A Work Project, presented as part of the requirements for the Award of a Masters Degree in Economics from the Faculdade de Economia da Universidade Nova de Lisboa

Lawyers, Judges, and Judicial Reform: A Conceptual Framework and a Quantitative Exploration

António Luís Vicente | Masters Student # 206

A Project carried out with the supervision of Professor José Albuquerque Tavares

June 2010

ABSTRACT[1]

There is growing evidence on the importance of institutions for growth but limited understanding of the mechanisms of institutional divergence, persistence and change. Focusing on the judicial, starting from formalism indicators developed under the legal origin theory, but following different explanatory paths, we propose a thought experiment assessing reasonable preferences of judges and lawyers regarding formalism. We find a striking divergence, with lawyers showing preferences for high, and judges for low, formalism. This may generate institutional conflict, resistance to reforms and a dynamic equilibrium at an inefficient level. The analysis offers paths for reform, potentially addressing limitations of institutional approaches.

Political economy; economic growth; institutions; legal origin theory.

[1] I wish to thank my supervisor Professor José Tavares for the many useful recommendations and stimulating conversations on this topic, and Professor António Pinto Barbosa for introducing me to various advanced topics in economics, including the role of institutions for growth. I also wish to thank the judicial professionals with which this work was discussed. Naturally, I am entirely responsible for all limitations of the present work.

> There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new order, this lukewarmness arising partly from fear of their adversaries … and partly from the incredulity of mankind, who do not truly believe in anything new until they have had actual experience of it.
>
> – Niccolo Machiavelli, The Prince (1532)

> Though we know that institutions, both economic and political, persist for long periods of time, often centuries (and sometimes millennia), we do not as yet have a satisfactory understanding of the mechanisms through which institutions persist (…) The important point here is that both institutional persistence and institutional change are equilibrium outcomes. Approaches positing institutional persistence as a matter of fact, and then thinking of institutional changes as unusual events will not be satisfactory. Both phenomena have to be analyzed as part of the same dynamic equilibrium framework".
>
> – Acemoglu, Johnson and Robinson (2005)

> The last structural and comprehensive reform of Portugal's judicial system was in the 1930s.
>
> – Nuno Garoupa (2006)

1. Introduction

This Work Project develops a thought experiment to assess the preferences of judges and lawyers regarding the level of procedural formalism in the judicial system. The aim is to explore the way in which this exercise contributes towards a better understanding of concrete situations of persistence of inefficient institutions and also illuminate eventual policy avenues for institutional reform.

The first section provides a brief overview of the relevant political economy literature on the role of institutions for economic growth and more specifically on recent work on institutional persistence and change. The second section, focused on methodological aspects, describes the assumptions and design of the thought experiment and of the procedural formalism index developed by Djankov, La Porta, Lopez-de-Silanes and Shleifer (2003) on which it is based. The third section presents the results, while the fourth and final section discusses possible implications.

2. Review: Institutions and Growth

> We must ask whether political thought should not face from the beginning the possibility of bad government; (…) this leads to a new approach to the problem of politics, for it forces us to replace the question: "Who should rule?" by the new question: "How can we so organize political institutions that bad or incompetent rulers can be prevented from doing too much damage?
>
> – Karl Popper (1945)

The above quote by one of the leading political philosophers in the western tradition can be interpreted as an invitation to economists to explore the central questions of politics. This is because the "new question" proposed by Popper fits nicely with the standard approaches in economics: it is *impersonal*, by not focusing on the personality of the rulers but on the outcomes of their actions; it is *positive* rather than normative in that it stresses observable outcomes not considerations of what "should" happen; and it is *testable* because it suggests criteria for assessing, comparing and judging the validity of different systems – namely, the minimization of "damage"[2]. This work project, in its analysis of institutional preferences of different groups, seeks to follow the same conceptual path.

The insight at the origin of Popper's new question is that perhaps it is methodologically safer to assume a bad outcome and then build institutions that minimize or eliminate its impact. It can be argued that this draws deeply from economic thought – the market, starting from Adam Smith's formulation ([1776], 1999), is the chief example of an institution that, when working correctly, steers individual self-interest into the path of collective welfare. The market does not assume the "benevolence of the butcher". In recent decades, economists have been rising to this implicit Popperian challenge[3]. Within the branch of political economy there is already a

[2] A similar line of reasoning is present in F. A. Hayek's influential postscript to *The Constitution of Liberty*, "Why I am not a Conservative", in which he states "It is not who governs but what government is entitled to do that seems to me the essential problem."

[3] It can also be argued that recent work in political economy is simply a return of the discipline to its 18th and 19th Century roots, in which political and economic questions were mostly intertwined.

vast and penetrating literature which has contributed towards the advancement of our understanding of the nature of political societies. Political economy in general, and work on institutions in particular, seeks a broader role for economics and a more interdisciplinary approach. It tends to incorporate contributions from historical research, political science and political theory, but it uses the extensive toolbox provided by macroeconomics, microeconomics and econometrics. Major examples in this field are the analysis of the role of institutions (North, 1990), rent-seeking behavior (Tullock, 1967), on transaction costs (Coase, 1937), and the problem of collective action (Olson, 1982). More recently, Daron Acemoglu and colleagues[4] have been following closely in this tradition by posing questions regarding the compared effectiveness of different institutional settings and its role in explaining differences in growth levels and rates across countries. This work, again with parallels to Popper's formulation, is prepared to assume the possibility of bad government, namely the institutional capture by certain groups, and instead of a normative approach on "who should govern", focuses on a positive approach on what institutional settings have been shown empirically to be conducive to growth. Thus, with this assumption, the empirical agenda becomes focused on the possible reasons for the lack of emergence of such institutions and the related question of explaining the persistence of inefficient institutions. The most comprehensive summary of recent literature, including the authors own contributions, is Acemoglu, Johnson and Robinson (2005), on which the following short survey is based.

Fundamental and proximate causes for growth

Institutions were famously described by Douglass North (1990) as the "rules of the game in a society…that shape human interaction" which therefore "structure

[4] Acemoglu et al., 2002 and 2005.

incentives in human exchange". This approach emphasizes institutions as the *fundamental* cause for explaining differences in growth levels and rates across countries, which precede *proximate* causes, such as accumulation of capital (Solow, 1956), technological innovation (Romer, 1986) and human capital (Lucas, 1988). The idea is that even if one accepts the importance of these latter causes, there still remains the question of why some countries invest more in these factors[5].

Three contending fundamental causes for growth are geography, culture and institutions. All three have long traditions[6], but the case for the prominence of institutions has been recently advanced through a methodological approach focused on natural experiments of history[7] – the identification of specific historical situations that can be assumed to be exogenous and thus serve as instrumental variables, overcoming identification problems like reverse causation or omitted variable bias. A classic example is the case of the two Koreas, which share a common history, geography and culture but diverged dramatically in their political and economic institutions after the II World War. Regarding what are the specific institutions that seem to be more conducive to growth, Acemoglu et al., in the same article, present compelling evidence for the paramount importance of private property, of a broad-base access to the resources of the economy and the effective enforcement of contracts[8].

