



Peer effects in judicial decisions: Evidence from Spanish labour courts

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ABSTRACT

The aim of this paper is to estimate peer effects in judicial decisions by exploring whether local and/or regional patterns may impact these decisions. The analysis of these patterns allows us to detect the existence of different social or neighbourhood effects, namely, contextual, correlated and peer effects. Our empirical analysis is based on the General Council of the Judiciary database, which provides court level information on the number of cases resolved in favour of the worker by judges between 2004 and 2010. Methodologically, we build different spatial correlation matrices to find local and/or regional patterns. Underlying the current analysis is the notion that judges might be influenced by the decisions taken by their colleagues in neighbouring provincial or even regional courts. Our results point to the absence of contextual effects, some significance of correlated effects (likely caused by the existence of a High Court in each region that acts as the highest authority before which appeals may be filed) and strong evidence of peer effects.

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1. Introduction

Are judges' decisions affected by those of their colleagues in neighbouring courts? This is the question the current research seeks to answer. The aim of the paper is, therefore, to estimate peer effects in judicial decisions. We analyse decisions taken by judges in labour courts, particularly those dealing with layoff disputes. A number of works, which we examine later, have already explored the influence of socioeconomic circumstances on judges' decisions. However, these works focus on whether the economic cycle leads labour court judges to find in favour of workers more or less often. Our purpose is quite different. We aim to ascertain whether being "surrounded" by other judges (or courts) who are more likely to find in favour of workers involved in labour disputes has a positive impact on other judges' (or courts') propensity to do likewise. Put in more technical terms, we aim to determine whether there is a positive spatial correlation in labour court rulings.

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As will be explained throughout the article, we interpret the existence of a significant spatial correlation as evidence of the presence of three different types of social effects or neighbourhood effects. We define two types of social effects of a subjective nature and identify them with what Manski (1993, 2000) and Dietz (2002) call endogenous effects or peer effects, on the one side, and with what they label as correlated effects, on the other side. We argue that, according to our empirical strategy, the third type of neighbourhood effects, i.e., exogenous effects, are not very important in the sort of social issue we are analysing in this work. At the same time, we find robust econometric evidence in favour of the peer effects to be operating in Spanish labour courts.

Because we are aware of the likely spatial correlation generated in our variable of interest by similar economic structures in neighbouring territories, we perform our empirical analysis at three different levels. The first is quite common in regional economics and makes use of the rather standard spatial contiguity matrices. The second and the third levels constitute the main innovative element of this research. Here, we define several alternative correlation matrices on a legal-administrative rather than purely geographical basis. By comparing and contrasting the results obtained at the three levels, we reach our main conclusions. More precisely, what we find is a weak or practically null correlation when we consider the pure geographical level, whereas we observe

a strong correlation when we look at the legal-administrative scenario. These facts make us think that two effects of a subjective nature could be operating, namely, the “*reversal or annulment effect*” and, especially, the “*emulation effect*”.

To make clarify our terminology, we could first match our “*emulation effect*” with Manski’s endogenous effects or peer effects. Second, our “*reversal or annulment effect*” may be considered a type of correlated effect in Manski’s classification. Finally, regarding the last type of social effect, what we name here as a “*geographical effect*” would correspond with Manski’s exogenous effects. In any case, these effects will be explained in greater detail in the next section. At the same time, we are concerned with the problem of estimating true peer effects. One of the most cited obstacles to measuring genuine endogenous social effects is the well-known “reflection problem”, identified and popularised by Manski (1993). Other authors have also warned about this difficulty (e.g., Moffitt, 2001; Brock and Durlauf, 2001) from econometric grounds. In the same vein, Angrist (2014) considers that, from an empirical standpoint, econometric analyses trying to isolate peer effects have obtained little success, at least as far the task of searching socially significant causal effects is concerned. In his view, observed statistical relationships are mainly spurious, with no effect on behaviour and without any predictive value. We are not as pessimistic about the use of econometrics to find and locate endogenous social effects as he is, and, for that reason, we make our methodological proposal here.

In an effort to pinpoint possible temporal patterns, our analysis covers a period spanning the years leading up to the current economic crisis as well as the years during which the effects of the crisis made themselves felt. Specifically, we study the period between 2004 and 2010. It should be remembered that most of the layoffs sparked by the crisis starting in 2008 led to a significant increase in the number of layoff cases brought before the labour courts, with such case with such cases virtually doubling between 2004 and 2010.¹

The rest of the paper is organised as follows: in the following section, we identify three factors that could cause significant spatial correlation among judges’ decisions and three related types of social or neighbourhood effects. In Section 3, we explain the main characteristics governing the functioning of the labour court system in Spain. In Section 4, we review prior literature. Section 5 presents the database used in this paper. Section 6 is dedicated to a discussion of our empirical strategy. Section 7 details the methodology applied, while Section 8 explains the main findings. In Section 9, we carry out a robustness analysis. The paper ends with the conclusions.

