} - \underline{r} \in [0,1]$. Evidently U is the proportion of courts that enforces r_L.

Lemma 1 tells us that both the probability of revision of the first-tier decision p and the size of the reversal disutility D matter at the moment of determining the degree of uniformity in the application of the law. Even more, for any level of uniformity U^* there exist $p^*$and D^*such that for all $p > p^*$or for all $D > D^*$judicial uniformity is greater than U^*.

2.2 Decisions of the parties in a labor dispute

There is a continuum of employees (e) and employers (E) such that each employee claims that she has been wrongfully terminated by the employer. Suppose that employee i is entitled to compensations c_i or $\alpha c_i \in [0, c_i]$ in which $c_i \in \left[\underline{c}, \overline{c}\right]$ and follows probability distribution $f(c_i)$.[27] While the employee knows the exact compensation she will receive with a favorable judicial decision, the employer only knows that she is entitled to the low compensation with probability π.[28] The court decision costs each of the parties $k/2$.

The judge can decide in favor of the employee, in which case she recovers the true

[27] We are imposing that α is the same for all plaintiffs because the results stated in Lemma 2 and Proposition 1 do not depend on that parameter.

[28] Analogous to our comment about α, parameter π is idiosyncratic to each defendant as it captures available information. We do not make that distinction as Lemma 2 and Proposition 1 hold for individual or common π_i.

compensation (c_i or αc_i), or in favor of the employer, in which case she always recover αc_i. Following the definitions introduced in *2.1*, we assume that if the judge decides according to his preferences (r_i) then the employee wins with probability p_e but if the judge decides according to what the law demands (r_L) then she wins with probability p_e^l such that $p_e^l < p_e$. Hence, *a priori*, the probability that the judge decides in favor of the employee is

$$\overline{p}_e = p_e(1 - U) + p_e^l U \qquad (2)$$

Without loss of generality we impose that $p_e^l = 0$. Before the judge makes a decision, the employer makes 'a take it or leave it' offer that we denote O such that the dispute ends there if the employee accepts it but the disputes move to a judicial decision if not.

In addition to the first-level judge there is a Court of last resort. A defeated employer can appeal for a revision to this Court. However, not all the appealed cases reach the Court as this one selects (according to legal criteria) which cases to revise. The Court revises appealed cases only with probability p_a ("a" for access) and that costs each party $k/2$. If a revision takes place then the Court always decides in favor of the employer, that is, the employee recovers αc_i. Figure 2 summarizes the timing and decisions of the game.

<< Insert Figure 2 about here>>

2.3 Solution of the game and main predictions

Our game defines a unique equilibrium that we characterize using backwards induction.

Appeal to the Supreme Court: Only decisions in favor of the employee whose true compensation is c_i are considered for appeal by the employer. Clearly only the cases in which large amounts are at stake end in appeals. Note that if the employer appeals, he expects a loss

equal to $(1-p_a)c_i + p_a\alpha c_i + k/2$. Hence an appeal takes place only if

$$c_i > \frac{k/2}{(1-\alpha)p_a} = c_{Appeal} \qquad (3)$$

Decision of the first level Court: We distinguish two scenarios. If the compensation is not large enough ($c_i < c_{Appeal}$) then judges anticipate no appeal; for this reason all judges implement their preferred rules, that is $p = U = 0$. But if the compensation is large enough ($c_i > c_{Appeal}$) then a judge anticipates an appeal if he implements rule r_i. Then $p = p_a$ and the decision of the judge is given by i) of Lemma 1. In particular, the expected probability that the judge decides pro employee is given by (2).

Settlement or Trial: There exists cut-off c_{Trial} such that only disputes with compensations greater than that value end in trial with probability $1-\pi$. Because the cut-off depends on whether the employee appeals an unfavorable sentence, we denote c_{Trial} as the cut-off when there is appeal and c_{Trial}^{WA} when there is no appeal.

Note that the employer makes either a large (O_H) or a small (O_L) settlement offer to the employee, such that employees who suffered high and low losses accept the high offer but only the employees who suffered low losses accept the low offer. It follows that the low offer is $O_L = \alpha c_i$ while the high offer is the expected compensation at trial.

When the parties do not expect an employer's appeal ($c_i < c_{Appeal}$) then $O_H^{WA} = (1-p_e)\alpha c_i + p_e c_i$. Hence employer i makes a low settlement offer only if

$$\pi\alpha c_i + (1-\pi)\left[\frac{k}{2} + (1-p_e)\alpha c_i + p_e c_i\right] < (1-p_e)\alpha c_i + p_e c_i$$

$$\leftrightarrow c_i > \frac{(1-\pi)k/2}{\pi(1-\alpha)p_e} = c_{Trial}^{WA}$$

On the other side, when the parties expect an appeal ($c_i > c_{Appeal}$) then $O_H = \left(1-\overline{p}_e\right)\alpha c_i + \overline{p}_e(p_a \alpha c_i + (1-p_a)c_i)$ and employer *i* makes a low settlement offer only if

$$\pi\alpha c_i + (1-\pi)\left[\frac{k}{2} + \overline{p}_e\frac{k}{2} + O_H\right] < O_H$$

$$\leftrightarrow c_i > \frac{(1-\pi)(1+\overline{p}_e)k/2}{\pi(1-\alpha)\overline{p}_e(1-p_a)} = c_{Trial}$$

Because *a priori* we cannot say which of these thresholds $\{c_{Trial}, c_{Trial}^{WA}, c_{Appeal}\}$ is larger we identify three possible scenarios in which different values of c_i define a settlement or a trial at t = 1.[29] These scenarios are summarized in figure 3.

<<Insert Figure 3 about here>>

In scenarios 1 and 3 there exists $c^* \in \{c_{Trial}, c_{Trial}^{WA}\}$ such that all employers who face lawsuits with $c_i < c^*$ make a high offer which is accepted. Alternatively, all employers who face lawsuits with $c_i > c^*$ make a low offer that ends in trial with probability $1-\pi$. In scenario 2, disputes end in settlement if plaintiffs demand c_i smaller than c_{Trial}^{WA} or within $[c_{Appeal}, c_{Trial}]$, otherwise the disputes end in trial if the plaintiff is a high type. Lemma 2, proved in the Appendix, summarizes the solution for the three scenarios.

Lemma 2 (Solution of the Game):

i. If $c_{Trial}^{WA} < c_{Appeal} < c_{Trial}$ then all employers facing demands smaller than c_{Trial}^{WA}

[29] We only know that $c_{Trial} > c_{Trial}^{WA}$ because $\frac{1}{(1-p_a)} > 1 > \frac{\overline{p}_e}{p_e(1+\overline{p}_e)}$ in which the last is true given that $p_e > \overline{p}_e$.

make a high offer accepted by all employees. Employers facing demands $c_i \in \left[c_{Trial}^{WA}, c_{Appeal}\right]$ make a low settlement offer only accepted by low type employees. High-type employees don't accept the offer and don't appeal an adverse first-level decision. Furthermore, all employers with demands $c_i \in \left[c_{Appeal}, c_{Trial}\right]$ make a high offer which is accepted by all employees. Finally, all employers facing demands $c_i > c_{Trial}$ make a low offer only accepted by low type employees. High-type employees go to trial and employers do not appeal adverse decisions.

ii. If $c_{Appeal} < c_{Trial}^{WA}$ or $c_{Appeal} > c_{Trial}$ then there exists $c^* \in \left\{c_{Trial}, c_{Trial}^{WA}\right\}$ such that all employers facing demands smaller than c^* make a high settlement offer accepted by all employees. Instead, all employers facing demands greater than c^* make a low settlement offer that is only accepted by low-type employees. Employers facing demands larger than c_{Appeal} appeal an adverse initial decision.

Proof: See the Appendix

Our main interest is to determine the effect that a reduction in access from $p_{a,0}$ to $p_{a,1} < p_{a,0}$ has over the strategies followed by the parties and uniformity in the implementation of the Law. Because we do not know in which scenario (from figure 3) we start ($p_{a,0}$) and end ($p_{a,1}$), we consider all possibilities. Proposition 1 summarizes our main predictions.

We start by noting that the number of courts that implement r_L is reduced when the probability of revision diminishes (see Lemma 1) and this is true for all scenarios of figure 3. Because the ex-post probability of revision is either 0 (when $c_i < c_{Appeal}$) or p_a (when

$c_i > c_{Appeal}$) a drop in p_a reduces the number of courts that implements r_L (it reduces U).[30]

In order to show that a reduction in access to review weakly decreases the probability that *lawsuit*$-c_i$ settles we first note that scenario 3 holds only for high values of p_a, scenario 2 does so for intermediate values of p_a and scenario 1 for low values of p_a. Indeed scenario 3 becomes scenario 2 if p_a is smaller than a threshold that we call $p_{a,32}$ defined by

$$c_{Trial}^{WA} = c_{Appeal} \leftrightarrow \frac{(1-\pi)k/2}{\pi(1-\alpha)p_e} = \frac{k/2}{(1-\alpha)p_{a,32}} \rightarrow p_{a,32} = \frac{\pi p_e}{1-\pi}$$

Analogously, scenario 2 becomes scenario 1 if p_a is smaller than a second threshold that we call $p_{a,21}$ defined by

$$c_{Appeal} = c_{Trial} \leftrightarrow \frac{k/2}{(1-\alpha)p_{a,21}} = \frac{(1-\pi)\left(1+\overline{p}_e\right)k/2}{\pi(1-\alpha)\overline{p}_e\left(1-p_{a,21}\right)}$$

$$\rightarrow p_{a,21} = \frac{1}{1+\frac{(1-\pi)(1+\overline{p}_e)}{\pi\overline{p}_e}}$$

Next, we determine the impact that a change in p_a has over $\left\{c_{Trial}, c_{Trial}^{WA}, c_{Appeal}\right\}$. It is direct from (3) that $\partial c_{Appeal}/\partial p_a < 0$. That is, a reduction in access reduces employers' marginal incentives to appeal because the probability of a reversal diminishes. Also

$$\frac{\partial c_{Trial}}{\partial p_a} = \frac{\left(\overline{p}_e\left(1+\overline{p}_e\right) - (1-p_a)\frac{\partial \overline{p}_e}{\partial p_a}\right)}{\overline{p}_e(1-p_a)^2} > 0$$

[30] Because $\partial c_{Appeal}/\partial p_a < 0$, for intermediate values of c_i the probability of a revision drops from p_a to 0.

$$\frac{\partial c_{Trial}^{WA}}{\partial p_a} = 0$$

The previous properties imply that if *lawsuit*$-c_i$ ends in trial when access is $p_{a,0}$, the parties never settle when access is $p_{a,1}$, that is, a reduction in p_a weakly reduces the probability of a settlement.[31] The reason for this result is that the high settlement offer becomes too expensive when compared to the low settlement offer, and ergo employers make that offer less frequently which leads to less settlement.

Indeed, a reduction in access affects the offers made by *defendant*$-c_i$. While O_L and O_H^{WA} do not change with p_a, O_H goes up when access decreases because

$$\frac{\partial O_H}{\partial p_a} = -\frac{\partial U}{\partial p_a} p_e(1-p_a)\alpha c_i - \overline{p}_e(1-\alpha)c_i < 0 \qquad (4)$$

Employers make more generous offers to convince high-type employees to settle when the probability of an appeal decreases because employees expect to recover more at trial. Notably, the previous result does not mean that *plaintiff*$-c_i$ recovers a larger percentage with a settlement when access is restricted. Actually *plaintiff*$-c_i$ might recover more or less with a settlement.[32] However, if $p_{a,1}$ is such that the solution belongs to scenario 1 (reduction in access is significant) then we know that settlement recoveries weakly decrease with the restriction in access. The reason is twofold. In scenario 1, settlement recoveries do not change

[31] The area of settlements is reduced when we move from scenarios 3 to 1. Also the area of settlements within each of the scenarios diminishes when c_{Trial} moves to the left and c_{Appeal} moves to the right.

[32] For example, settlement recovery goes up for all low-type *plaintiff*$-c_i$ who in scenario 2 (or 3) receive offer $O_H(p_{a,0})$ before the restriction but offer $O_H(p_{a,1})$ after the restriction. Instead, settlement recovery goes down for all low-type *plaintiff*$-c_i$ who receive offer $O_H(p_{a,0})$ before the restriction but offer O_L after the restriction.

with p_a and any *plaintiff*$-c_i$ who settles in scenarios 2 and 3 either keeps recovering O_H^{WA} or recovers O_L instead of O_H when the dispute ends in scenario 1.

Finally, we also find that a reduction in access weakly reduces incentives to appeal. Indeed by inspection, all *trial*$-c_i$ not appealed with $p_{a,0}$ are still not appealed with $p_{a,1}$, but some *trial*$-c_i$ are appealed with $p_{a,0}$ but not appealed with $p_{a,1}$.[33]

Proposition 1 (Main Predictions): Ceteris paribus, a reduction in access (p_a) implies:

i) A strict reduction in the uniformity of first-level judicial decisions

ii) A weak reduction in the probability that lawsuit$-c_i$ is settled

iii) A weak reduction in the probability that trial$-c_i$ is appealed

iv) A weak decrement in the percentage recovered in settlement by plaintiff$-c_i$ if access restriction is large enough ($p_{a,1} < p_{a,21}$).

Proof: See the previous discussion.