[5] Fundamental may also be interpreted as long-run factors, in that policy actions can be determinant for growth but institutions or geography can be a constraining or an augmenting factor in the long-run.
[6] See Rodrik et al. (2002) and Sachs (2001) for two important voices in the debate.
[7] See Diamond and Robinson (2010)
[8] For a more cautious endorsement of the importance of institutions, which also surveys the debate, see Subramanian and Roy (2001); Henry and Miller (2008), question the centrality of institutions by analyzing the case of Barbados and Jamaica, but in our view fail in their attempt to extricate institutions from their explanations of growth divergence.

Institutional Choice

But the question then becomes: why don't societies choose those institutions that have been persuasively shown to be conducive to growth? Again, multiple contributions from public choice theory[9] help illuminate the inherent conflict in the political allocation of scarce resources of society as well as the way in which political and economic elites have both the motive and the means to create institutions that maximize their rents. This equilibrium situation may account for the stability and permanence of institutions which are clearly detrimental to overall societal welfare and economic growth.

Mechanisms of persistence and change

Acemoglu et al., in the referred article, lay out the main challenges in the research agenda on the role of institutions for growth. As they point out "we do not as yet have a satisfactory understanding of the mechanisms through which institutions persist" (p. 79) and both persistence and change in institutions "have to be analyzed as part of the same dynamic equilibrium framework". The conceptual framework developed in this Work Project very consciously seeks to address this challenge by digging down on specific intra-institutional dynamics (or mechanisms) that may explain institutional stagnation in a fundamental institution in society – the judicial.

Legal origin theory and the centrality of the judicial

A focus on the judicial is intuitively appealing, as it affects a multitude of other institutions in society and its impact spans abstract but vital issues, such as the legitimacy of the State, public order and fairness, to more practical but still crucial aspects, like the enforcement of contracts and the protection of private property[10].

[9] See Mueller (2003) for example.
[10] See for example Messick (1999) and Beck et al. (2003).

Because reform efforts in general have substantial social and political costs, an optimizing strategy may be one that focuses on the most impactful institutions. Tavares (2004) constructs a set of indices that measure the impact on growth, costs and efficiency of various possible reform efforts for a broad cross-section of countries. The author shows that, for Portugal, six of the ten most promising reforms are in the legal area, with positive outcomes at the aggregate and micro levels.

In the last decade a vast amount of work has been carried out around the theory that legal origin, the type of law system, civil or common, that a country has, is an important explanatory variable for various economic outcomes, and that systems originating in common law, by being more favorable to private property, among other aspects, may be more conducive to growth when compared with civil law systems. The most comprehensive overview is La Porta, Lopez-de-Silanes and Shleifer (2008). These authors also address the issue of persistence of legal origins – the fact that there does not appear to be a convergence of legal systems over time, especially in the aspects of civil law that have been shown to hinder positive economic outcomes. They say that: "the central point is that the reason for persistence is that the beliefs and ideologies become incorporated in legal rules, institutions and education and, as such, are transmitted from one generation to the next" (p. 308). This is an unsatisfactory and somewhat tautological explanation. It fails to consider the possibility of interest groups and of conflicts of interest. The judicial is a crucial institution for the allocation of scarce resources in society, and, historically, it has been at the centre of structural realignments of power and even revolutions. It is doubtful that such an institution would be allowed to develop in a neutral form over time. This work project gains much of its interest from the fact that it offers and tests a completely different interpretation for the

persistence of legal systems, which, to the best of our knowledge, is absent in this literature. The alternative hypothesis here explored is that the persistence may be explained by the fact that certain professional bodies within the judicial have strong incentives to maintain the *status quo* and also the means to act on this motivation. Even if we assume that legal origin is exogenous, due to historical circumstances and colonial legacy, mostly external to the country at hand, its persistence and specific rules materialize in response to local interests and political factors.

3. A Thought Experiment: Quantifying interests in the Judicial Arena

In exploring the judicial system, I opted for the use of thought experiment. This approach has a long tradition in the humanities (for example, Hobbes and Locke's use of the "state of nature"). Basically, a thought experiment is a model in the sense that it is purposely designed to test a certain hypothesis under a number of precisely defined assumptions. But in my view this term better encapsulates the fact that the devised situation does not necessarily need to occur (or even be feasible or empirically testable) for it to be theoretically useful. This is exemplified by what is arguably the most famous 20th century thought experiment, Rawls's veil of ignorance – a clear situation in which an impossible situation (a choice under complete ignorance) is useful in illustrating a rational outcome under certain assumptions. In my thought experiment I explore the likely outcome of a hypothetical situation in which judges and lawyers are, independently, the sole decision makers determining the level of procedural formalism of the judicial system[11].

[11] Different versions of this exercise could grow to incorporate other relevant groups, such as policy-makers, judicial bureaucrats or public prosecutors (in criminal cases). But lawyers and judges were chosen because they encapsulate a central relationship at the heart of the judicial; what one learns from this relationship can potentially be adapted to other interactions within the judicial.

The foundation for this thought experiment is the work of Djankov, La Porta, Lopez-de-Silanes and Shleifer (2003). It is from their paper that I obtain the raw data and indicators that are then developed and interpreted in a novel way in order to obtain, for the first time, a quantification of the preferences of different groups in the judicial. Based on rigorous comparative surveys on the procedures required for two simple but representative judicial cases, the authors develop indexes of formalism, finding that:

- As expected, common law countries (originating in English Law) are less formalistic than civil law countries (originating in Roman law)[12];
- Formalism is directly correlated with duration of the cases, a major variable of judicial quality, with strong implications for private contracts and hence economic performance, and inversely correlated with self-reported perceptions of quality of the system;
- Even when compared with other measure to reduce durations, such as the introduction of specific incentive, formalism remains the most powerful predictor of duration of a judicial cases;
- When compared with indicators of educational performance or GDP, the type of law system (common or civil) is the most powerful explanatory cause for cross-country differences in levels of procedural formalism.

This last issue highlights the usefulness of this research agenda in the analysis of economic growth. Drawing on the results of Djankov et al., and subsequent work[13], it then appears that a move from a more formalistic to a less formalistic system positively affects a very concrete indicator of judicial performance, the duration of cases. Although there are other measures of judicial quality and it can be argued that fairness or minimization of errors may be traded-off on higher speed (although note the cited inverse relation between formalism and self-reported measures of quality), a basic tenant of a legal system is that "justice delayed is justice denied". Furthermore, high average duration of cases is associated with negative economic outcomes, impacting, for example, the enforcement of contracts and level of entrepreneurship, through the

[12] See appendix II for a break-down of civil law and common law countries.
[13] See La Porta, Lopez-de-Silanes and Shleifer (2008) for an in-depth discussion of the available evidence linking legal origin and economic growth and the negative effect associated with civil law systems.

increase in the cost of defaults, by raising transaction costs and by excluding potential gains from trade.

Thus, a policy decision on the level of formalism may affect growth performance. This begs the following question: since higher formalism is associated with higher time-costs, lower quality and negative economic outcomes, which affect society as a whole, why don't high-formalism countries engage in reforms that reduce procedures? This relates this issue to the larger question of institutional persistence. As cited above, the authors invoke inertia and ideology as the explanation for persistence, but we explore the alternative hypothesis of an inherent conflict between judges and lawyers originating from divergent preferences regarding level of formalism.