2. Judges’ decisions and territory

Judges’ decisions should be highly objective and should be based on strictly legal considerations. Nevertheless, we believe that social interactions or neighbourhood effects, in Manski (1993, 2000) and Dietz’s (2002) terminology, could play a role in explaining such outcomes. From our standpoint, there are three reasons to expect a positive spatial correlation in neighbouring courts. Two of them might be deemed of a subjective nature (at least to certain extent in one of the cases) in the sense that judges are “psychologically” affected by their environment, whereas the third might be regarded as more objective in the sense that the characteristics of the judicial cases entering the courts are the determinants causing the

correlation. Here, we are especially interested in detecting and finding empirical evidence of the “subjective effects” (i.e., endogenous effects or pure peer effects and correlated effects). At the same time, because we are highly concerned with the potential spatial correlation produced by the “objective effects” (i.e., exogenous effects), we design an empirical strategy, to be explained in depth in Section 6, that aims to differentiate among the various social or neighbourhood effects.

As has already been noted, there are at least two reasons of a subjective nature for why a positive spatial relation might be expected: one that is more local and another that is more regional. First, there is an “*emulation effect*”, which is essentially subjective. This is because judges, like all human beings, display social behaviour. Decisions taken by colleagues who work in nearby courts would thus affect judges’ own decisions. Following group pattern behaviour is commonplace and is an issue that has been widely studied in the fields of sociology and psychology. Judges are, ultimately, only human beings. Going too much against the grain established by colleagues who work close-by might entail a psychological cost for judges. When taking decisions, judges will strive to avert such a situation by minimising any “distance” with their colleagues. This might generate territorial inertias that could cause a certain positive spatial correlation. This effect would clearly prove more intense were we to consider a more limited geographical scope. As can be easily understood from the previous exposition, our “*emulation effect*” would correspond to Manski’s (1993) endogenous effects.² It is also worth mentioning that this sort of effect is what Dietz (2002) calls a pure peer effect. In Manski’s own words, the pure peer effect appears when “*the propensity of an individual to behave in some way varies with the behaviour of the group*”. To connect this social behaviour to the economics discipline, we could cite here the bandwagon effect, which is well known in microeconomics. This type of effect emphasizes that, in some circumstances, interactions among individuals’ preferences can be observed.

The second effect might be termed a “*reversal effect*” or “*annulment effect*” and would be a mixture of an objective criterion and a subjective element. This neighbourhood effect would result from the jurisdictional organisation of Spanish courts. For this last reason, we regard this “*reversal effect*” or “*annulment effect*” as an example of Manski’s correlated effects. This author makes clear that such effects occur when “*individuals in the same group face similar institutional environments*”. According to Dietz (2002), “*correlated effects arise because the individuals in a neighbourhood tend to have similar institutional exposure*”. Although this matter will be discussed in greater detail later, it is worth noting here that each regional appeal court has the power to accept an appeal concerning a judge’s decision in the cities located in this region.

Clearly, judges who issue rulings in courts of the first instance wish to see their decisions remain final and not overturned in a higher court. Having their decisions systematically overturned or overruled by the appeal courts would damage their reputation subjectively and psychologically, as well as objectively, due to possible sanctions imposed by the judicial control authorities. Nevertheless, the economic idea of opportunity cost could still play a role in understanding the mechanism operating through this effect. In the opinion of some experts³ on the functioning of the Spanish court

¹ Based on the information from the Statistics Department of the Spanish Ministry of Labour and provided by the General Council of the Judiciary, Labour Courts dealt with 62,620 cases of layoffs in 2004, a figure that reached 105,299 in 2010 after having peaked at 125,202 cases in 2009.

² In fact, in the first page of Manski’s (1993) article, this author refers to the word “imitation” as one of the labels employed in the literature to name endogenous effects. The terms “emulation” and “imitation” can be considered synonyms in the present context. Because we used the term “emulation effect” in the first draft of this paper, we prefer to continue using this concept, although it could be renamed as “imitation effect”.

³ We obtained this information directly from representatives of the General Council of the Judiciary in two talks we held with them. In the same conversations, they

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