3. Wrongful Terminations and Reform of the Judicial Process for Labor Disputes

In this section we briefly explain basic elements of the Chilean judicial process for labor disputes and describe a representative dispute regarding wrongful termination. Then we explain the main characteristics of the labor legal system reform that was implemented in

[33] The comparison requires that a case ends in trial with $p_{a,0}$ and also with $p_{a,1}$. To better see this, note that all trials that end in appeals in scenarios 2 and 3 do so with $p_{a,0}$ and $p_{a,1}$ indistinguishably. Also note that in scenario 1 some trials are appealed with $p_{a,0}$ but are not appealed with $p_{a,1}$. To conclude, trials that are not appealed in scenarios 1 and 2 end with the same outcome with $p_{a,0}$ and $p_{a,1}$.

Chile between March 2008 and October 2009. We conclude this section by stating the hypotheses associated with Proposition 1 that we test empirically in the following section.

3.1 Chilean labor legal system and wrongful terminations

As a former Spanish colony, Chile falls within the civil law legal tradition. As such, its legal system is highly formal, mainly relies on statutes (codes) as sources of law, its judges apply but not create law, judicial procedure is written and inquisitorial, case-law is only used to support arguments but does not have binding force and the Supreme Court only revises errors committed by lower courts.

Within this context, the Chilean Labor Code ("Código del Trabajo") is the main body of law that regulates the explicit and contractual working relationships between employees and employers.[34] As mentioned by authors such as Etcheberry (2009), Walker (2003) and Thayer (1984) the Chilean Labor Law contains two fundamental principles. First, in normative terms it regulates employers and employees relationships not only economically but mainly constitutionally. Second, the law plays a special role protecting employees, who are understood to be the weaker part in a working relationship. [35]

According to the Chilean regulatory body, a work relationship between employee and employer can be terminated for three reasons. First, the work contract terminates (Article

[34] The code was created in 1931, but has been profusely reformed and updated to address a broad range of topics that include individual contracting, employee protection, unions, collective negotiations and labor jurisdiction.
[35] Conceptually the employee protection principle has three meanings. First, if a legal rule has different interpretations then a judge should incline towards the most favorable to employees. Second, if more than one norm applies in a given dispute then a judge should apply the most favorable to the interests of the worker. And third, the implementation of a new norm cannot harm the current position of the employee.

159) due to mutual agreement, the worker quits or dies, the duration of the contract (or work) expires or another unexpected event takes place. Second, the employer refers to any of the following reasons to end the relationship (Article 160): serious inappropriate behavior, forbidden negotiations, unjustified absence from work, abandonment of the working place, acts that risks the safety of the working place, intentional harm to assets of the employer or serious failure to fulfill the contract. Third, the work relationship ends because of necessities of the firm (Article 161).[36]

To the previous termination reasons, the code adds the possibility that the worker may trigger the end of the relationship (Article171) if the firm behaves in a way that is sanctioned by Article 160. This termination cause is denominated "self-firing" or "indirect firing".

As stated by Article 168 of the Chilean labor code, if a worker believes that the cause used to end the work relationship is unfair, inadequately implemented, or no cause exists, then she is entitled to additional compensations consisting of:[37] 1) unpaid salary; 2) years worked; 3) one month´s salary due to no dismissal warning; 4) legal and proportional vacations; 5) other general agreements or violations of fundamental rights.[38] If the employer uses the erroneous cause to terminate the employee then she is entitled to legal increments of 30%, 50% or 80%-100% over the compensation base for articles 161, 159 or 160 respectively.[39]

---

[36] This includes arguments such as: rationalization or modernization of the firm, reductions in productivity, changes in the conditions of the markets/economy.
[37] For more about legal compensations because of terminations in the Chilean labor system, see Rojas (2013).
[38] Although Rojas (2013) mentions only three categories: 1) indemnity for antiquity (years of service); 2) indemnity as a sanction (lack of warning); 3) indemnity as a serious sanction (violation of fundamental rights) here we list the categories most usually awarded by judges.
[39] Legal increment associated with self-firings is 50% or 80% depending on the invoked clause of article 160.

While figure 1a summarizes the events surrounding a wrongful termination that ends in a legal dispute, figure 1b summarizes the steps that define the legal dispute.

<<Insert Figures 1a and 1b about here>>

After termination, the employer has a brief period of time to send a letter to the employee that formally explains the cause (articles 159 to 161).[40] A copy of that letter must also be sent to a government institution called "Dirección del Trabajo". To finalize the process, employee and employer must agree on a termination-settlement (*finiquito*) that specifies general conditions of work and compensations which not only include the before mentioned points 1) to 5) but also other benefits that the company might owe the worker.

In case that the employee doesn't agree with the conditions of *finiquito* she has sixty days after termination to initiate legal actions because of wrongful termination. After the employee presents a demand specifying facts and legal challenges, the employer responds with an argument outlining why he believes termination was properly ended. The burden of proof (proper cause and compensation) falls on the side of the employer.

The labor judicial procedure has two main and sequential hearings (called 'preparatory' and 'of judgment'). In the first, the judge establishes the admissible evidence for the forthcoming trial, defines the object of dispute (based on the demand and the response to the demand) and resolve miscellaneous procedural problems that might arise. The preparatory hearing gives the parties an opportunity to reach an agreement. If they fail to reach an

[40] Evidently no letter means no cause of termination.

agreement, then the procedure continues to the second hearing, of 'judgment'. In this hearing, the evidence is received, evaluated and finally the judge gives a sentence in which he/she accepts (totally or partially) the demand or rejects it. Both parties have few days to appeal to an appeal court (*recurso de nulidad*) or to the Supreme Court (*recurso de unificación*).

3.2 Reform to the labor judicial system and access to higher courts

Between March 2008 and October 2009 all Chilean regions sequentially implemented a procedural labor reform to facilitate citizens' access to the Chilean legal system and expedite the resolution of disputes. Figure 4 details the timing of the implementation of the reform.

<<Insert Figure 4 about here>>

Among other changes in the judicial process that we explain later, the reform dramatically restricted access to the Chilean Appeal and Supreme Courts because it considerably narrowed the legal criteria for granting revision. Before the reform, the Courts of Appeal revised disputed issues both on the verification of the facts and application of the law. After the reform, the Courts of Appeal revised only contested issues associated with the application of the law and some procedural violations (*recurso de nulidad*).[41] Along similar lines, the reform also restricted the criteria used by the Chilean Supreme Court to determine which appealed cases to revise. The so-called "petition for unification of case-law" (*recurso de*

[41] The Court of Appeals was called to revise cases in which there has been an alteration of the judicial qualification of the facts (without changing the factual findings of the first-instance judge) also in cases in which trials had violated legal specifications or when the decision had conflictive decisions. Supreme Court was also required to grant access when lower Courts had given the parts more than what was demanded; extended beyond the points discussed at the trial; or the sentence was against other past sentences relating to the issue in dispute.

unificación de jurisprudencia) conferred the Chilean Supreme Court with a role that is partially in line with the role played by a common law Supreme Court.

Although the restriction in access to higher courts was the only *substantial* change introduced by the reform, it also introduced procedural changes. It introduced innovations to the process.[42] It also created new[43] and specialized[44] labor tribunals, incorporated new and specialized judges and improved support to low income employees involved in disputes.[45] Also, the mainly written process was replaced by a mainly oral process in which judges are more actively engaged in case-management and fact-finding during the process.[46]

3.3. Hypotheses to be tested empirically

The reform provides an opportunity to test the predictions we derived in Section 2. More specifically, we write the following hypotheses associated with the restriction in access.

Hypothesis 1 (Decrement in Judicial Uniformity): We expect a significant increment in the percentage of first-level decisions favoring employees.

Hypothesis 2 (Decrement in Judicial Uniformity): We expect a significant increment in the ratios and amounts recovered by employees in first-level decisions.

---

[42] Before the reform there was only one judicial audience and the court had to decide whether to move to that audience. In addition, after the reform, legal argumentations have to be based exclusively on the events as described in the termination letter (termination cause). Before the reform, that was not the case.
[43] Before the reform there were 20 labor tribunals (Flores [2005]). Today there are 26. After the reform, some judges stayed in service and others retired. Overall, the number of specialized judges increased from 40 to 84.
[44] While before the reform, two thirds of the demands faced by labor tribunals related to charges or due payments, after the reform labor tribunals exclusively focus on labor issues such as labor rights, wrongful terminations, accidents, harassment, and special protections.
[45] Plaintiffs whose claims did not pass the equivalent of US$ 500 could choose to be represented for free.
[46] See Tapia (2007), Tapia (2012) and Palomo and Matamala (2012) for additional discussion on the reform.

Hypothesis 3 (Change in litigation outcomes): If the probability of access to the higher courts was small enough after the reform then we expect no effect or a significant decrement in the ratios recovered by employees in settlements.

Hypothesis 4 (Change in the parties decisions): We expect no effect or a significant decrement in the probability that lawsuit-c_i settles.

Hypothesis 5 (Change in the parties decisions): We expect no effect or a significant decrement in the probability that trial-c_i is appealed.

4. Empirical Estimations

In this section we show that the restriction in access introduced by the reform to the judicial process of labor disputes in Chile significantly reduced the level of uniformity with which judges implement labor law. In addition we reveal that settlement recoveries, the probability of a settlement and the probability of an appeal were all reduced.

In order to tackle econometrical challenges associated with adverse selection and identification, in our estimations we control for the effects we think might compete with the restriction in access.[47] To correct for adverse selection we include variables such as demanded compensations, employee's salary, gender and employer's size. To assure identification we control by trial length, month, tribunal and judge, public defender and the cause of employment termination. In section 5 we discuss the robustness of our estimations.

[47] The reform might have changed the profile of the disputes reaching the court because 1) fewer or more were settled outside the legal system or 2) other type of parties might have decided to resolve their disputes in court.

4.1 Data

We collected data associated with 5,712 l.w.t. that sequentially occurred in the Chilean cities of Santiago, Valparaíso and Concepción, 2,490 cases were filed before the reform; and 3,222 cases after the reform.[48] While all the collected data after the reform was gathered from the public database www.poderjudicial.cl, the data obtained before the reform was hand collected from physical expedients stored by the Chilean judicial system.

The data consists of a series of general (such as court; judge; date of filling; cause of termination; judicial decision; amounts demanded and awarded) and party specific attributes (such as gender, salary, months worked, time taken to file the lawsuit in the case of the plaintiffs and firm classification in the case of the defendants) for each dispute as described in the Appendix. We also include macroeconomic controls such as economic activity at the national level (*Imacec*) and unemployment at the city level (*Unemployment*).

Table 1 summarizes the number of cases decided per judge annually before and after the reform. The table shows data for judges who decided more than 10 cases (72 judges) and allows us to identify judges who ruled before and after the reform (15 judges). To protect their privacy we identify them with a number.

<<Insert Table 1 about here>>

Table 2 describes the remaining data. The first set of variables shows fairly homogeneous characteristics of the parties across all cities before and after the reform. With some

[48] This corresponds to a 5% of the universe of labor cases and close to 10% of the universe of l.w.t. Wrongful terminations are by far the most common labor disputes in Chile. Other disputes include Work Accidents, Harassment, Maternal or Union Protection, to mention some.

exceptions, variables across cities are statistically indistinguishable. The second set suggests a strong change in the type of termination cause after the reform. There was a decrement in the no-cause category and an increment in the ART 161 and ART 171 categories.

<<Insert Table 2 about here>>

The third set of variables suggests that the reform brought noticeable changes in decisions. The aggregate statistics show that the length of the disputes was considerably reduced (by 80% in Santiago or Valparaiso and 45% in Concepcion), the amounts awarded went up in real value and settled disputes considerably increased. Finally, appeals went down in all cities with the greatest reduction being 46% in Valparaiso.

Graphs 1-3 show the evolution of the percentage recovered by employees with a judge decision, the percentage of decisions favoring employees and the percentage recovered by employees in settlements. Graphs 4-5 display the evolution of the percentage of settlements as well as appeals. Evidently the graphs show the behavior of the *average* case.

<<Insert Graphs 1 to 5 about here>>

Graph 1 reveals that judges, in Santiago and Valparaiso, awarded greater compensations after the reform initiated. Graph 2 shows that, over time, decisions became more favorable for plaintiffs, although in Concepcion this effect tends to disappear.[49] The trends in Graphs 1 and 2 support our per-case predictions that are stated in hypotheses 1 and 2 respectively.

[49] The awarded percentage is a more accurate measurement of the plaintiff performance at trial since any recovery larger than 0 is considered a pro-plaintiff decision.

Graphs 3 and 4 reveal that once the reform was implemented, on average, more cases were settled and plaintiffs recovered less with settlements. Graph 5 shows a decreasing trend for the average probability of an appeal after the reform was implemented.[50] While Graphs 3 and 5 support our per-case hypotheses the settlement trend goes in the opposite direction of hypothesis 4. However, these graphs don't provide details regarding disputes or parties. They show aggregate effects of the reform but do not capture the specific effects of the restriction to access. Next we carry out regressions in which we control for the attributes of the lawsuits and all the other changes introduced by the reform that could have also impacted the variables we study. We find that with maximum confidence hypotheses 1-5 cannot be rejected.[51]

An irregularity revealed by Graph 4 that we address later is that the average and per case results on settlements don´t match. In section *5.3* we show that while the reform generated an increment in average settlements, the restriction in access generated a decrement in the per case incentives to settle.