The thought experiment can be laid out in the following terms:

- Judges, as a group, are given the absolute power to decide on the level of formalism in their country; they are offered the Djankov et al. menu of 31 types of procedures to which they have to attribute a value of 0, if they do not want that specific procedure, 0.5 if they are indifferent or ambiguous about it, and 1 if they want it. By adding and normalizing all these individual choices they end up with their overall preferred level of procedural formalism, which is then implemented in society;
- Likewise for lawyers;

This exercise potentially illuminates some interesting questions: what level of formalism would each profession end up choosing? How does the chosen level of formalism of one profession compare with that of the other? To what degree does each choice deviate from the actual level of formalism in the country and how the magnitude of this deviation is suggestive of potential resistance or support for reform?

Methodologically, for each of the 31 binary variables developed by Djankov et al. (which generate seven procedural indexes that then form the overall formalism index for each country), I attributed a value that expresses the reasonable preference of the lawyers and of the judges. The only assumption is that, on average, members of the

profession will follow their self-interest – in line the methodological individualism adopted in economics, other things being equal, lawyers and judges will tend to choose procedures that maximize their income, job security, political power and prestige and resist those that affect these. As it will become clear in the results section, for most of these indicators, the reasonability of the preference is clear-cut (that is, it has a value of 0 or 1). For some, the preferences may be more ambiguous, either to one of the professions or to both. All cases were discussed with judicial professionals[14] in thorough, anonymous interviews, which were instrumental in clarifying some of the issues. When compelling doubts were raised regarding preferences on a given dimension, then that indicator was subjected to a different quantitative treatment. Apart from a number of strategies to increase the robustness of the model, which will be presented below, readers can evaluate all the assumptions which are laid out in detail in appendix I.

An example of an indicator that seems to be clear-cut both for judges and lawyers is "Judgment must be on law (not on equity)", in which the value is one if it must be on law and zero if it can be based on equity concerns (less formal). It is reasonable to suppose that most judges would prefer to have the added power that comes from the ability to exert their personal judgment above and beyond the constraints of written law. Inversely, lawyers will tend to benefit from having the law as a constraining bind on the judges – it means their role is more important and that outcomes are more predictable. Furthermore, this obligation generates a premium on

[14] I believe a survey would be problematic for two main reasons: 1) asking general questions on preferences for formality in a spectrum would probably result in centrist or moderate formulaic positions; but if the question was focused on a specific measures for reduction of formality, then it would be difficult to ascertain if the response reflects a general attitude regarding preferences for level of formalism or just an assessment of that specific measure. 2) A survey that intends to measure self-interested behavior is likely to be recognized as such, thus eliciting strategic responses which pervert the quality of the answers.

their particular skill-set, namely knowledge of written law. An example of an indicator that is clear cut for lawyers but not judges is "legal representation is mandatory" (1 if mandatory, 0 if not). It is almost self-evident that lawyers would prefer a system where the hiring of lawyers is mandatory. But for judges it is a more ambiguous question. On the one hand, by not facing lawyers their power and responsibility is greater since there is an implied recognition of their capacity to independently assess the merits of a case; on the other hand, the existence of a lawyer may facilitate the judgment by framing the issue in legal terms. These types of indicators were treated as ambiguous, irrespectively of any personal opinions regarding which of the two effects dominates. Other indicators were treated as ambiguous because they seem to affect lawyers and judges only indirectly or not at all (for example, "notification by judgment by judicial officer required"). We also produced a more stringent set of results, which constitutes a robustness test on the classification procedure. It starts from the reasonable preference attributed to those less obvious variables and gives them the opposite value – if on the first approach the preference of, say, judges were zero, then it becomes one. This is a strong demand as it entails that, for those variables, the assumed preference was diametrically wrong. As it will be clear in the next section, this increase in the demands placed on the model does not affect the overall results and conclusions, and this is important in a model that despite being founded on basic self-interest, depends on assumed, not revealed, preferences.

4. Results[15]

Analyzing each of the 31 indicators of procedural formalism from the perspective of lawyers and of judges, it becomes clear that, for most indicators, each

[15] The assumptions are discussed in appendix I and the results can be viewed on interactive charts at the address: www.persistenceinefficiency.tumblr.com

profession would not be indifferent to its specific level. That is, for most of the indicators, one can reasonably expect that the average lawyer would prefer one level (say 1) and the judge would prefer the opposite (say 0). This can then be compared with the actual level observed for a given country, which is either 1 or 0 and, as mentioned above, was collected from Djankov et al. (2003). Adding up those various preferences, interesting regularities immediately stand out.

Table I: Preferences of Judges and Lawyers regarding level of formalism

	PREFERENCES									
	Judges					Lawyers				
VARIABLES	Preferences	*Clear-cut Preferences*	*Ambiguous Preferences*	Preferences considering ambiguity	Preferences with Robustness Test	Preferences	*Clear-cut Preferences*	*Ambiguous Preferences*	Preferences considering ambiguity	Preferences with Robustness Test
1. Professionals versus Laymen										
1.1 General Jurisdiction Court	1		√	0,5	0	1		√	0,5	0
1.2 Professional vs. Non-professional	1	√		1	1	0		√	0,5	1
1.3 Legal Representation mandatory	0		√	0,5	1	1	√		1	1
Index	**0,6667**			**0,6667**	**0,6667**	**0,6667**			**0,6667**	**0,6667**
2. Written versus Oral										
2.1 Filling	0	√		0	0	1	√		1	1
2.2 Service of Process	0	√		0	0	1	√		1	1
2.3 Opposition	0	√		0	0	1	√		1	1
2.4 Evidence	0	√		0	0	1	√		1	1
2.5 Final Arguments	0	√		0	0	1	√		1	1
2.6 Judgment	0	√		0	0	1	√		1	1
2.7 Notification of Judgement	0		√	0,5	1	1		√	0,5	0
2.8 Enforcement of Judgement	0		√	0,5	1	1		√	0,5	0
Index	**0**			**0,125**	**0,25**	**1**			**0,875**	**0,75**
3. Legal Justification										
3.1 Complaint must be legally justified	0	√		0	0	1	√		1	1
3.2 Judgment must be legally justified	0	√		0	0	1	√		1	1
3.3 Judgment must be on law (not equity)	0	√		0	0	1	√		1	1
Index	**0**			**0**	**0**	**1**			**1**	**1**
4. Statutory Regulation of Evidence										
4.1 Judge can not introduce evidence	0	√		0	0	1	√		1	1
4.2 Judge can not reject irrelevant evidence	0	√		0	0	1	√		1	1
4.3 Out-of-court statements are inadmissible	0	√		0	0	1	√		1	1
4.4 Mandatory pre-qualification of questions	1	√		1	1	0	√		0	0
4.5 Oral interrogation only by judge	1	√		1	1	0	√		0	0
4.6 Only original documents and certified copies are ac	0		√	0,5	1	0		√	0,5	1
4.7 Authenticity and weight of evidence defined by law	0	√		0	0	1	√		1	1
4.8 Mandatory recording of evidence	0		√	0,5	1	1		√	0,5	0
Index	**0,25**			**0,375**	**0,5**	**0,625**			**0,625**	**0,625**
5. Control of Superior Review										
5.1 Enforcement of judgment is automatically suspend	0	√		0	0	1	√		1	1
5.2 Comprehensive review in appeal	0	√		0	0	1	√		1	1
5.3 Interlocutory appeals are allowed	0	√		0	0	1	√		1	1
Index	0			0	0	1			1	1
6. Engament Formalities										
6.1 Mandatory pre-trial conciliation	0		√	0,5	1	0		√	0,5	1
6.2 Service of process by judicial officer required	0		√	0,5	1	1		√	0,5	0
6.3 Notification of judgment by judicial officer required	0		√	0,5	1	1		√	0,5	0
Index	**0**			**0,5**	**1**	**0,6667**			**0,5**	**0,3333**
7. Independent procedural actions										
7.1 Filing and Service	less	√				more	√			
7.2 Trial and Judgment	less	√				more	√			
7.3 Enforcement	less	√				more	√			
Index	**0,3035**			**0,3035**	**0,3035**	**0,4553**			**0,4553**	**0,4553**
Preferences Index	**1,2202**			**1,9702**	**2,7202**	**5,4136**			**5,1219**	**4,8303**