4.2 Regressions and Main Results

The implementation of the reform at different dates in the three cities implies that OLS and Logit estimations correct for omitted variables and unaccounted effects. We first test the veracity of hypothesis 1 and 2, and to do so we define the independent side of our regressions

$$x_i = \alpha_0 + \alpha_1 Access\ Restriction_i + \vec{\beta}_1 X_{Fixed} + \vec{\beta}_2 X_{Control}$$

[50] In our appeal estimations we do not use data for Santiago because there is a 16 months period, before the reform, in which we do not have appeals data. To avoid any bias we only work with Valparaiso and Concepcion.
[51] The evidence for hypothesis 5 is mixed (no-effect and strict effect) when we use the whole data. The reduction in appeals cannot be rejected with maximum confidence when we only use data for Concepción.

We then run the following two regressions (we write $regression|data\ sample$)

$$y_i = \left(\frac{Compensation\ Awarded}{Compensation\ Demanded}\right)_i = x_i + \varepsilon_i \Big| \ all\ trials$$

$$y_i = (Accepted)_i = \frac{1}{1 + e^{-x_i}} + \varepsilon_i \Big| \ all\ trials$$

<<Insert Tables 3 and 4 about here>>

Table 3 presents the results from regressing the percentage recovered by plaintiffs as a function of an annual dummy that captures the restriction in access introduced by the reform (*Access Restriction*) and a number of controls (such as length of the dispute, salary of the employee, national economic activity and regional unemployment) as well as fixed effect variables (such as judges and cause of termination).[52] Regression (4), our base regression, shows that access restriction increased the amount awarded to plaintiffs in 27%. That number fluctuates between 19% and 28% when we add or subtract the fixed effects of defendant type, judge, plaintiff gender, termination cause, city, tribunal, year and time taken by the plaintiff to file the lawsuit. The results cannot reject hypothesis 1 at maximum significance levels.

In table 4 we present the results from regressing the probability that a judge makes a pro-employee decision (accepts the demand) as a function of an annual dummy that captures the restriction in access (*Access Restriction*). While regressions (1) and (2) are Logistic models, regressions (3) and (4) are linear models. In the Logistic regressions we also report the odds ratios. Our base regressions (1) and (3) tells us that on average the restriction increased the

[52] OLS with robust errors.

probability of a pro-plaintiff decision. While the Logistic model says that the restriction multiplied the probability of a pro-plaintiff decision over 12 times the linear model says that that same probability increased in 36 basis points. It follows that we cannot reject hypothesis 2 at maximum significance levels.

Finally, tables 5, 6 and 7 show the results of regressions in which we test the effects of the restriction in access over the strategies followed by the parties associated with amounts recovered in settlements ($y_i = \left(\frac{Compensation\ Recovered}{Compensation\ Demanded}\right)_i \Big| all\ settlements$), probability of a settlement ($y_i = settlements_i | all\ lawsuits$) and probability of an appeal ($y_i = appeal_i | all\ Trials$). That is, we test the veracity of the rest of the hypotheses (3 to 5).

<<Insert Tables 5, 6 and 7 about here>>

Table 5 shows that access restriction reduced the percentage recovered by a plaintiff in 15%. If we accept that a probability of revision of labor cases of 18% is low enough to satisfy the criteria stated in Proposition 1 then the result supports hypothesis 3. Tables 6 and 7 show Logit and OLS results as we did in Table 4. This time we test the impact of the restriction on the probabilities of settlement and appeal. Regression (3) in table 6 shows that the restriction in access reduced the probability of settlement by 16%, at the 99% of significance. Regressions (2) and (4), in table 7, show that the restriction in access did not affect the probability of an appeal but regression (3) reveals that in Concepcion it reduced it by 40%, at the 95% of significance. The results support the veracity of the corresponding hypotheses.

5. Discussion and Robustness of the Results

We concluded that the restriction in access introduced by the Chilean labor reform had a significant impact over judicial uniformity, litigation decisions and outcomes. Here we further discuss the magnitude of the effect of the restriction on uniformity and the change in the amounts recovered by plaintiffs. We then discuss the robustness of the results by testing the impact of the reform upon access to the Court and truncating the data in controlled ways.

5.1 Implications of the Results

5.1.1 Judicial Uniformity

Table 4a shows the marginal effects of the restriction in access for representative judges in Santiago, Valparaíso and Concepción when we distinguish cause of termination.[53] The table tells us that a change in the probability of a judge deciding in favor of an employee increased from as little as 11 points to as much as 56 points. The strongest changes were associated with disputes in Concepción and disputes without a termination cause. The restriction in access had a greater impact on disputes linked to articles 160 and 171. Parameters associated with all the articles in table 4 were statistically significant at the 99%.

<<Insert Table 4a>>

We replicated regressions of tables 3 and 4 only with judges who were present before and after the reform (15 judges who represent 45% of the sample). The effect of the restriction still is significant at 99% although slightly smaller than when we use the whole sample. The

[53] Estimations are based on the parameters of Table 4. We focus on judges that decided the maximum number of cases in each of the cities. We also fixated Month (January) and Firm type (Micro).

percentage recovered by plaintiffs goes up to 26% (before it was 27%) and the probability that a judge decides in favor of the plaintiff increases to 35% (before it was 36%).

We also run regressions to test the impact of the restriction over uniformity when measured as the amount awarded to a plaintiff. On average, a plaintiff expects to recover US$ 1,960 more after the restriction was implemented. The effect was always significant at 99% and is reduced to half when we do not control by judge.

5.1.2 The decision to settle and the 50% Hypothesis

Waldfogel (1995) predicts that there is a quadratic relationship between percentage of trials and plaintiffs winning rates.[54] We use our data to estimate the monthly relationship between these same variables before and after the reform.

<< Insert graph 6>>

We find a strong linear relationship that is aligned with the predictions of the Selection Hypothesis when the legal standard favors plaintiffs. More noticeable, Graph 6 suggests that the functions are not the same before and after the reform, corroborating the disruption (or adjustment) introduced by the restriction in access. For the same trial probability, plaintiffs recovered more after the reform. More specifically the linear functions are

$$\underset{}{\%\text{Recov}_{\text{Before}}} = \underset{(3{,}00)}{0{,}282} + \underset{(2{,}87)}{0{,}431}\%\text{Trials}$$

$$\underset{}{\%\text{Recov}_{\text{After}}} = \underset{(8{,}92)}{0{,}438} + \underset{(4{,}20)}{0{,}438}\%\text{Trials}$$

[54] Utilizing U.S. data the author obtains $(P_i - 0{,}477)^2 = 0{,}264T_i$ in which P_i is probability that plaintiff wins and T_i is the probability of a trial. The fact that in some areas of the law there is a positive correlation between P_i and T_i while in other areas is negative is linked to a pro-plaintiff or pro-defendant (legal) standard of decision.

$$\rightarrow \Delta\%\text{Recov} \approx 0{,}156$$

A strong prediction (t-tests in parenthesis) is that the difference in the percentage recovered by plaintiffs after and before the reform was the same regardless of the percentage of trials! We do not retrieve precisely 27% because in graph 6 we omit other effects. An even more striking conclusion follows when we compare the two linear functions. Consistent with the Priest and Klein selection hypothesis, after the reform, the percentage recovered by plaintiffs converges to 50% when trials rarely take place. More specifically, the 50% percentage is reached when 14% of the lawsuits end in trial.[55] However, before the reform, plaintiffs would have recovered only 34% when 14% of the lawsuits ended in trial! That is, the selection hypothesis tells us that, before the reform, defendants recovered too little.

5.1.3 Average effect, per-case effect and 1-year trend in the strategies of the parties

Another of our findings is the stark difference between average and per-case results associated with settlements. We find that after the reform, settlements became more frequent but the per-case marginal incentives to settle were reduced. A 1-year trend may reconcile these two opposite results. Table 6a (central column) shows the coefficients associated with year dummies in the regression (1) of Table 6. The 1-year trend dominates the effect of the restriction in access up to the point of reverting the net effect (as shown in Graph 4). More specifically, Table 6a (central column) shows that the aggregate effect of the restriction plus the 1-year trend becomes positive since 2009. Indeed the 1-year trend is up to four times the

[55] In many ways the asymmetries of information between the parties were reduced with the reform (efficiency and transparency of the process increased).

restriction effect, but in the opposite direction. As expected, the aggregate effect does not change the sign in recoveries or appeals (first and third columns in Table 6a).

<<Insert Tables 6a and 6b about here>>

The 1-year trend suggests a learning and adaptation process in which the parties adjusted their strategies to a reality with increased information and more restricted access to revisions.

Table 6b shows the marginal effects associated with Table 6 once we include several fixed effects and distinguish by termination cause before and after the reform.[56] The probability of a settlement significantly increased after the reform (up to 19%) but differences across cities and across termination clauses are negligible.

5.2 Robustness

We test for several issues that could challenge our ability to conclude that our estimated effects originate in the access restriction introduced by the reform.

Incentives to favor Settlements: The probability of a settlement could have been affected by the introduction of a post-reform system that measures the number of cases "closed" by each judge per year. The system would encourage judges to favor settlements as a faster way to end a case. Although we do not separately control for the post-reform measurement system in all our regressions we do include a monthly dummy. That dummy captures a significant effect in the settlement decision during the last three months of the year. While in Table 6

[56] We focus on judges that decided the maximum number of cases in each of the cities. We also fixated Month (January) and Firm type (Micro).

Access Restriction is -0,87 the coefficients for October, November and December are 0,49; 0,52 and 0,50 respectively, all significant at the 99%.[57]

Valparaiso: This was the only city in which we could not complete the 1,000 l.w.t. quota. Although we do not think there is a bias in the subset, we re-run several regressions (from Tables 3 to 7) without Valparaiso data before the reform. As expected, results do not change much. The effect of the restriction over the percentage recovered with a judicial decision changes from 27% to 24%. The percentage recovered in a settlement moves from -15% to -14% and the probability of a settlement changes from -16% to -19%, all significant at 99%.

Only information in the termination letter can be used by defendants' legal defense: In our estimations we always correct by the cause of termination.[58] In different parts of the paper (i.e., Tables 4a and 6b) we established differences in amounts recovered, probability of settlement and appeal when we distinguish among termination causes.

Public defender/representation for low demands: The reform improved access to specialized public attorneys for low income plaintiffs.[59] Although in our regressions we include the variable *Public Representation* we run an additional check after truncating data with salary smaller than US$ 600 ($300.000). All effects are significant and have the expected direction. Percentage recovered and probability of a pro-plaintiff decision increased by 19% and 41%.

[57] The effects are not enough to overtake the restriction but they are half of its size.
[58] In theory a further check could be done by separating termination causes in subcategories (i.e., ART 160 distinguishes 7 subcases) but some of our data (particularly before the reform) was not available to run this test.
[59] Before the reform, free legal aid was restricted to employees below poverty line and was provided by a non-specialized agency ("*Corporación de Asistencia Judicial*"). After the reform, free legal aid is provided by labor lawyers ("*Oficina de Defensoría Laboral*") to all employees whose salary is below US$ 600.

Time to file a lawsuit: Plaintiffs may have strategically waited to file a lawsuit just before the reform was implemented. To consider this, we replicate several estimations after adding the days elapsed since the employee was terminated and legal actions initiated. Changes are minimal, i.e., the effect of access restriction over the settlement and appeal probabilities changed from -16% to -18% and -37% to -40% respectively.

Verifying that the reform restricted access: We build a proxy of access to the Chilean Supreme Court that we call P_{access}. This variable is the last-three-months ratio of labor cases revised over the total number of appeals received by the Supreme Court. Although we cannot directly use P_{access} in our regressions — due to the selection of cases appealed after the reform was implemented — we should expect that the reform significantly reduced P_{access}. Table 8 presents the results of the regression

$$y_i = P_{access_i} = x_i + \varepsilon_i \big| all\ trials$$

<<Insert Table 8 about here>>

All regressions (from (1) to (4)) show a decrement in P_{access} significant at the 99%. Even more, the economic effects oscillated from a 24% reduction (from 0,29 to 0,21) up to a 45% reduction (from 0,29 to 0,16) in the probability of access to the Supreme Court.

6. Conclusions

Access restrictions to higher courts may have positive effects for society, however, restricting judicial access can also impact, in unexpected or negative ways, other aspects of the legal system. In this paper we have provided theoretical an empirical evidence that access

restrictions can reduce the consistency with which lower courts implement the law and thereby affect litigation decisions and outcomes.

Our findings are particularly relevant for countries that are currently considering the imposition of access filters as a way to solve a problem of overload of appeals – *i.e.*, the Courts of Cassation in France, Italy, Chile, the Revision Court in Croatia or even the Court of Appeal in England, among others. Our theory is also noteworthy for countries in which access to higher courts has traditionally been restricted. This is because it provides a framework for determining the degree to which judicial uniformity and litigation strategies may be affected by relaxing access.

We believe that more research is needed to test the degree to which civil law judges and civil law parties behave strategically when access to higher courts is modified. One could test the sensitivity in judges' behaviors to monetary and non-monetary incentives, as well as to their ideological preferences. As for the parties in dispute, our data suggests that a learning and adaptation process took place after the reform was implemented. Overall, a better understanding of the impact of access to higher courts upon the decisions made by legal agents should help us to improve the functioning of legal systems worldwide.

7. References

Baum, Lawrence (1994), "Specialization and Authority Acceptance: The Supreme Court Lower Federal Courts" *Political Research Quarterly* 47: 693-703.