Note: See Appendix I for detailed description of variables and rationale for decisions on preferences; the column "preferences considering ambiguity" attributes a value of 0.5 to variables in which preferences may be ambiguous; the column "preferences with robustness test" attributes to those ambiguous preferences the opposite value of the initially assumed preference, in order to see the impact of possible errors in the assumptions; as the last row shows, the uncovered divergence among judges and lawyers holds on all three sets of results, spanning from 1.22 to 2.7 in the case of judges and 5.4 and 4.8 in the case of lawyers. This large gap increases our confidence in the model.

Of the three sets of results obtained, in what follows we will use the numbers laid out in the column "Preferences considering ambiguity", although conclusions hold across the three sets (only varying in magnitude):

> **A)** There is indeed a marked divergence of preferences on most dimensions. It could be otherwise, a coincidence of preferences between the two even if divergent from the actual level of the country. This opens to ground for intra-professional conflict and zero-sum dynamics. On 21 of the 31 indicators, the modeled preferences are divergent;
> **B)** Those divergent preferences are consistent in their signal – when added up they generate composite indexes showing radically divergent points in the procedural formalism spectrum. Again this could be otherwise, as a preference of 1 by, say, lawyers on one dimension could cancel out a preference of 0 also by lawyers). For judges, 19 of the 31, and for lawyers 20 of the 31, indicators go in the same direction or signal;
> **C)** The results clearly show a marked trend for lawyers to prefer very high levels of formalism and for judges to prefer very low levels of formalisms. According to the model, if lawyers could choose the level of procedural formalism they would opt for a value of **5.41** (in a 0-7 index) whereas judges would choose a level of **1.97**. The choice of lawyers is above the actual levels of formalism of 103 of the 109 country sample, for eviction of a tenant, and above the level of 102 of the 109 countries, in the case of collection of a check; the choice of judges is below the level of 106 of the 109 countries, in the case of eviction of a tenant, and below the level of 100 of the 109 countries in the case of collection of a check.
> **D)** When contrasted with the actual levels of formalism in each of the countries, and as expected considering the systematic higher formalism and the preference of lawyers towards higher formalism, it becomes clear that civil law countries are much closer to the preferences of lawyers – much more favorable to their interests – and that common law exhibit levels of formalism closer to the ones that judges would reasonably choose. In the case of an eviction of a non-paying tenant, the modeled preferences of judges deviates -1.05, and lawyers 2.10, from the actual mean formalism index in English origin common law; judges' preferences deviate -2.41 and lawyers' preferences 0.74 from the mean of French origin countries. This suggests that the marked differences between common and civil systems that have been amply identified in the literature can be expressed as the materialization of a clear-cut and acute conflict of interest among judges and lawyers.

These clear results demonstrate the informative nature of the thought experiment. By showing a marked divergence of preferences, these results are indicative of a clear conflict of interests and of zero-sum dynamics within the judiciary; by

showing a consistent preference of judges and lawyers for opposing and extreme levels of formalism, the results may explain the incentives for persistence of formalism; and by being closely aligned with a crucial aspect in the division between common and civil law, namely the level of formalism, results raise the possibility that the conflict among judges and lawyers may be an unaccounted for factor driving or maintaining the divide.

The following charts, using data for eviction of tenants in Portugal and the modeled preferences, show in more detail the drivers of this divergence. This may be important to ascertain what should be the focus of an eventual reform towards a reduction of formalism. As it is clear, (chart I) lawyers's preferences are mostly aligned with the actual level of formalism for each of the sub-indicators (a perfect fit would be all points placed in the 45^{o} line), whereas in the case of judges (chart II) we can clearly see that in three dimensions – "Superior Review", "Legal Justification" and "Oral-Written" – actual procedures diverge from the modeled preferences of judges.