Baum, L. (2009). *The puzzle of judicial behavior*. University of Michigan Press.

Benavides, Carlos (2009), *El Despido en la nueva justicia Laboral*, editorial Thompson Reuters.

Bravo-Hurtado, Pablo (2014), "Two Ways to Uniformity: Recourse to the Supreme Court in the Civil Law and Common Law World", in Uzelac, Alan and Van Rhee, C.H. (eds.), *Nobody's Perfect. Comparative Essays on Appeals and other Means of Recourse against Judicial Decisions in Civil Matters*. (Cambridge [etc.]: Intersentia), 319-335.

Bravo-Hurtado, Pablo and Álvaro Bustos (2019), "Explaining difference in the quantity of cases heard by courts of last resort", *American Law and Economics Review,* 21 (2): 346-393.

Calamandrei, Piero (1920), *La Cassazione Civile, II: Disegno Generale Dell'istituto*. Fratelli Bocca, Torino.

Caplin, Andrew, Andrei Gomberg and Joyce Sadka (2016), "Judgment and Equal Treatment: a Revealed Preference Approach", working paper, ITAM.

Chilean Labor Code. April 2014.

Clermont, K. M., & Eisenberg, T. (1991). "Trial by jury or judge: Transcending empiricism". *Cornell Law Review, 77*, 1124.

Cotropia, Christopher (2009), "Determining uniformity within the federal circuit by measuring dissent and en banc review", *Loyola of Los Angeles Law Review,* 43: 901-826.

Danzon, P. M., & Lillard, L. A. (1983). "Settlement out of court: The disposition of medical malpractice claims". *The Journal of Legal Studies*, *12*(2), 345-377.

Díaz García, L. I., Alarcón García, S., Cempe Cempe, K., Garrido Esparza, L. A., & Zúñiga Garrido, A. (2014). "Seguimiento del precedente por la Corte Suprema de Chile en materia laboral: Estudio empírico del recurso de unificación de jurisprudencia", *Revista chilena de derecho*, 41(3), 1105-1131.

Drahozal, Christopher (1998) "Judicial Incentives and the Appeal Process", *Southern Methodist University Law Review,* 51: 469-503.

Eisenberg, T. (1991). "The Relationship Between Plaintiff Success Rates Before Trial and at Trial". *Journal of the Royal Statistical Society. Series A (Statistics in Society)*, 111-116.

Eisenberg, T., & Henderson Jr, J. A. (1993). "Products liability cases on appeal: An empirical study". *Justice System Journal*, *16*(2), 117-138.

Etcheberry, Francoise (2009), *Derecho Individual del Trabajo,* editorial Legal Publishing Chile.

Fenoll, J. N. (2012). ""Inmediación" y Valoración de la Prueba: El Retorno de la Irracionalidad", *Diario La Ley*, (7783), 1.

Ferrand, Frédérique (2017). "The French Court of Cassation: On The Threshold of a Quiet Revolution?". In: Van Rhee, C.H. and Fu, Yulin (Eds.); *Supreme Courts in China and in the Western: Adjudication at the Service of Public Goals*. Springer, Cham (Switzerland):175-206.

Fon, Vincy and Franceso Parisi (2006), "Judicial precedents in civil law legal systems", *International Review of Law and Economics*, 26 (4): 519-535.

Gross, S. R., & Syverud, K. D. (1991). "Getting to No: A study of settlement negotiations and the selection of cases for trial". *Michigan Law Review*, *90*(2), 319-393.

Haire Susan, Stefanie Lindquist and Donald Songer (2003), "Appellate Court Supervision in the Federal Judiciary: A Hierarchical Perspective", *Law & Society Review* 37 (1): 143-167

Hanssen, F. A. (1999). The effect of judicial institutions on uncertainty and the rate of litigation: The election versus appointment of state judges. *The Journal of Legal Studies*, *28*(1), 205-232.

Hall Mark, and Ronald Wright (2008) "Systematic Content Analysis of Judicial Opinions", *California Law Review*, 96(1): 63-122r.

Ichino, A., Polo, M., & Rettore, E. (2003). Are judges biased by labor market conditions?. *European Economic Review*, *47*(5), 913-944.

Jacobi, Tonja and Emerson Tiller (2007). "Legal Doctrine and Political Control," *Journal of Law, Economics, and Organization* 23: 326-345.

Johnson, Charles (1979) "Lower Courts Reactions to Supreme Court Decisions: A Quantitative Examination", *American Journal of Political Science* 23: 792:804.

Jolowicz, John Anthony (1998), "The Role of the Supreme Courts at the National and International Level. General Report". In: Pelayia Yessiou-Faltsi (Ed.); *The Role of the*

Supreme Courts at a National and International Level. Sakkoulas Publications, Thessaloniki: 37-63.

Jolowicz, John Anthony (2000), *On Civil Procedure.* Cambridge University Press, Cambridge.

Kaplan, David, Joyce Sadka & J. L. Silva-Mendez (2008) "Litigation and Settlements: New evidence from Labor Courts in Mexico", *Journal of Empirical Legal Studies* 5 (2): 309-350.

Kaplan, David and Joyce Sadka (2015). "Monitoring and Incentives: Evidence from Field Experiments in a Mexican Labor Court", working paper, ITAM.

Kessler, D., Meites, T., & Miller, G. (1996). "Explaining deviations from the fifty-percent rule: A multimodal approach to the selection of cases for litigation". *The Journal of Legal Studies*, *25*(1), 233-259.

Kessler, D. P., & Rubinfeld, D. L. (2007). Empirical study of the civil justice system. *Handbook of law and economics*, *1*, 343-402.

Klerman, D., & Lee, Y. H. A. (2014). Inferences from litigated cases. *The Journal of Legal Studies*, *43*(2), 209-248.

Landes, William and Richard Posner (1976), "Legal Precedent: A Theoretical and Empirical Analysis", *Journal of Law and Economics* 19(2): 249-307.

Mak, Elaine (2013). *Judicial Decision-Making in a Globalised World: A Comparative Analysis of the Changing Practices of Western Highest Courts*. Hart Publishing, Oxford.

McNollgast (1995). "Politics and the Courts: A Positive Theory of Judicial Doctrine and the Rule of Law", *Southern California Law Review* 68: 1631-1683.

Miceli, Thomas and Meti Cosgel (1994), "Reputation and Judicial Decision-Making", *Journal of Economic Behavior and Organization*, 23(1): 31-51.

Niblett, Anthony (2013), "Tracking inconsistent judicial behavior", *International Review of Law and Economics* 34: 9-20.

O'Connor, Sandra (1984), "Our Judicial Federalism". *Case Western Reserve Law Review*, 35(1): 1-12.

Palomo Vélez, D., & Matamala Souper, P. (2012). Prueba, inmediación y potestades en el proceso laboral: observaciones críticas y apelación al equilibrio. *Revista de derecho (Coquimbo)*, *19*(2), 237-274.

Petherbridge, Lee (2009), "Patent Law Uniformity?" *Harvard Journal of Law and Technology*, 22 (2): 422-473.

Posner, Richard (1993) "What do Judges and Justices Maximize? (The Same Everybody Else Does)", *Supreme Court Economic Review*, 3: 1-41.

Prescott, J. J., Spier, K. E., & Yoon, A. (2014). Trial and Settlement: A Study of High-Low Agreements. *The Journal of Law and Economics*, *57*(3), 699-746.

Priest, G. (1977), "The Common Law Process and the Selection of Efficient Rules", *The Journal of Legal Studies* 6 (1): 65-82.

Priest, G., & Klein, B. (1984). The selection of disputes for litigation. *The Journal of Legal Studies*, *13*(1), 1-55.

Richman, William M., and Reynolds, William L. (2013). *Injustice on Appeal. The United States Courts of Appeals in Crisis*. Oxford University Press, Oxford.

Rojas, Irene (2013), "The Legal Nature of Indemnity Due to Termination of the Contract of Employment in the Chilean Labor Law", *Revista de Derecho de la Pontificia Universidad Católica de Valparaíso,* XLI: 107-143.

Schultz, Vicki and Patterson, Stephen (1992), "Race, Gender, Work, and Choice: An Empirical Study of the Lack of Interest in Tittle VII Cases Challenging Job Segregation." *University of Chicago Law Review* 59: 1073-1181.

Segal Jeffrey, and Harold Spaeth (2008). *The Supreme Court and the attitudinal Model revisited*, fourth edition. Cambridge.

Shavell, S. (1996). Any frequency of plaintiff victory at trial is possible. *The Journal of Legal Studies*, *25*(2), 493-501.

Sieg, Holger (2000) “Estimating a Bargaining Model with Asymmetric Information: Evidence from Medical Malpractice Disputes”, *Journal of Political Economy*, Vol 108(5), pp. 1006-1021.

Siegelman, P., & Donohue III, J. J. (1995). The selection of employment discrimination disputes for litigation: Using business cycle effects to test the Priest-Klein hypothesis. *The Journal of Legal Studies*, *24*(2), 427-462.

Silvestri, Elizabetta (2001). “Corti Supreme Europee: Accesso, Filtri e Selezione”. in: Centro Studi Giuridici e Policitic and Centro Internazionale Magistrati, *Le Corti Supreme. Atti del Convengno*. Giuffrè, Milano, 105-116.

Silvestri, Elizabetta (2017). “The Italian Supreme Court of Cassation: Of Misnomers and Unaccomplished Missions”. In: Van Rhee, C.H. and Fu, Yulin (Eds.); *Supreme Courts in China and in the Western: Adjudication at the Service of Public Goals*. Springer, Cham (Switzerland): 229-245.

Songer, Donald (1987), “The Impact of Supreme Court Trends on Economic Policy Making in the U.S. Court of Appeals” *Journal of Politics* 49: 830-41.

Spier, K. E. (2007), Litigation. *Handbook of law and economics*, *1*, 259-342.

Tapia, Francisco (2007), “El nuevo procedimiento en juicio del trabajo en la Ley 20087/06”, *Revista de Derecho Social Latinoamérica*, (2).

Tapia, Francisco (2012), “El juicio de hecho en las reformas procesales de la América Latina”, *Revista Derecho Laboral*. Montevideo, 245, 57-64.

Taruffo, Michele (2001). “Le Corti Supreme Europee: Acceso, Filtri, Selezione”. in: Centro Studi Giuridici e Policitic and Centro Internazionale Magistrati; Le Corti Supreme. Atti del Convengno. Milano: Giuffrè, 95-104.

Taruffo, M. (2007). “Rethinking the standards of proof”, *The American journal of comparative law*, *51*(3), 659-677.

Taruffo, Michele (2011). “Le funzioni delle Corti Supreme. Cenni generali”. *Annuario di Diritto Comparato e di Studi Legislativi*, 2011: 11-36.

Thayer, William (1984), *Introducción al Derecho del Trabajo*, editorial Jurídica de Chile, Second Edition, Santiago.

Waldfogel, J. (1995). The selection hypothesis and the relationship between trial and plaintiff victory. *Journal of Political Economy*, *103*(2), 229-260.

Waldfogel, J. (1998a). Selection of cases for trial. *The New Palgrave Dictionary of Economics and the Law, Macmillan Reference Limited*, *3*, 419-24.

Waldfogel, J. (1998b). Reconciling asymmetric information and divergent expectations theories of litigation. *The Journal of Law and Economics*, *41*(2), 451-476.

Walker, Francisco (2003), *Derecho de las relaciones laborales*, editorial Universitaria. S.A., Santiago.

Watanabe, Y. (2006). Learning and bargaining in dispute resolution: Theory and evidence from medical malpractice litigation. *Unpublished manuscript*.

8. Appendix

Proof of Lemma 1: i) Take any Judge with optimal rule $r_i \in [\underline{r}, \overline{r}]$, we want to show that he enforces legal rule r_L. That is

$$u(r_L, r_i) > u\,(r_i, r_i) - \frac{p}{1-p}D$$

In order to see that, note that there exists $\alpha \in [0,1]$ such that $r_i = \alpha\underline{r} + (1 - \alpha\overline{r})$. Because of the concavity of the utility function it follows that

$$u(r_L, r_i) > \alpha u\left(r_L, \underline{r}\right) + (1-\alpha)u\,(r_L, \overline{r})$$

And because $u\left(r_L, \underline{r}\right) = u\left(\underline{r}, \underline{r}\right) - \frac{p}{1-p}D$ and $u(r_L, \overline{r}) = u\,(\overline{r}, \overline{r}) - \frac{p}{1-p}D$ and also $u(r_i, r_i) = u\left(\underline{r}, \underline{r}\right) = u\,(\overline{r}, \overline{r})$ then

$$u(r_L, r_i) > \alpha\left(u\,(r_i, r_i) - \frac{p}{1-p}D\right) + (1-\alpha)\left(u\,(r_i, r_i) - \frac{p}{1-p}D\right)$$

which proves what we wanted. ii) Because the proof is the same for both parameters we do it only for D. If we partially derivate the identities that defines $\underline{r}$ and $\overline{r}$ we get

$$\frac{\partial u(r_L, \underline{r})}{\partial\, \underline{r}}\frac{\partial \underline{r}}{\partial D} = \frac{\partial u\,(\underline{r}, \underline{r})}{\partial\, \underline{r}}\frac{\partial \underline{r}}{\partial D} - \frac{p}{1-p}$$

$$\frac{\partial u(r_L, \overline{r})}{\partial \overline{r}}\frac{\partial \overline{r}}{\partial D} = \frac{\partial u\,(\overline{r}, \overline{r})}{\partial \overline{r}}\frac{\partial \overline{r}}{\partial D} - \frac{p}{1-p}$$

Because $u(r_i, r_i) = u(r_j, r_j)$ for all $r_i \neq r_j$ then $u\,(\overline{r}, \overline{r}) = u\,(\underline{r}, \underline{r}) = u(r_i, r_i)$ and $\frac{\partial u\,(\underline{r}, \underline{r})}{\partial\, \underline{r}} = \frac{\partial u(r_i, r_i)}{\partial\, \underline{r}} = \frac{\partial u\,(\overline{r}, \overline{r})}{\partial \overline{r}} = \frac{\partial u(r_i, r_i)}{\partial\, \overline{r}} = 0$. Hence

$$\frac{\partial \underline{r}}{\partial D} = \frac{-\frac{p}{1-p}}{\frac{\partial u(r_L, \underline{r})}{\partial\, \underline{r}}}; \frac{\partial \overline{r}}{\partial D} = \frac{-\frac{p}{1-p}}{\frac{\partial u(r_L, \overline{r})}{\partial \overline{r}}}$$

The result follows after we note that $\frac{\partial u(r_L, \underline{r})}{\partial\, \underline{r}} > 0$ and $\frac{\partial u(r_L, \overline{r})}{\partial \overline{r}} < 0$. That is true because from i) it is true that $r_L \in \left[\underline{r}, \overline{r}\right]$ and $u(r_L, x)$ is concave with maximum at $u(r_L, r_L)$. Hence $\overline{r} - \underline{r}$ goes up when D (or p) increases **End of Proof.**

Proof of Lemma 2: i) It follows directly after we notice that all the cases in which employees are demanding compensation $c_i < c_{Appeal}$ are cases in which employers do not appeal if the

first-instance decision does not favor them. Then as $c_{Appeal} \in \left[c_{Trial}^{WA}, c_{Trial}\right]$ we split the possible values of c_i into the values in which settlement offers (and ergo trials) are decided considering that there will not be appeals (low values of c_i) and there will be appeals (large values of c_i). Then from *2.3* we know that for all $c_i < c_{Trial}^{WA}$ employers make high settlement offers and for all $c_i \in \left[c_{Trial}^{WA}, c_{Appeal}\right]$ employers make low settlement offers. In the same way, for all $c_i \in \left[c_{Appeal}, c_{Trial}\right]$ employers make high settlement offers and for all $c_i > c_{Trial}$ employers make low settlement offers. The rest follows from there.

ii) From inspection of Figure 3 we know that while $c^* = c_{Trial}^{WA}$ in Scenario 1 and $c^* = c_{Trial}$ in Scenario 3 (evidently scenario 2 is the one referred in i)). For all $c_i < c^*$ employers make high settlement offers and for all $c_i > c^*$ employers make low settlement offers. In addition, when $c^* = c_{Trial}^{WA}$ then employers offer $(1 - p_e)\alpha c_i + p_e c_i$ if $c_i < c_{Trial}^{WA}$ which is always accepted by the employee. But when $c_i > c_{Trial}^{WA}$ the employer offers αc_i and that is accepted only with probability π. In other words, there is a trial with probability $1 - \pi$.

When $c^* = c_{Trial}$ we have that $c_{Appeal} < c_{Trial}$. Hence the employer makes settlement offer $(1 - p_e)\alpha c_i + p_e c_i$ if $c_i < c_{Appeal}$ and settlement offer $\left(1 - \overline{p}_e\right)\alpha c_i + \overline{p}_e(p_a \alpha c_i + (1 - p_a)c_i)$ if $c_i \in \left[c_{Appeal}, c^*\right]$. In both cases employees always accept. But if $c_i > c^*$ then the employer offers αc_i and that is accepted only by the employee with low losses. **End of Proof**.

FIGURES

Figure 1a: Process describing a Wrongful termination

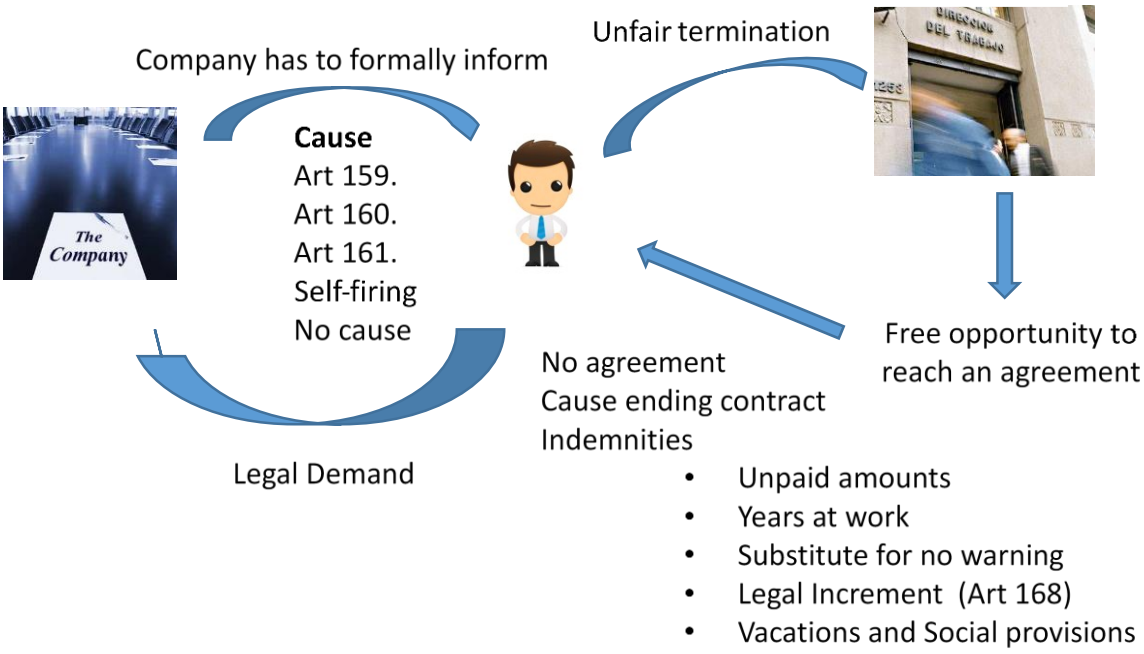


Figure 1b: Steps describing a Wrongful termination legal dispute

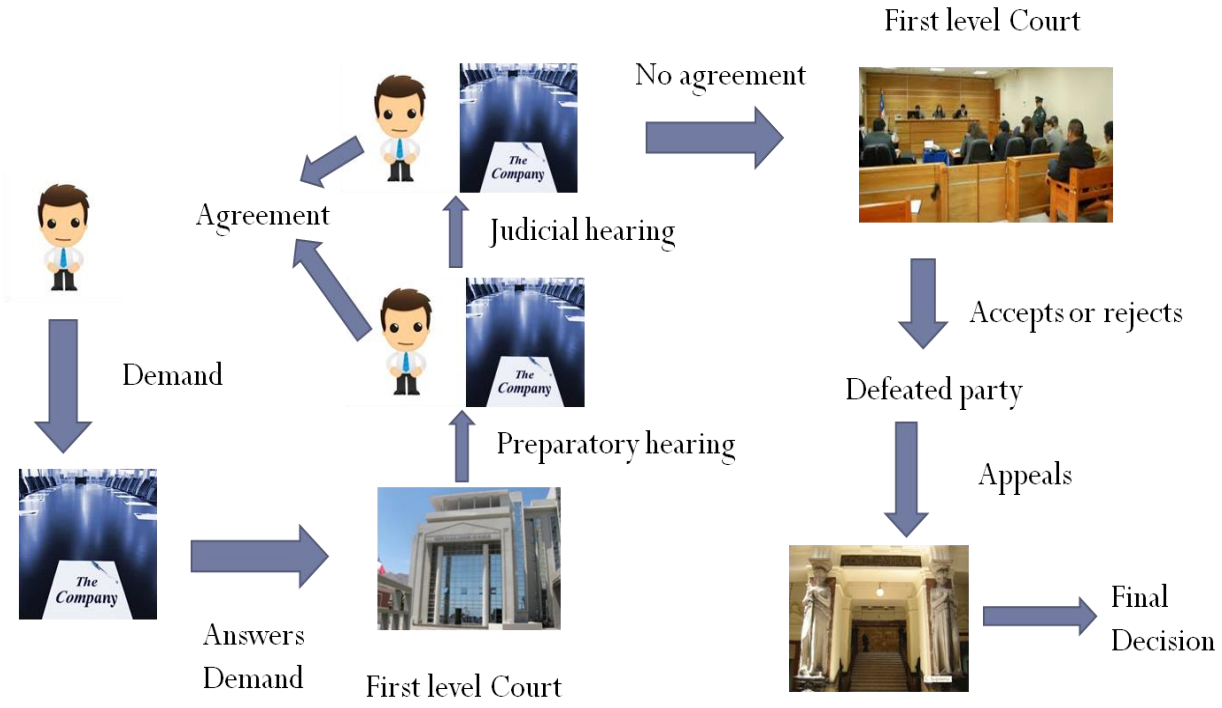


Figure 2. Sequence of moves in the Model

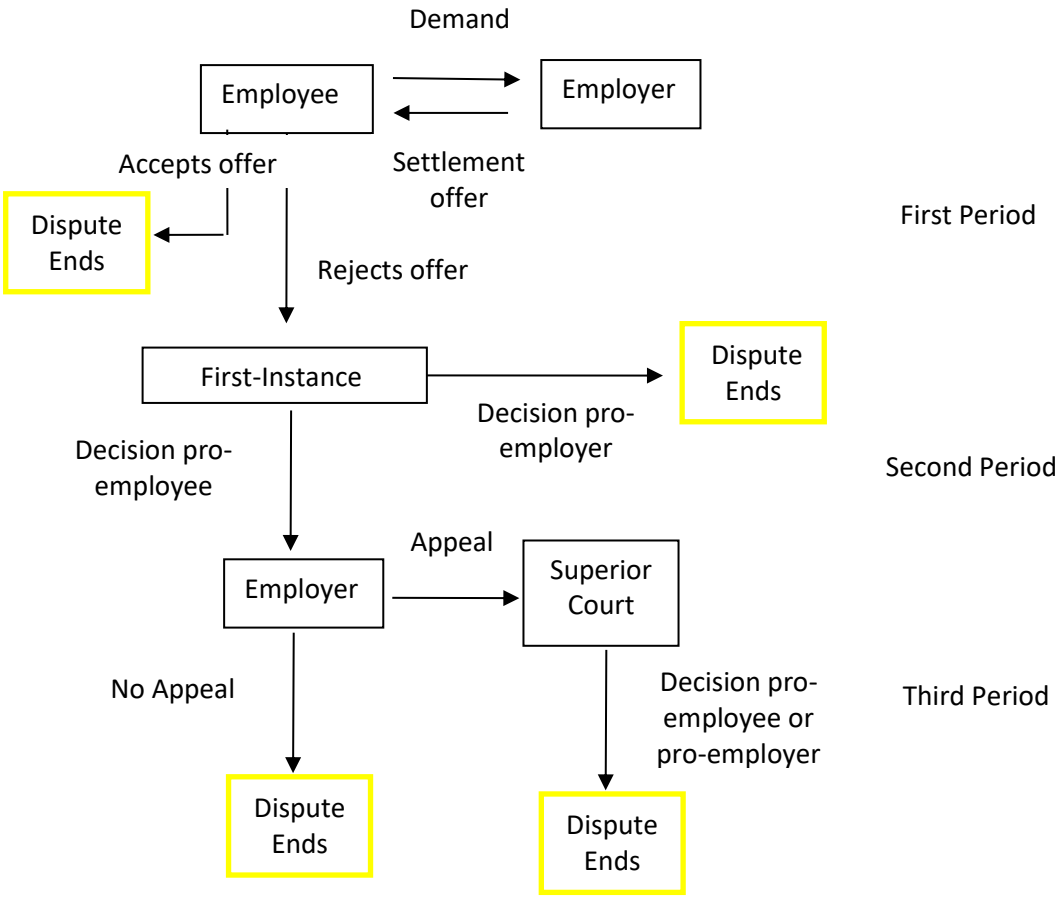


Figure 3. Equilibria depending on the values of $\{c_{Trial}, c_{Trial}^{WA}, c_{Appeal}\}$