Chart I: Preferences of lawyers vs. actual level in eviction of tenant, Portugal

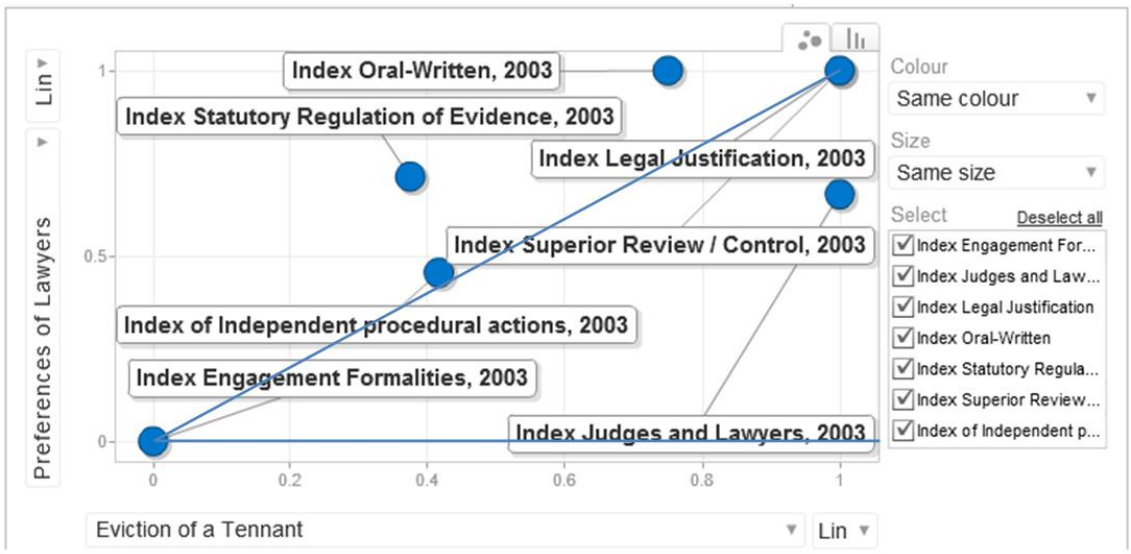
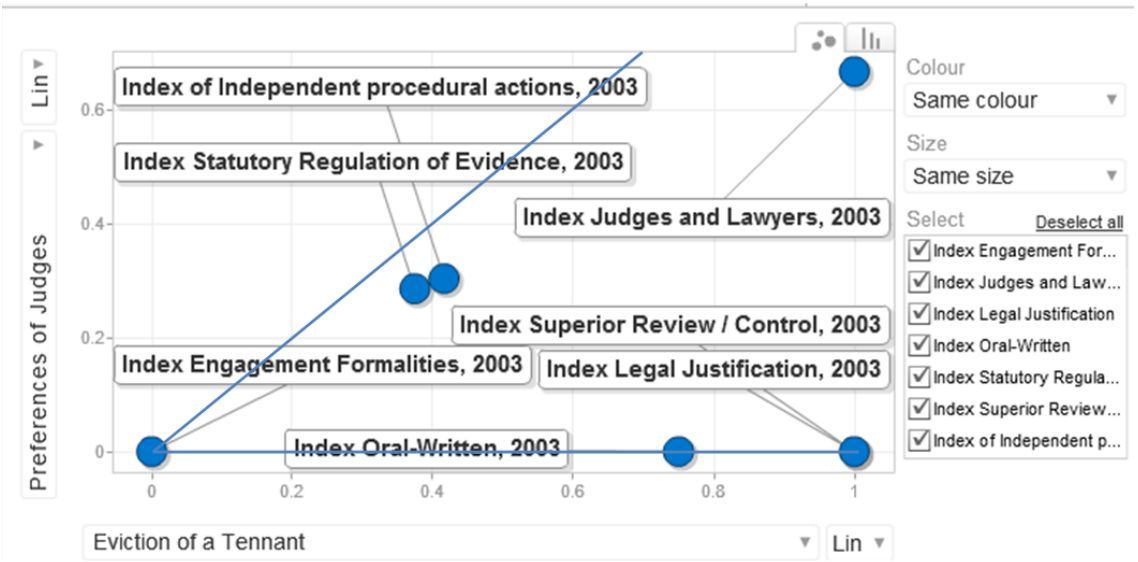
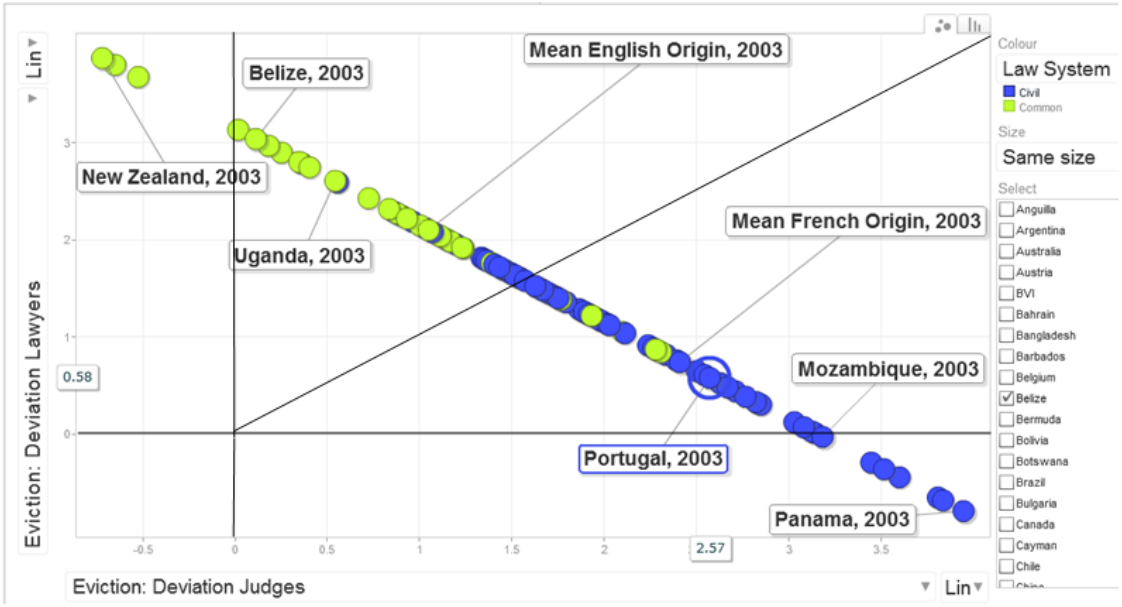


Chart II: Preferences of judges vs. actual level in eviction of tenant, Portugal



We also subtracted the actual level of formalism in each country (drawn from Djankov et al., 2003) to the modeled preference of judges and lawyers, as computed in this study, assuming that the uncovered preferences hold across countries, and obtained the following plot.

Chart III: Deviations from preferences of judges and lawyers, eviction of tenant, all countries



The x-axis measures the difference between the actual level of formalism in the country and the modeled preference of the Judges; the y-axis measures the difference

between the actual level of formalism in the country and the modeled preferences of the lawyers. A country above the 45^0 line is tilted towards judges – meaning that the actual level of formalism is closer to the one that a Judge would reasonably choose for his/her country if he/she were the decision-maker. A country in the lower-right corner is tilted towards lawyers – the actual level of formalism is closer to lawyers' preferences. A country on top of the 45^0 line is equidistant between lawyers' and judges' preferences. The few countries below zero are those whose actual levels of formalism are either lower or greater than the preferences of judges and lawyers respectively. The plot also clearly shows a divide on legal origin. The overwhelming majority of common law countries are closer to the preferences of judges whereas civil law countries are closer to the preferences of lawyers. This is an expected result once we accept that lawyers favor formalism (the current thought experiment) and that civil law countries tend to be more formal (Djankov et al, 2003). We can see, for example, that Belize's level of formalism is almost exactly aligned with the modeled preferences of judges, whereas in Panama, there is a striking distance between the actual level and the preferences of judges. On the other hand, we observe that Mozambique's system seems to be perfectly aligned with the preferences of lawyers, whereas New Zealand is the country furthest from the interests of lawyers. We also observe that Portugal's level of formalism only 0.58 from the modeled preferences of lawyers, but deviates 2.57 from the preferences of judges, a greater distance than the mean of the French origin countries.

Finally, we use data on average GDP growth between 1960 and 2007, and the average Gini coefficient for the countries involved and explore the explanatory value that the deviation from lawyers[16], controlling for the initial level of GDP in 1960, and a

[16] Equivalent to using the deviation from judges, since the two variables are exactly symmetric.

dummy for legal origin. The sub-sample for which all data is available is composed of 68 countries. Results are laid out in table II. As can be verified, the more a country's judicial system is classified as deviating from the preferences of lawyers (and thus, closer to preferences of judges), the larger the average growth rate and the lower the Gini coefficient. The coefficient on Gini is highly significant, while that on growth is not significant. These results might be due to an omitted variable bias, as lawyers, who display a marked preference for formalism, are in line with the characteristics of civil law systems. There is a well established correlation between civil law origin and a number of negative economic outcomes (La Porta et al., 2008), which fits the intuition that this system tends to be less favorable towards private initiative and the enforcement of contracts. But even the defenders of legal origin theory state that there could be an omitted variable that explains both legal origin and growth or a reverse causation. In columns 3 and 4 we add a dummy for civil law system and find that our results are reinforced: the coefficient of deviation from lawyers's preferences on the Gini remains positive and significant and is now larger in size; the same coefficient on the growth regression remains positive and its significance is marginally increased. The dummy on civil law systems shows that these are significantly associated with more unequal societies. We then run the same specifications for the sub-samples of civil law and common law countries and find that the results for inequality hold within legal systems. In other words, the individual system's deviation from lawyers's preferences is significantly associated with a lower degree of inequality. The results diverge as to the impact of deviation from lawyers's preferences on economic growth. Our evidence suggests that, while on common law systems, the deviation from lawyers's preferences

is associated with lower growth; the opposite is true for civil law systems.[17] That is, while moving away from lawyers preferences lowers inequality and increases growth in civil law countries, there is a trade-off in common law countries, so that moving further away from lawyers preferences may have a growth cost, though decreasing income inequality. This may be explained by the already higher levels of deviation from lawyer preferences in common law countries[18].

	Dependent Variables							
	All Countries				Only Common Law		Only Civil law	
Independent Variables	Growth Rate	Gini Index	Growth Rate	Gini Index	Growth Rate	Gini Index	Growth Rate	Gini Index
Log GDP per capita 1960 (t-statistic)	0.000112 (0.081262)	-2.210199 (-3-019071)	-0.000156 (-0.104218)	-1.518451 (-1.984765)	0.004560 (1.827392)	-0.092653 (-0.076431)	-0.001822 (-1.153604)	-3.456016 (-3.820812)
Deviation from Lawyers (t-statistic)	0.002367 (1.1192573)	-4.211285 (-3.901724)	0.003149 (1.221871)	-6.256176 (-4.615409)	-0.012798 (-2.403414)	-3.070032 (-1.114245)	0.008825 (3.744664)	-7.748585 (-5.691037)
Common Law Dummy (t-statistic)	-	-	-0.002483 (-0.480041)	6.422593 (2.357784)	-	-	-	-
N	68	68	68	68	26	26	42	42
R^2	0.02	0.31	0.27	0.61	0.21	0.08	0.27	0.61

5. Implications for Policy Reform

Implications of the obtained results for understanding persistence of inefficiency

If lawyers are better-off in civil law systems they have an incentive to maintain this type of law, to resist efforts to reduce formalism and even promote higher formalism. Depending on their effectiveness in lobbying the executive or legislator, this means that in civil law countries that higher formalism will persist, decrease slowly or even increase over time. This may generate a dynamic equilibrium at an inefficient level, which fits Acemoglu et al (2005) social conflict view account of the emergence and persistence of inefficient institutions – the inherent conflict between lawyers's and

[17] This may be behind the non-significance of deviation from lawyers's preferences on growth in the total sample, as shown in columns 1 to 4 of Table II.

[18] Notice also the quantitatively larger coefficient on deviation from lawyers's preferences in the case of civil law countries.

judges's preferences and between the preferences of lawyer's and those of society, may be the mechanism accounting for institutional *stasis*.

However, in order to account for the persistence, we not only need to establish a motive, but also the means. Lawyers can only be part of the explanation for this persistence of civil law systems if they have the mechanisms for translating their preference for formalism into the actual level defined by the legislator or executive. Although this issue would probably merit a whole project in itself, for this purpose it may suffice to point out that in most countries lawyers tend to be a dominant force in political elites and thus prominent in the legislative process[19], whereas judges typically have limitations in running for political office. In Portugal, for example, throughout the 20th century, lawyers have been the single most represented profession in the executive, parliament and senior civil service (Costa Pinto and Freire, 2003). However, an explanation of this sort also has to explain why in common law countries lawyers have been mostly unable to increase formalism, as this theory would predict. A possible solution: because civil law systems are far more dependent on legislation and codes, lawyers-legislators in civil law countries find it easier to steer the system in accordance with their preferences.

Finally, it is important to note that even though lawyers seem to have a marked preference for formalism – they gain from it, whereas society as a whole seems to lose from it – this does not necessarily mean that their primary motivation is rent-seeking. Judges have special statutes that rightly ensure their independence but which may result in low accountability. If in a given country there are insufficient internal and external reviews, then it can be rational for lawyers to prefer higher levels of formalism, which

[19] A classic article on the overrepresentation of lawyers in the public sphere is Schlesinger (1957).

serves as an insurance against an eventual incompetence of a judge. For example, some simple cases are subject to appeal in civil law countries but not in common law countries – although an appeal increases formalism and duration of cases, it may be an effective escape-valve in a system with low accountability of judges, as lawyers know there will be an opportunity of facing a different, superior, judge.

Implications of the obtained results for reform efforts

If we accept the intrinsic divergence of preferences for formalism among lawyers and judges, then a reform effort towards reduced formalism (which seem to contribute to overall welfare) will face resistance from lawyers but may be backed by judges. Starting from a realistic position of inherent conflict of interests, two possible paths for reform arise (which may actually work better when combined):

A *piecemeal approach* focuses on each of the seven indicators of procedural formalism (charts I and II above), observes its current value in the country and its deviation from the modeled preferences of both judges and lawyers. This gives an indication of what are the specific measures more likely to be resisted or supported by each profession. The reformer will have a better sense of the level of specific resistance or support to be expected. For example, in the referred charts above, it is easy to observe that in Portugal the specific indicators driving most of the divergence from the preferences of the judges are "legal justification" and "superior review". Potentially, although difficult in practice, there could even be efficient bargaining situations in which all parties would be better off or at least lose in equal proportions so as to achieve a dynamic equilibrium at a more efficient level of formalism. It is important to note, however, that this model gives an indication of what is driving most of the deviation from each profession's preference, not which indicators contribute more to the positive

economic outcomes associated with a reduction of formalism. Such knowledge would make these bargaining possibilities far more promising.

A *comprehensive approach* involves a larger reform package. The inter-play between judges and lawyers may be instrumental in generating institutional change. The zero-sum dynamics among the two professions and the fact that lawyers seem to be disproportionally affected, and judges disproportionally benefited, by a reduction of formalism, suggests not only the potential support of judges but also opens the ground for compensatory measures to offset these gains and losses. Thus, invoking again the issue of formalism and the accountability of judges, perhaps the introduction of a reform package that matches a reduction of formalism (to the detriment of lawyers and benefit of judges) with an increase in the accountability of judges through the introduction of external reviews (to the detriment of judges and benefit of lawyers) may be more readily accepted by lawyers when compared with an alternative that only includes a reduction of formalism.

6. Conclusions

The goal of this work project was to draw attention to intra-professional conflict as a conceptually useful dimension towards understanding institutional persistence and change. Starting from a large number of indicators of procedural formalism, and reasonable expectations regarding self-interested preferences, we were able to show that there is indeed a wide gap in the preferences among judges and of lawyers, with the former having a marked preference for low, and the latter for high, levels of formalism. These results are striking and hold when assumptions are more stringent. Lawyers's preferences for formalism, if effectively translated into legislation, may account for the fact that several countries maintain high levels of formalism, despite evidence of its

collective costs. But the thorough understanding of the nature of this conflict also opens the door to a more realistic approach to legal reform – one which better anticipates sources of resistance but also of support, and engages in negotiations with a better sense of the gains and losses involved.