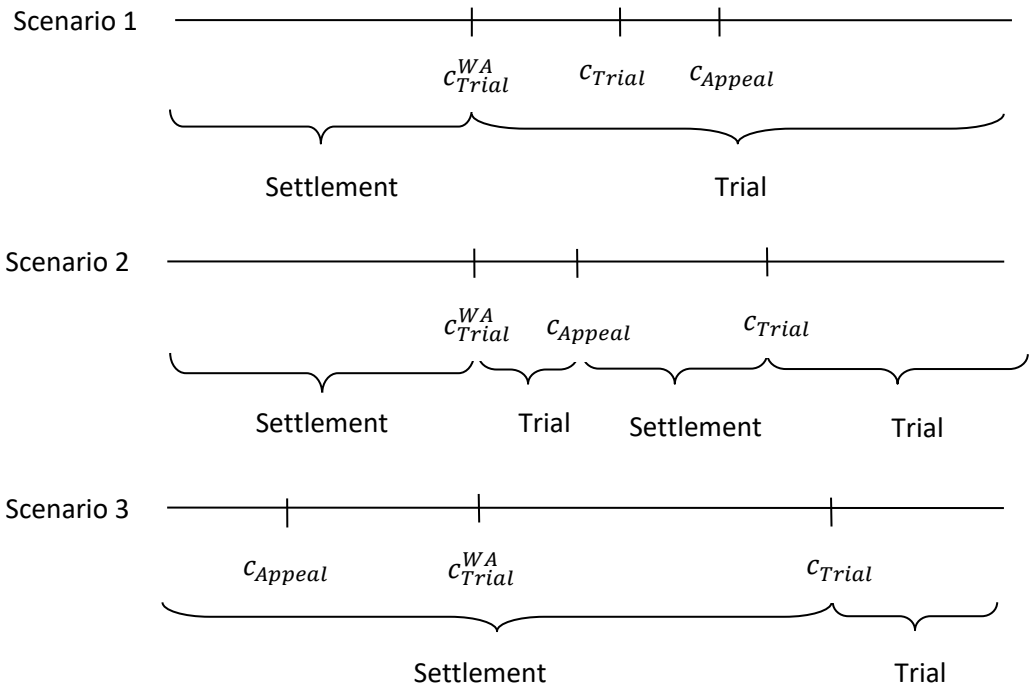
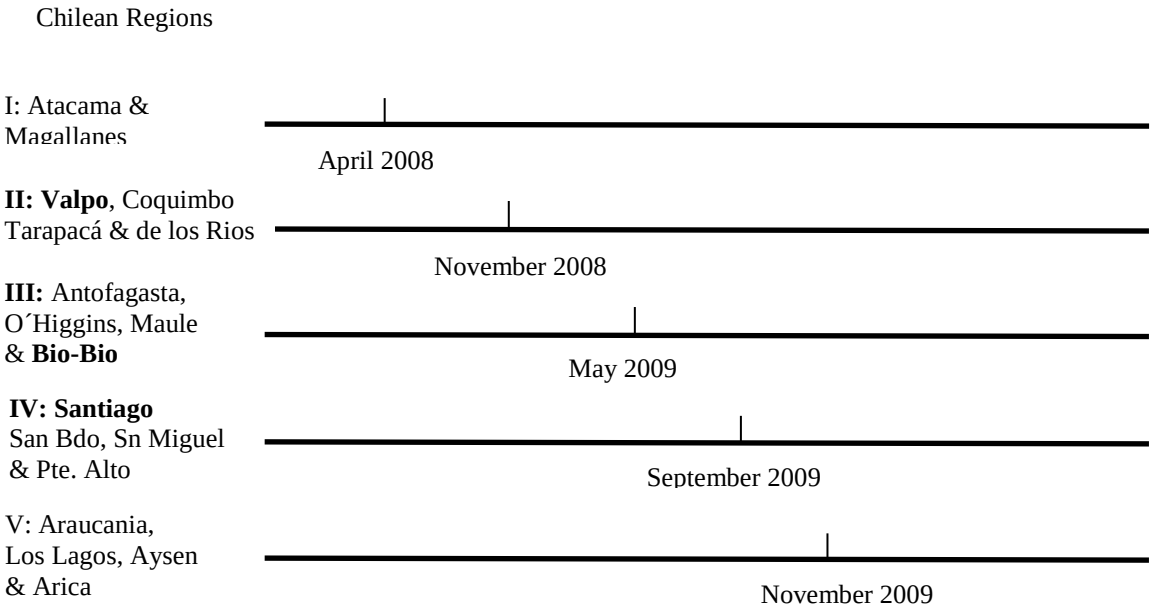
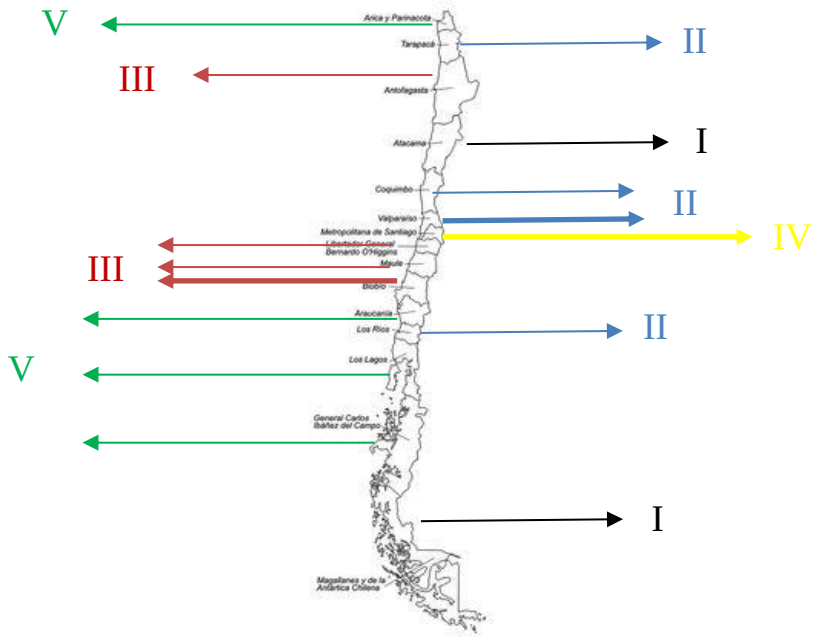


Figure 4. Implementation of the reform per region in Chile
(In black the Regions included in our data base)





DATA DESCRIPTION

General Features of the Lawsuit:

$Access\ Restriction_i \in \{0,1\}$: Dummy that is 1 after the reform or 0 otherwise.

$Court_i \in \{0,1\}$: 9, 2, 2 labor courts in Santiago, Concepcion and Valparaiso before the reform and 2, 1 and 1 courts after the reform in the respective cities.

$Year_i \in \{6,..,12\}$: Year in which the lawsuit was made.

$Month_i \in \{1,..,12\}$: Month in which the lawsuit was made.

$Lenght_i \in \mathbb{R}$: Number of days the first-level judge took to provide a decision.

$Causal_i \in \{0,1\}$: 4 dummies for cause of termination: No cause, Art 159, Art 160, Art 161, Art 171.

$Sentence_i \in \{0,1\}$: 4 dummies to distinguish Court's decision: settlement outside court, settlement inside court, pro-employee (accepts) or pro-employer (rejects).

$Judge_i \in \{0,1\}$: 130 dummies to distinguish Judges. 48 worked in Santiago, 11 in Concepcion and 13 in Valparaiso. To protect privacy we use numbers and not names.

$Compensations\ Demanded_i \in \mathbb{R}$: 7 variables capture amounts demanded by employees: incomplete salaries, years of service, compensation for no previous warning, legal increment, legal and proportional vacations and other issues such as moral harm or

additional agreements.[60] A final eight variable represents the total amount demanded. Amounts are in pesos from Dec. 2005.

$Compensations\ Awarded_i \in \mathbb{R}$: Same variables as in *Compensations Demanded* but now effectively awarded by the Judge. Amounts in pesos from Dec. 2005.

$Compensations\ Recovered_i \in \mathbb{R}$: Amount recovered by employee at settlement, if there was one. Amounts in pesos from Dec. 2005.

Characteristics of the Employees:

$Gender_i \in \{0,1\}$: Male (0) or Female (1).

$Months\ Worked_i \in \mathbb{R}$: Time that the employee worked for this employer.

$Salary_i \in \mathbb{R}$: Average of the three last wages received by the employee.[61] Amounts in pesos from Dec. 2005.

$Public\ Representation_i \in \{0,1\}$: Public (0) or Private (1).[62]

$Time\ to\ file\ lawsuit_i \in \mathbb{R}$: Time elapsed between termination and lawsuit filling.

Characteristics of the Employer:

$Firm_i \in \{0,1\}$: Dummy identify whether defendant is a firm or a natural person.

$Size_i \in \{0,1\}$: 4 dummies classify the firm in micro, small, medium or large.[63]

[60] We are not considering the amounts associated to the Bustos Law because it is not clear how to calculate them. We know the time of the firing but not the time when the firm normalizes the payment of social provisions. An option is to consider the date of the demand, the other is the date of the court decision.
[61] See the discussion at the beginning of Section 3.1 and footnote 40.
[62] Requisites to access public representation ("Corporacion de Asistencia Judicial")
[63] According to Chilean standards, this distinction happens for the following thresholds in sales per year: US$100.000, US$1 million and US$4 million.

TABLES

Table 1: Judges' decisions separating by years before and after the reform

Judge	Total Cases	Before Reform	After Reform	Both Periods	City
J1	42	0	42	No	S
J2	41	30	11	Yes	S
J3	69	0	69	No	S
J4	31	0	31	No	S
J5	49	0	49	No	S
J6	35	0	35	No	S
J7	42	0	42	No	S
J8	53	11	42	Yes	S
J9	36	0	36	No	S
J10	22	0	22	No	S
J11	43	0	43	No	S
J12	48	0	48	No	S
J13	48	0	48	No	S
J14	33	0	33	No	S
J20	125	104	21	Yes	S
J23	14	0	14	No	S
J24	170	129	41	Yes	S
J25	35	2	33	Yes	S/V
J26	26	0	26	No	S
J27	182	140	42	Yes	S
J28	42	0	42	No	S
J29	41	0	41	No	S
J30	18	0	18	No	S
J31	38	2	36	Yes	S
J32	21	0	21	No	S
J33	36	0	36	No	S
J36	45	1	44	Yes	S
J37	21	0	21	No	S
J38	36	0	36	No	S
J39	39	0	39	No	S
J42	14	0	14	No	S
J49	45	45	0	No	S
J51	11	11	0	No	S
J52	68	68	0	No	S
J53	16	16	0	No	S
J54	84	84	0	No	S
J55	54	54	0	No	S

Judge	Total Cases	Before Reform	After Reform	Both Periods	City
J56	49	49	0	No	S
J58	27	27	0	No	S
J59	35	35	0	No	S
J61	62	62	0	No	S
J63	28	28	0	No	S
J65	54	54	0	No	S
J67	57	57	0	No	S
J68	13	13	0	No	S
J70	75	75	0	No	S
J71	26	26	0	No	S
J72	16	16	0	No	S
J78	35	17	18	Yes	V
J79	16	0	16	No	V
J80	289	9	280	Yes	V
J81	26	0	26	No	V
J82	51	12	39	Yes	V
J85	17	0	17	No	V
J86	322	42	280	Yes	V
J87	46	26	20	Yes	V
J88	373	0	373	No	V
J89	736	552	184	Yes	C
J90	13	13	0	No	C
J92	12	12	0	No	C
J93	333	305	28	Yes	C
J95	74	74	0	No	C
J98	25	25	0	No	C
J100	415	0	415	No	C
J101	56	0	56	No	C
J102	14	0	14	No	C
J103	28	0	28	No	C
J105	290	0	290	No	C
J117	15	15	0	No	V
J119	18	18	0	No	V
J125	68	68	0	No	V
J130	25	25	0	No	V
Total	5512	2352	3160	2501 (Yes)	
S = Santiago; V = Valparaíso; C = Concepción					

Table 2: Average l.w.t. characteristics before and after the Reform in all the cities

Characteristics of the Parties						
	Santiago		**Concepción**		**Valparaíso**	
	Before	After	Before	After	Before	After
Months Worked	51	65	53	93	58	69
Demanded ($ 10^3)	4.327	6.727	4.704	7.631	3.272	5.049
Salary ($ 10^3)	370	537	317	469	323	419
Micro	53%	51%	65%	56%	59%	68%
Small	10%	9%	8%	10%	10%	5%
Medium	5%	8%	5%	9%	8%	8%
Large	32%	32%	22%	25%	23%	19%
Female (%)	38%	30%	36%	31%	31%	34%
Termination Cause						
	Santiago		**Concepción**		**Valparaíso**	
	Before	After	Before	After	Before	After
No Cause	42%	29%	39%	29%	35%	27%
ART 159	8%	8%	15%	16%	14%	8%
ART 160	37%	30%	28%	18%	38%	31%
ART 161	9%	17%	16%	18%	12%	26%
ART 171	4%	16%	2%	19%	0%	7%
Characteristics of the Judicial Decisions						
	Santiago		**Concepción**		**Valparaíso**	
	Before	After	Before	After	Before	After
Dispute Length (Days)	390	76	214	122	737	142
Awarded ($ 10^3)	2.111	2.968	1.706	3.709	1.638	2.649
Out of Court Settlement (%)	12%	5%	22%	13%	31%	10%
In Court Settlement (%)	24%	57%	14%	44%	1%	40%
Accepts (%)	51%	32%	41%	34%	28%	42%
Rejects (%)	14%	5%	13%	8%	38%	8%
Appealed Sentences (%)	20%	13%	30%	17%	62%	16%
Observations	1173	1115	1000	1020	317	1087