***

The inherent complexity of institutions limits their smooth migration from one country to another, limiting potentially interesting "institutional transfers"[20] and policy advice from international agencies. Thus, institutional change towards a more conducive environment for growth and welfare will likely have to generate from within a country. To enable change – and this applies both to developing and developed countries – it is therefore crucial to understand the mechanisms that lead both to persistence and to change in institutions. I believe the results obtained in this work project suggest the usefulness of digging-down into the intra-professional conflicts of interest within institutions. This exercise helps us understand institutional persistence and illuminate paths for reform. A potentially promising research agenda focused in policy recommendations would thus (1) identify and then focus on the most impactful inefficient institutions[21], (2) analyze and test the contending explanations for their inefficiency, and (3) evaluate the internal and external dynamics at play as well as the various conflicting interests and motivations involved.

[20] In this context Rodrik (2008) proposes an approach focused on "second-best institutions", potentially more adapted to local realities.
[21] Following the methodology of Tavares (2004), for example.

REFERENCES

Acemoglu, Daron, Simon Johnson, and James Robinson. 2002. "Reversal of Fortune: Geography and Institutions in the Making of the Modern World Income Distribution." Quarterly Journal of Economics, 118, 1231-1294.

Acemoglu, Daron, Simon Johnson, and James Robinson. 2005. "Institutions as the Fundamental Cause of Long-Run Growth." In *Handbook of Economic Growth*, edited by Philippe Aghion and Steven Durlauf, Volume 1, Part 1, 385-472. Amsterdam: North-Holland.

Beck, Thorsten, Asli Demirgüç-Kunt and Ross Levine. 2003. "Law and Finance: why does Legal Origin Matter?" *Journal of Comparative Economics*, Vol. 31:4, 653-675.

Coase, Ronald H. 1937. "The Nature of the Firm." *Economica*, 3, 386-405.

Costa Pinto, António, and André Freire (ed.). 2003. *Elites, Sociedade e Mudança Política*. Oeiras: Celta.

Diamond, Jared, and James A. Robinson. 2010. *Natural Experiments of History*. Cambridge: The Belknap Press of Harvard University Press.

Djankov, Simeon, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer. 2003. "Courts." *The Quarterly Journal of Economics*, MIT Press, Vol. 118(2), 453-517.

Garcia, Sofia Amaral, Nuno Garoupa, and Guilherme Vasconcelos Vilaça. 2008. *A Justiça Cível em Portugal: uma Perspectiva Quantitativa*. Lisboa: Fundação Luso-Americana para o Desenvolvimento.

Garoupa, Nuno. 2006. "Economia da Reforma da Justiça." *Scientia Jurídica*, Tomo LV: 305.

Hayek, Friederich A. 1960. *The Constitution of Liberty*. Chicago: University of Chicago Press.

Henry, Peter B., and Conrad Miller. 2008. "Institutions Vs. Policies: A Tale of Two Islands." NBER Working Paper Series 14604.

La Porta, Rafael, Florencio Lopez-de-Silanes, and Andrei Shleifer. 2008. "The Economic Consequences of Legal Origins." *Journal of Economic Literature*, 46:2, 285-332.

Lucas, Robert E. 1988. "On the Mechanics of Economic Development." *Journal of Monetary Economics*, 22, 3-42.

Machiavelli, Niccolo. 2005. *The Prince*. Oxford: Oxford University Press, (Orig. pub. 1532)

Messick, Richard E. 1999. "Judicial Reform and Economic Development: a Survey of the Issues." The World Bank Research Observer 14(1): 117-136.

Mueller, Dennis C. 2003. *Public Choice III*. Cambridge: Cambridge University Press.

North, Douglass. 1990. *Institutions, Institutional Change and Economic Performance*. New York: Cambridge University Press.

Olson, Mancur. 1982. *The Rise and Decline of Nations: Economic Growth, Stagflation and Economic Rigidities*. New Haven and London: Yale University Press.

Popper, Karl. 2002. *The Open Society and its Enemies*. London: Routledge, (Orig. pub. 1945).

Rawls, John. 1999. *A Theory of Justice*. Oxford: Oxford University Press, (Orig. pub. 1971).

Rodrik, Dani, Arvind Subramanian, and Francesco Trebbi. 2002. "Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development". NBER Workin Paper Series 9305.

Rodrik, Dani. 2008. "Second-best Institutions." NBER Working Paper Series 14050.

Romer, Paul M. 1986. "Increasing Returns and Long-Run Growth." Journal of Political Economy, 94, 1002-1037.

Sachs, Jeffrey. 2001. "Tropical Underdevelopment". NBER Working Paper Series w8119.

Schlesinger, Joseph A. 1957, "Lawyers and American Politics: A Clarified View." *Midwest Journal of Political Science*, Vol. 1:1, 26-39

Smith, Adam. 1999. *The Wealth of Nations*. London: Penguin Books, (Orig. pub. 1776).

Solow, Robert M. "A Contribution to the Theory of Economic Growth." Quarterly Journal of Economics, 70, 65-94.

Subramanian, Arvind and Devesh Roy. 2001. "Who Can Explain the Mauritian Miracle: Meade, Romer, Sachs, or Rodrik?" IMF Working Papers 01/116.

Tavares, José. 2004. "Institutions and Economic Growth in Portugal: a Quantitative Exploration." *Portuguese Economic Journal*, 3, 49-79.

Tullock, Gordon. 1967. "The Welfare Costs of Tariffs, Monopolies, and Theft." *Western Economic Journal* 5 (3): 224–232.

Appendix I: Description of variables and choices of preferences

Djankov et al. (2003) includes a detailed description of the 31 indicators of procedural formalism developed by the authors. What follows is a brief description of the variables and of the reasoning behind each decision regarding preferences of judges and lawyers (which are laid out in Table I). These indicators were discussed with judicial professional (see the main text for a discussion of the strategies for increasing robustness of results). A value of zero means less, and of one, more formalism.

PROFESSIONAL VERSUS LAYMEN

- *General Jurisdiction Court (zero if limited court, one if general court)*
    - Whether the case has can be heard by a specialized, limited court, like a small debt collection or housing courts, small-claims courts, arbitrators or justices of the peace; I believe preferences on this indicator are ambiguous both for judges and lawyers. On the one hand these types of limited courts may turn the judicial operation into a semi-administrative function and may even remove judges and lawyers from the case, but on the other hand, their existence may liberate general courts from small claims and may thus decrease bureaucratic burden of judges (which can focus on more challenging case), and lawyers may have some role even in these limited courts.
- *Professional vs. non professional (zero for a non-professional judge, one for a professional)*
    - This variable measures whether the judge has to be professional. I assume that judges un-ambiguously prefer the requirement of a professional judge, thus choosing one (an administrative downgrade of judgments affect the prestige of the profession and its professional monopoly); I believe preferences of lawyers are ambiguous: a mostly administrative process may reduce incentive of parties to hire lawyers but it may also raise the profile of the lawyer; also, if the case only requires an arbitrator, a role usually done by certified lawyers, this creates employment opportunities.
- *Legal representation is mandatory (zero when non-mandatory, one when mandatory)*
    - Measures whether the law imposed the hiring of a lawyer; I assume that lawyers will have a clear preference for this imposition; judges's decisions are more ambiguous: on the one hand they have a more central role if they are the only judicial profession in a case and have more discretion, but facing a lawyer, trained in legal argument, may facilitate the proceedings.