Table 3: Percentage awarded to Plaintiffs in a Court decision

	Regressions					
Variable	(1)	(2)	(3)	**(4)**	(5)	(6)
Access Restriction	0,18 *** (2,86)	0,21 *** (3,15)	0,28 *** (4,52)	**0,27 *** (4,50)**	0,19 *** (4,09)	0,27 *** (4,50)
Trial Length [100 days]	-0,04 *** (-5,31)	-0,03 *** (-5,09)	-0,03 *** (-4,30)	**-0,03 *** (-4,18)**	-0,03 *** (-5,19)	-0,03 *** (-4,18)
Months Worked [100]	0,003 (-0,29)	0,004 (-0,39)	0,0006 *** (0,05)	**0,003 (0,31)**	0,004 (0,37)	0,003 (0,31)
Log Salary	-0,09 *** (-6,88)	-0,09 *** (-6,30)	-0,08 *** (-5,72)	**-0,07 *** (-4,83)**	-0,07 *** (-5,27)	-0,01 *** (-4,83)
Public Representation	-0,11 *** (-4,83)	-0,10 *** (-4,34)	-0,08 *** (-3,80)	**-0,08 *** (-3,50)**	-0,09 *** (-4,10)	-0,08 *** (-3,50)
IMACEC$_{-1}$	-0,01 ** (-2,44)	-0,01 ** (-2,32)	-0,01 ** (-2,57)	**-0,01 ** (-2,27)**	-0,02 *** (-3,29)	-0,01 ** (-2,27)
Person or Firm	Yes	Yes	No	**No**	No	No
Firm Size	No	No	No	**Yes**	Yes	Yes
Judge	Yes	Yes	Yes	**Yes**	No	Yes
Gender	Yes	Yes	Yes	**Yes**	Yes	Yes
Termination Cause	Yes	Yes	Yes	**Yes**	Yes	Yes
City	Yes	Yes	Yes	**Yes**	Yes	No
Month	Yes	Yes	Yes	**Yes**	Yes	Yes
Year	Yes	Yes	Yes	**Yes**	Yes	Yes
Occupation ratio	Yes	Yes	Yes	**Yes**	Yes	Yes
Days to Demand	No	Yes	Yes	**Yes**	Yes	Yes
Constant	3,53 *** (5,82)	3,41 *** (5,51)	3,19 *** (5,78)	**2,89 *** (5,21)**	3,36 *** (6,36)	2,89 *** (5,21)
R^2	16,34	16,73	18,69	**19,62**	13,80	19,62
Observations	2.230	2.111	2.273	**2.273**	2.286	2.273

Coefficient (t-test); *** 99% significance; ** 95% significance; * 90% significance. We run OLS regressions with trials data. The dependent variable is $\frac{Compensation\ Awarded}{Compensation\ Demanded}$ and test the significance of *Access Restriction*. We use a number of control (such as trial length, employee's salary, national economic activity and regional unemployment) as well as fixed effect variables (such as judges and cause of termination). We use robust standard errors

Table 4: Percentage of decisions favoring Plaintiffs (accepted/decided)

Regressions						
	Logit				OLS	
Variable	(1)		(2)		**(3)**	(4)
	Level	Odd Ratios	Level	Odd Ratio		
Access Restriction	2,53 ***	12,61 ***	1,84 ***	6,30 ***	**0,36 *****	0,24 ***
	(5,68)	(5,68)	(5,81)	(5,81)	**(5,65)**	(5,14)
Trial Length [100]	-0,15 ***	1 ***	-0,15 ***	1 ***	**-0,02 *****	-0,03 ***
	(-3,95)	(-3,95)	(-4,87)	(-4,87)	**(-4,14)**	(-5,19)
Months Worked [100]	0,01	1	-0,02	1	**-0,00**	-0,01
	(-0,06)	(-0,06)	(-0,46)	(-0,46)	**(-0,06)**	(-0,43)
Log Salary	-0,35 ***	0,71 ***	-0,40 ***	0,67 ***	**-0,05 ****	-0,06 ***
	(-2,79)	(-2,79)	(-3,37)	(-3,37)	**(-2,50)**	(-3,10)
Public Representation	-0,09	0,92	-0,11	0,90	**-0,02**	-0,02 ***
	(-0,54)	(-0,54)	(-0,74)	(-0,74)	**(-0,83)**	(-1,06)
IMACEC$_{-1}$	-0,09 **	0,92 **	-0,12 ***	0,88 ***	**-0,01 ****	-0,02 ***
	(-2,30)	(-2,30)	(-3,56)	(-3,56)	**(-2,38)**	(-3,72)
Log Demanded	-0,01	0,99	0,01	1,01	**0,00**	0,00
	(-0,07)	(-0,07)	(0,11)	(0,11)	**(0,05)**	(0,17)
Firm Size	Yes	Yes	Yes	Yes	**Yes**	Yes
Judge	Yes	Yes	No	No	**Yes**	No
Gender	Yes	Yes	Yes	Yes	**Yes**	Yes
Termination Cause	Yes	Yes	Yes	Yes	**Yes**	Yes
City	No	No	Yes	Yes	**No**	Yes
Month	Yes	Yes	Yes	Yes	**Yes**	Yes
Year	Yes	Yes	Yes	Yes	**Yes**	Yes
Occupation ratio	Yes	Yes	Yes	Yes	**Yes**	Yes
Days to Demand	No	Yes	Yes	Yes	**Yes**	Yes
Constant	14,36 ***		19,28 ***		**2,62 *****	3,52 ***
	(3,66)	(3,66)	(5,49)	(5,42)	**(4,64)**	(6,65)
Pseudo R^2/ R^2	17,16	17,16	12,91	12,91	**17,80**	12,69
Observations	2.224	2.224	2.264	2.264	**2.251**	2.264

Coefficient (t-test); *** 99% significance; ** 95% significance; * 90% significance. We run OLS regressions with trial data. The dependent variable is *Accepted* and test the significance of *Access Restriction*. We use a number of control (such as trial length, employee's salary, national economic activity and regional unemployment) as well as fixed effect variables (such as judges and cause of termination). We use robust standard errors

Table 4a: Probability that a judge accepts a demand based on the Logit Model of Table 4

Predictions based on Logit Model									
	Santiago (Judge 24)			Valparaiso (Judge 88)			Concepcion (Judge 89)		
Cause	Before	After	Delta	Before	After	Delta	Before	After	Delta
No Cause	0,6	0,98	**0,38**	0,46	0,96	**0,50**	0,39	0,95	**0,56**
Art 159	0,85	0,99	**0,14**	0,76	0,99	**0,23**	0,71	0,99	**0,28**
Art 160	0,74	0,99	**0,25**	0,63	0,98	**0,35**	0,56	0,97	**0,41**
Art 161	0,88	0,99	**0,11**	0,81	0,99	**0,18**	0,77	0,99	**0,22**
Art 171	0,80	0,97	**0,17**	0,69	0,98	**0,29**	0,63	0,98	**0,35**

We predict probabilities that a given judge accepts the demand of a representative plaintiff, before (2008) and after (2010) the reform. We evaluate the Logit Model at average values.

Table 6a: Year Effects when Compared to the Access Restriction Effect

Year Effects compared to the Access Restriction Effect			
	Table 3 (4)	**Table 6 (1)**	**Table 7 (1)**
Restriction	**0,27 (4,50)**	**-0,97 (-4,04)**	**-1,66 (-2,10)**
Year			
2007	-0,06 (-1,39)	0,58 (3,68)	-1,10 (-2,52)
2008	-0,15 (-2,98)	1,29 (7,85)	-0,70 (-1,64)
2009	-0,19 (-2,54)	**2,31 (8,79)**	-0,87 (-1,22)
2010	-0,12 (-1,01)	**2,86 (8,18)**	-2,10 (-2,07)
2011	-0,03 (-0,19)	**3,63 (8,26)**	-3,28 (-2,30)
2012	0,02 (0,12)	**4,10 (7,14)**	-

test t in parenthesis

Table 6b: Probability that a lawsuit settles based on the Logit Model of Table 6

Predictions based on Logit Model									
	Santiago (Judge 24)			Valparaiso (Judge 88)			Concepcion (Judge 89)		
Cause	Before	After	Delta	Before	After	Delta	Before	After	Delta
No Cause	0,24	0,4	**0,16**	0,26	0,43	**0,17**	0,36	0,55	**0,19**
Art 159	0,28	0,46	**0,18**	0,31	0,49	**0,18**	0,42	0,61	**0,19**
Art 160	0,30	0,48	**0,18**	0,33	0,51	**0,18**	0,44	0,62	**0,18**
Art 161	0,20	0,35	**0,15**	0,22	0,38	**0,16**	0,32	0,50	**0,18**
Art 171	0,21	0,36	**0,15**	0,23	0,39	**0,16**	0,33	0,51	**0,18**

We predict probabilities that a representative dispute settles, before (2008) and after (2010) the reform. We evaluate the Logit Model at average values.

Table 5: Percentage awarded to Plaintiffs in a Settlement

	Regressions					
Variable	(1)	(2)	(3)	**(4)**	(5)	(6)
Access Restriction	-0,13 ***	-0,14 ***	-0,14 ***	**-0,15 *****	-0,12 ***	-0,15 ***
	(-2,71)	(-2,94)	(-3,13)	**(-3,29)**	(-3,56)	(-3,29)
Trial Length [100]	-0,02 **	-0,02 **	-0,01	**-0,01**	-0,01	-0,01
	(-2,37)	(-2,34)	(-1,44)	**(-1,38)**	(-1,35)	(-1,38)
Months Worked [100]	-0,02 ***	0,02 ***	-0,02 ***	**-0,02 *****	-0,02 ***	-0,02 ***
	(-2,38)	(-2,36)	(-2,73)	**(-2,72)**	(-2,53)	(-2,74)
Log Salary	-0,06 ***	-0,05 ***	-0,06 ***	**-0,05 *****	-0,05 ***	-0,05 ***
	(-6,03)	(-5,44)	(-6,17)	**(-5,52)**	(-5,34)	(-5,52)
Public Representation	0,04 ***	0,04 ***	0,03 ***	**0,03 *****	0,03 ***	0,03 ***
	(2,72)	(2,84)	(2,33)	**(2,45)**	(2,54)	(2,45)
IMACEC$_{-1}$ [10^{-2}]	-0,00	0,00	-0,02	**0,26**	-0,21	0,26
	(-0,26)	(-0,33)	(-0,57)	**(0,68)**	(-0,59)	(0,68)
Person or Firm	Yes	Yes	No	**No**	No	No
Firm Size	No	Yes	No	**Yes**	Yes	Yes
Judge	Yes	Yes	Yes	**Yes**	No	Yes
Gender	Yes	Yes	Yes	**Yes**	Yes	Yes
Termination Cause	Yes	Yes	Yes	**Yes**	Yes	Yes
City	Yes	Yes	Yes	**Yes**	Yes	No
Occupation ratio	Yes	Yes	Yes	**Yes**	Yes	Yes
Month	Yes	Yes	Yes	**Yes**	Yes	Yes
Year	Yes	Yes	Yes	**Yes**	Yes	Yes
Constant	1,23 ***	1,22 ***	0,90 ***	**0,82 *****	1,35 ***	0,81 ***
	(3,03)	(3,00)	(2,39)	**(2,14)**	(3,69)	(2,14)
R^2	12,60	13,24	12,88	**12,87**	9,90	13,18
Observations	2.248	2.248	2.353	**2.353**	2.384	2.353

Coefficient (t-test); *** 99% significance; ** 95% significance; * 90% significance. We run Logistic and OLS regressions with settlement data. The dependent variable is $\frac{Compensation\ Recovered}{Compensation\ Demanded}$ and we test the significance of *Access Restriction*. We use a number of control (such as trial length, employee's salary, national economic activity and regional unemployment) as well as fixed effect variables (such as judges and cause of termination). Odd ratios are reported. We use robust standard errors.

Table 6: Probability of a Settlement

Regressions						
	Logit				OLS	
Variable	(1)		(2)		**(3)**	(4)
	Level	Odd Ratios	Level	Odd Ratio		
Access Restriction	-0,87 ***	0,42 ***	0,27 *	1,31 *	**-0,16 *****	0,06
	(-3,56)	(-3,56)	(1,65)	(1,65)	**(-3,31)**	(1,56)
Months Worked	0,03	1	0,03	1	**0,00 ***	0,00 *
[100]	(0,79)	(0,79)	(0,78)	(0,78)	**(1,86)**	(1,66)
Log Salary	0,09	1,09	0,06	1,06	**0,02**	0,01
	(1,29)	(1,29)	(0,99)	(0,99)	**(1,26)**	(0,87)
Public	-0,33 ***	0,72 ***	-0,34 ***	0,71 ***	**-0,07 *****	-0,07 ***
Representation	(-3,82)	(-3,82)	(-4,19)	(-4,19)	**(-3,81)**	(-4,19)
IMACEC$_{-1}$	-0,04 *	0,96 *	-0,02	0,98	**-0,01 ** **	-0,00
	(-1,74)	(-1,74)	(-0,95)	(-0,95)	**(-2,07)**	(-1,04)
Log Demanded	-0,15 ***	0,86 ***	-0,14 ***	0,87 ***	**-0,03 *****	-0,03 ***
	(-3,48)	(-3,48)	(-3,37)	(-3,37)	**(-3,40)**	(-3,42)
Firm Size	Yes	Yes	Yes	Yes	**Yes**	Yes
Judge	Yes	Yes	No	No	**Yes**	No
Gender	Yes	Yes	Yes	Yes	**Yes**	Yes
Termination						
Cause	Yes	Yes	Yes	Yes	**Yes**	Yes
City	No	No	Yes	Yes	**No**	Yes
Occupation rate	Yes	Yes	Yes	Yes	**Yes**	Yes
Month	Yes	Yes	Yes	Yes	**Yes**	Yes
Year	Yes	Yes	Yes	Yes	**Yes**	Yes
Constant	3,03	20,73	1,67	5,29	**1,23 *****	0,91 **
	(1,36)	(1,36)	(0,83)	(0,83)	**(2,67)**	(1,99)
Pseudo R^2	13,22	13,22	7,51	7,51	**17,01**	10,25
Observations	4.669	4.669	4.753	4.753	**4.708**	4.753

Coefficient (t-test); *** 99% significance; ** 95% significance; * 90% significance. We run Logistic and OLS regressions with lawsuit data. The dependent variable is $Settlement$ and we test the significance of *Access Restriction*. We use a number of control (such as trial length, employee's salary, national economic activity and regional unemployment) as well as fixed effect variables (such as judges and cause of termination). Odd ratios are reported. We use robust standard errors.

Table 7: Probability of an Appeal (over decided trials)

Regressions				
	Logit		OLS	
Variable	(1) Concepción	(2) Concepción and Valparaíso	**(3) Concepción**	(4) Concepción and Valparaíso
Access Restriction	-2,00 **	0,45	**-0,40 ** **	0,08
	(-2,50)	(0,96)	**(-2,56)**	(0,85)
Trial Length [100]	-0,04	-0,00	**-0,01**	-0,00
	(-0,53)	(-0,03)	**(-0,64)**	(-0,25)
Months Worked [100]	0,02	-0,06	**0,00**	-0,01
	(0,14)	(-0,64)	**(0,08)**	(-0,62)
Log Salary	0,12	0,07	**0,02**	0,02
	(0,65)	(0,52)	**(0,69)**	(0,62)
Public Representation	-0,92 ***	0,92 ***	**0,16 *** **	0,16 ***
	(3,75)	(4,89)	**(3,73)**	(5,04)
IMACEC$_{-1}$	1,17 *	-0,07 **	**0,03 * **	-0,02 **
	(1,93)	(-1,78)	**(1,94)**	(-2,14)
Log Demanded	0,50 ***	0,32 ***	**0,09 *** **	0,07 ***
	(3,80)	(3,51)	**(4,00)**	(3,87)
Firm Size	Yes	Yes	**Yes**	Yes
Judge	Yes	Yes	**Yes**	Yes
Gender	Yes	Yes	**Yes**	Yes
Termination Cause	Yes	Yes	**Yes**	Yes
Month	Yes	Yes	**Yes**	Yes
Occupation rate	Yes	Yes	**Yes**	Yes
Year	Yes	Yes	**Yes**	Yes
Days to Demand	Yes	Yes	**Yes**	Yes
Constant	-24,88 ***	-0,74	**-4,13 *** **	0,49
	(-2,92)	(-0,18)	**(-2,68)**	(0,65)
Pseudo R^2/ R^2	19,69	15,37	**24,29**	19,18
Observations	791	1.427	**796**	1.432

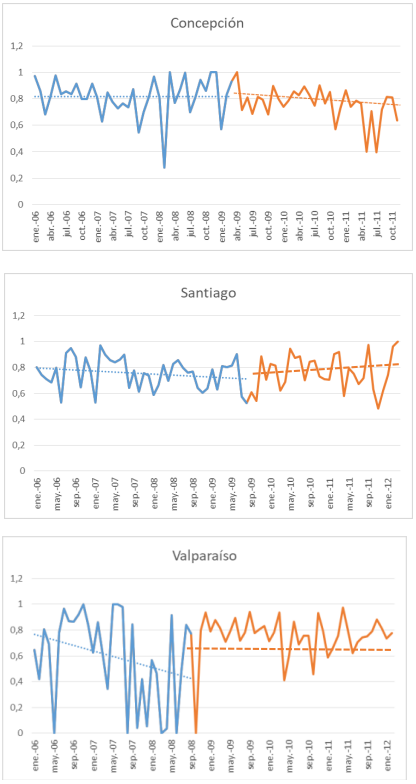
Coefficient (t-test); *** 99% significance; ** 95% significance; * 90% significance. We run Logistic and OLS regressions with decided-trials data. The dependent variable is *Appeal* and we test the significance of *Access Restriction*. We use a number of control (such as trial length, employee's salary, national economic activity and regional unemployment) as well as fixed effect variables (such as judges and cause of termination). Odd ratios are reported. We use robust standard errors.

Table 8: Access Restriction

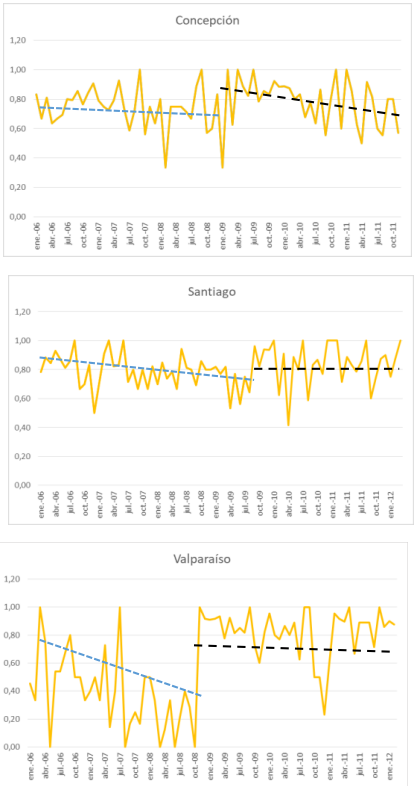
	Regressions			
Variable	**(1)**	(2)	(3)	(4)
Access Restriction	**-0,12 *** **	-0,13 ***	-0,11 ***	-0,07 ***
	(-8,62)	(-9,23)	(-11,20)	(-8,82)
Trial Length [100]	**-0,00**	-0,00	-0,00	-0,00
	(-0,72)	(-0,88)	(-0,72)	(-0,61)
Months Worked [100]	**0,00**	0,00	0,00	0,00
	(0,32)	(0,41)	(0,88)	(0,89)
Log Salary	**-0,01**	-0,00	-0,01 *	-0,01
	(-1,63)	(-1,23)	(-1,65)	(-1,54)
Public Representation	**-0,01 *** **	-0,01 ***	-0,02 ***	-0,01 ***
	(-2,76)	(-2,97)	(-3,40)	(-3,32)
Log Demanded	**-0,00**	-0,00	-0,01	0,00 ***
	(-0,27)	(-0,54)	(-0,03)	(0,30)
Firm Size	**Yes**	Yes	Yes	Yes
Judge	**Yes**	Yes	Yes	Yes
Gender	**Yes**	Yes	Yes	Yes
Termination Cause	**Yes**	Yes	Yes	Yes
Occupation Rate	**Yes**	Yes	Yes	Yes
Year	**Yes**	Yes	No	Yes
Days to Demand	**Yes**	No	No	Yes
Constant	**0,38 *** **	0,37 ***	0,36 ***	0,33
	(8,74)	(8,93)	(8,41)	(8,05)
R^2	**32,15**	32,64	23,85	20,43
Observations	**2.251**	2.364	2.364	2.650

Coefficient (t-test); *** 99% significance; ** 95% significance; * 90% significance. We run OLS regressions with decided-trials data. The dependent variable is P_{access} and test the significance of *Access Restriction*. We use a number of control (such as trial length, employee's salary, economic activity and regional unemployment) as well as fixed effect variables (such as judges and cause of termination). We use robust standard errors

Graph 1. Percentage recovered with a judge decision

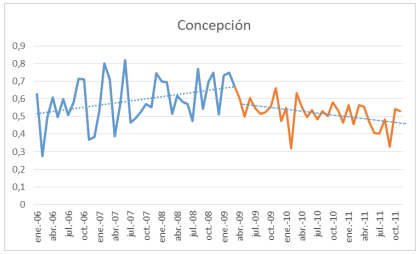


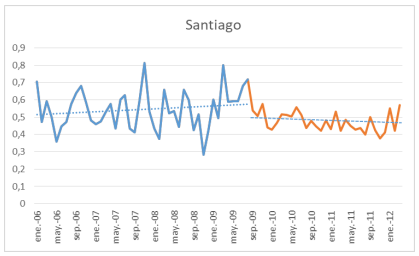
Graph 2. Percentage of cases decided Pro-Plaintiff

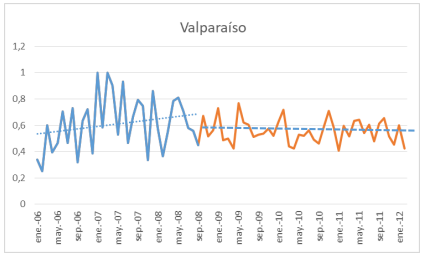


Graph 1 shows the evolution of the average compensation awarded (as percentage of compensation demanded) per case decided in each city monthly. The blue line shows the trend before the reform, the orange line shows the trend after the reform. Graph 2 shows the evolution of the percentage of cases accepted (decided pro-plaintiff) in each city monthly. The blue line shows the trend before the reform, the black line shows the trend after the reform.

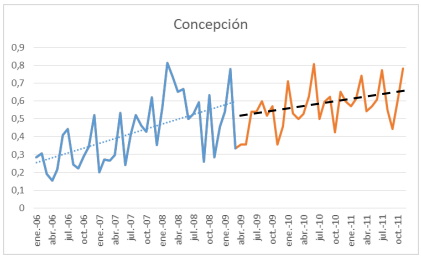
Graph 3. Percentage recovered with a settlement

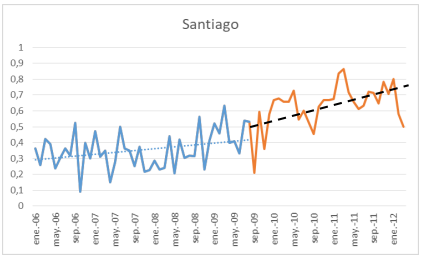


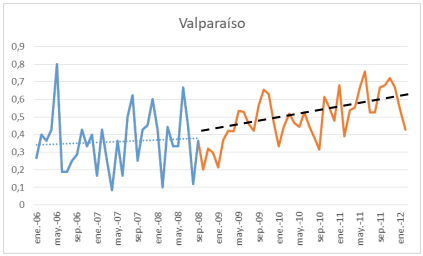




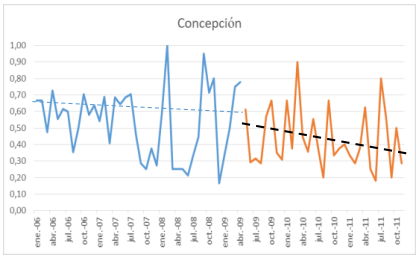
Graph 4. Percentage of cases settled

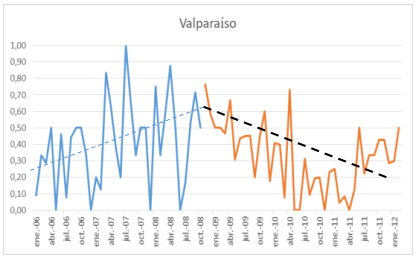






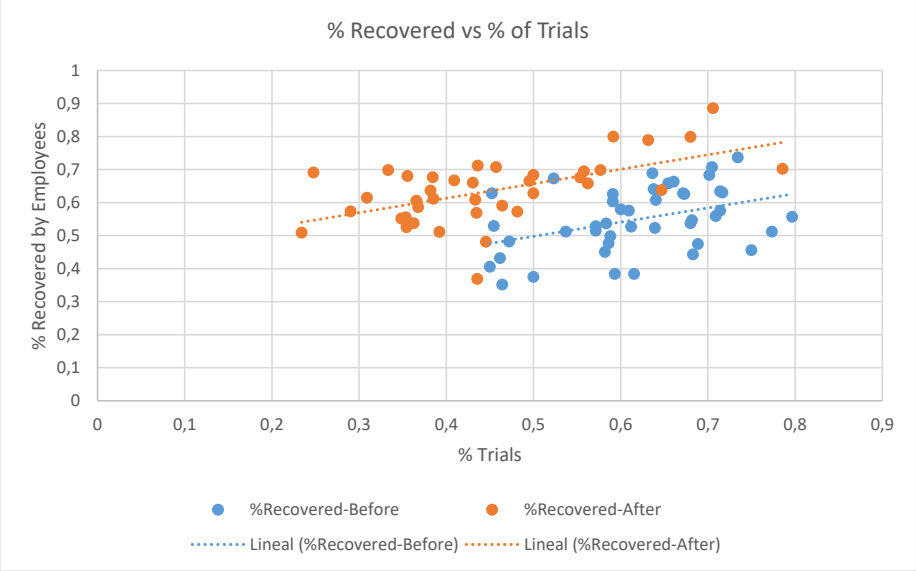
Graph 5. Probability of an appeal





Graph 3 shows the evolution of the average amount recovered per case settled in each city monthly. Graph 4 shows the evolution of the percentage of cases settled in each city monthly. Graph 5 shows the evolution of the average of sentences appealed in the cities of Concepcion and Valparaiso per month. In all graphs, the blue line shows the trend before the reform and the black line shows the trend after the reform.

Graph 6. Percentage recovered as a function of percentage of trials (Priest and Klein hypothesis)



The graph shows the distribution of points (% Recovered by Employees, % Trials) before (blue) and after (orange) the reform. Linear regressions generated the following results and fit, before and after the reform respectively:

Before the reform: $\% \, Recovered = 0{,}4311\% Trials + 0{,}2822; R^2 = 0{,}1643$

After the reform: $\% \, Recovered = 0{,}4384\% Trials + 0{,}4379; R^2 = 0{,}3229$