ORAL-WRITTEN

- *Filling (one if in written form; zero if presented orally)*
- *Service of process (one if in written form; zero if presented orally)*
- *Opposition (one if in written form; zero if presented orally)*
- *Evidence (one if written form; zero if presented orally)*
- *Final argument (one if in written form; zero if presented orally)*
- *Judgment (one if in written form; zero if presented orally)*

- These six variables address the paper-work requirements. I assume that judges will prefer an oral presentation because it gives them a more central role in the proceedings – judges listen to the issues directly from the parties; lawyers will prefer written form: they are able to frame the issues in accordance with their interests, facilitating the steering of the case; also lawyers become more valuable in the process since the written pieces require legal knowledge.

- ***Notification of judgment (one if written form; zero if presented orally)***
- ***Enforcement of judgment (one if written form; zero if presented orally)***
    - I assumed these indicators primarily affect the judicial bureaucracy, not lawyers or judges, and thus attributed a value of 0.5; however, In a less stringent view, lawyers may again benefit from written statements which they may need to interpret; and judges may have a heavier bureaucratic burden;

LEGAL JUSTIFICATION

- ***Complaint must be legally justified (zero if not required, one if required)***
- ***Judgment must be legally justified (zero if not required, one if required)***
- ***Judgment must be on law (not on equity) (zero if not required, one if required)***
    - Measures whether these various steps in the process need to include references to the laws, legal reasoning and formalities. I assume that lawyers benefit from this requirement because it generates a premium on their skill-set and reinforces their exclusivity in the process; judges have more discretionary power if they can judge the case on precedent, or on their assessment of the facts of the case, irrespective of technical issues.

STATUTORY REGULATIONS OF EVIDENCE

- ***Judge cannot introduce evidence (zero if judge can and one if judge cannot)***
- ***Judge cannot reject irrelevant evidence (zero if judge can and one if judge cannot)***
- ***Out-of-court statements are inadmissible (zero if admissible, one if inadmissible)***
    - I assume judges want to have these capacities (including weighing in out-of-court statements) as it gives them more control over the process; lawyers, inversely, lose leverage and predictability if judges have these capacities.

- ***Mandatory prequalification [by judges] of questions (zero if non-mandatory, one if mandatory)***
- ***Oral interrogation only by judge(zero if opposing party can interrogate, one if only judge)***
    - Judges will prefer to have these powers (note that in this case their preference is toward higher formalism), because they reinforces their centrality in the process and the ability to steer the proceedings in accordance with their will. Lawyers have an inverse preference for the same reasons.

- ***Only original documents and certified copies are admissible (zero if non-original accepted, one if only originals)***
    - I assume both judges and lawyers are ambiguous; sometimes both benefit from this requirement but in other cases it may act as a constraint.

- ***Authenticity and weight of evidence defined by law (zero if not defined by law, one if defined by law)***
    - When zero, this means that the judge has the discretion to evaluate the authenticity and weight of evidence, gaining more power over the process; lawyers on average will prefer that the judge is constrained in this role; judges's discretion introduces unpredictability.
- ***Mandatory recording of evidence (zero if non-mandatory, one if mandatory)***
    - I assume that this is a mainly bureaucratic issue and both judges and lawyers will probably be indifferent (a value of 0.5)

CONTROL OF SUPERIOR REVIEW

- ***Enforcement of judgment is automatically suspended until resolution of the appeal (zero if not automatic, or there can be no appeal, one if automatically suspended)***
- ***Comprehensive review in appeal (zero if only new evidence can be reviewed, one if issues of both law and fact can be reviewed)***
- ***Interlocutory appeals are allowed (zero if prohibited, one if allowed)***
    - In the three variables of superior review I assume lawyers gain from having the maximum extent possible of superior review and judges lose. If a judge's decision is final, it has more weight, whereas in the case of superior review, the decision may be overruled. Lawyers on average gain from having this additional recourse, which protects them against individual judges, minimizes the cost of eventual mistakes, increases chances of success, the duration of trial and, potentially, of fees.

ENGAGEMENT FORMALITIES

- ***Mandatory pretrial conciliation (zero if non-mandatory, one if mandatory)***
    - I assume that for both judges and lawyers preferences regarding this procedure are ambiguous. This creates a further layer in the process and increases the bureaucratic burden on the judge but it may also allow judges to focus on more complex cases; if successful, a pretrial conciliations reduces the demands for the lawyer but at the same time may be valued by the client and may depend on the effectiveness of the lawyer; if mandatory and unsuccessful on most occasion, this increases the duration of the case.

- ***Service of process by judicial officer required (zero if not required, one if required)***
- ***Notification of judgment by judicial officer required (zero if not required, one if required)***
    - I assume that both judges and lawyers are mostly indifferent regarding these requirements, which primarily affect the judicial bureaucracy, although these obligation may potentially have some implication on the work load of judges and lawyers, something which may be a negative for judges and a positive for lawyers.

INDEPENDENT PROCEDURAL ACTIONS

- ***Filling and service (total number of actions)***
- ***Trial and Judgment (total number of actions)***
- ***Enforcement (total number of actions)***
    - These indicators add the number of independent procedural actions required in each to these three steps of the trial. I assume lawyers on average benefit from increased steps as it maximizes their intervention and the utilization of their specific and exclusive skill-set; it also increases duration and potentially allows strategic delays of the case; judges are assumed to prefer less steps, as it lowers their bureaucratic load and increases their control over the process. Djankov et al. (2003) obtain a value for these dimensions by observing across their sample countries the minimum and maximum number of procedures and normalizing it to fall between zero and one. In defining my value, and because the assumption is that lawyers want more and judges less steps, for lawyers preferences I added 20% to the average of the eviction of a tenant and collection of a check index for Portugal (a country with above average formalism) and for judges I subtracted 20% from the same number. Although somewhat arbitrary (but conservative) this decision does not affect the results and it is the signal, not the magnitude, which is of primary importance.

Appendix II: Sample countries, by type of law system

Civil Law Countries:

Argentina
Austria
Belgium
Bolivia
Brazil
Bulgaria
Chile
China
Colombia
Costa Rica
Cote D'Ivoire
Croatia
Czech Republic
Denmark
Dominican Republic
Ecuador
Egypt
El Salvador
Estonia
Finland
France
Georgia
Germany
Greece
Guatemala
Honduras
Hungary
Iceland
Indonesia
Italy
Japan
Jordan
Kazakhstan
Korea
Kuwait
Latvia
Lebanon
Lithuania
Luxembourg
Malta
Mexico
Monaco
Morocco
Mozambique
Netherlands
Netherlands Antilles
Norway
Panama
Paraguay
Peru
Philippines
Poland
Portugal
Romania
Russia
Senegal
Slovenia
Spain
Sweden
Switzerland
Taiwan
Tunisia
Turkey
Ukraine
Uruguay
Venezuela
Vietnam

Common Law Countries

Anguilla
Australia
Bahrain
Bangladesh
Barbados
Belize
Bermuda
Botswana
BVI
Canada
Cayman
Cyprus
Ghana
Gibraltar
Grenada
Hong Kong
India
Ireland
Israel
Jamaica
Kenya
Malawi
Malaysia
Namibia
New Zealand
Nigeria
Pakistan
Singapore
South Africa
Sri Lanka
St. Vincent
Swaziland
Tanzania
Thailand
Trinidad & Tobago
Turks and Caicos
UAE
Uganda
United Kingdom
USA
Zambia
Zimbabwe