

Beyond a reasonable appeal

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Are the trial by jury and the right to have a broad appeal compatible?

- The importance of the stage of appeal in Argentina



The resistance to trial by jury

- The lack of written reasons on the jury's verdict and the need to “guess”



The supporters' to trial by jury battle

- The lack of knowledge of how the system works in practice

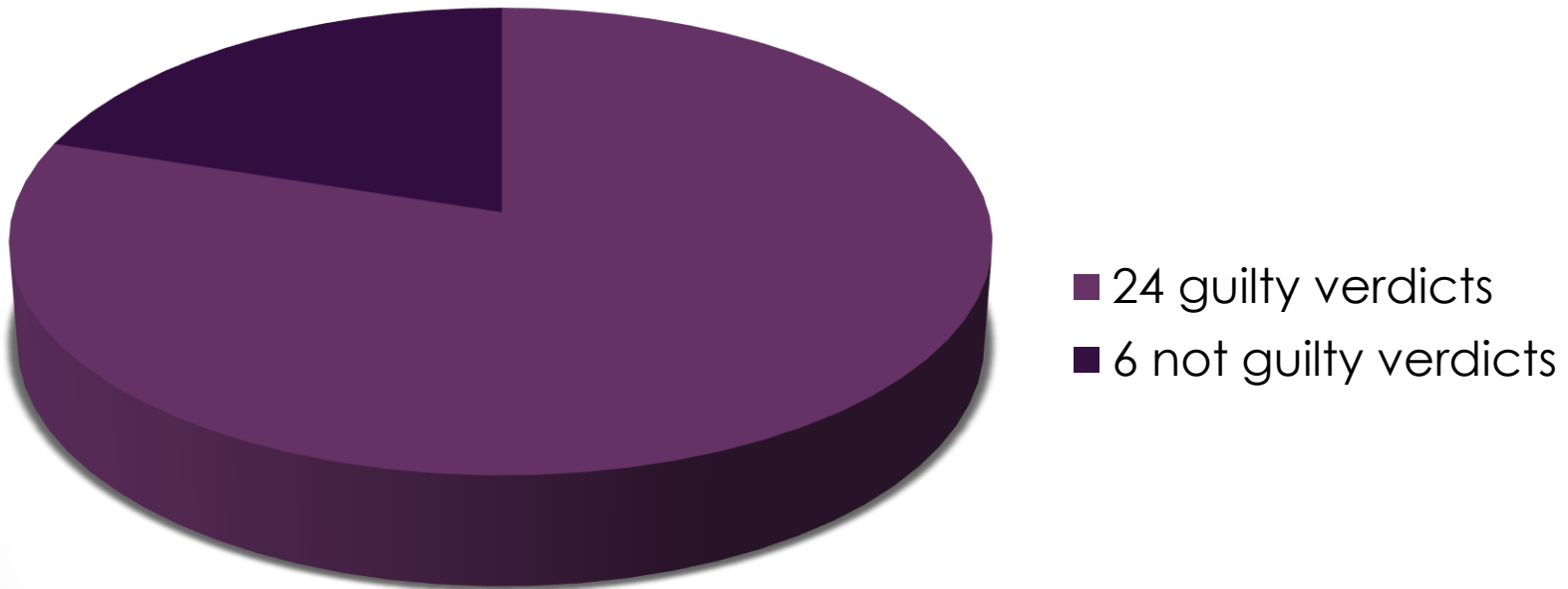


The real experience



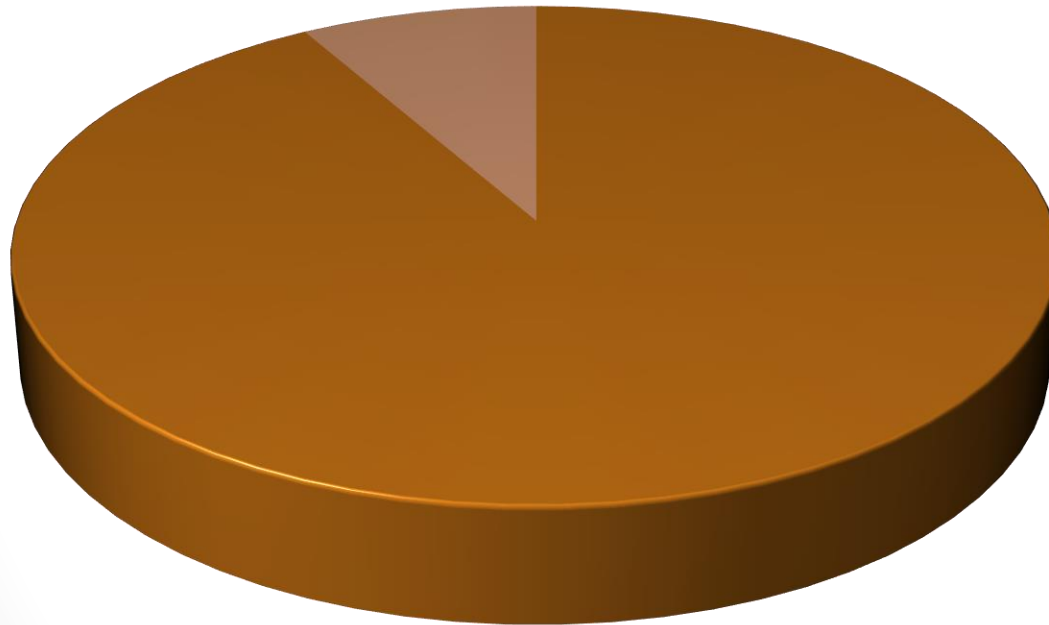
Neuquen's experience

30 trials by jury (2014-2016)



Neuquen' experience

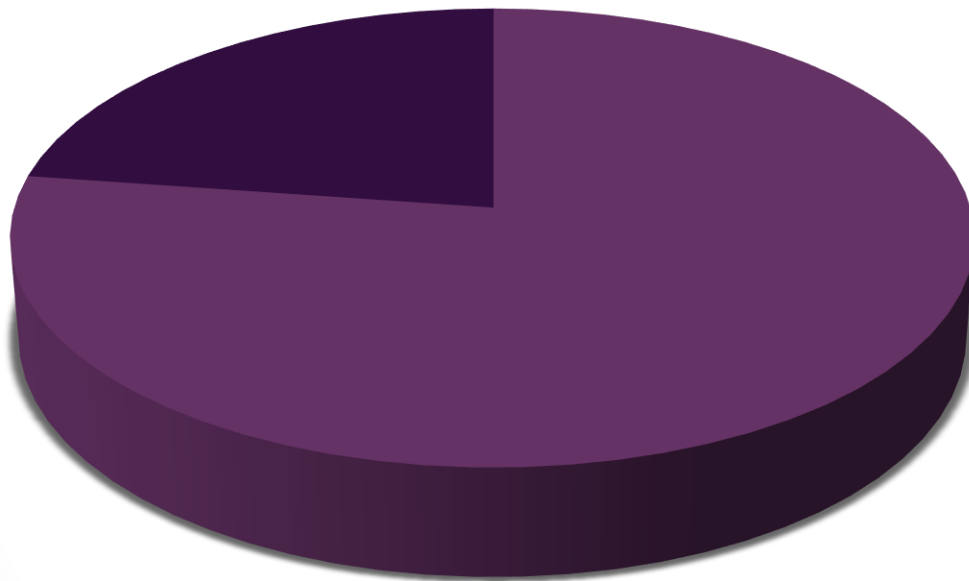
24 guilty verdict



- 22 appealed
- 2 not appealed

Neuquen's experience

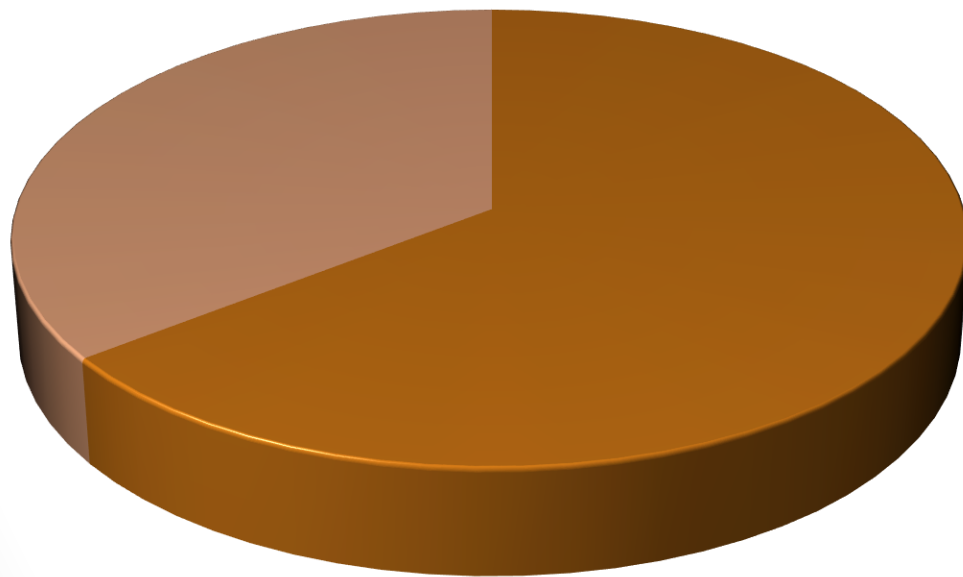
22 appeals



- 17 facts and evidence
- 5 other grounds

Buenos Aires' experience

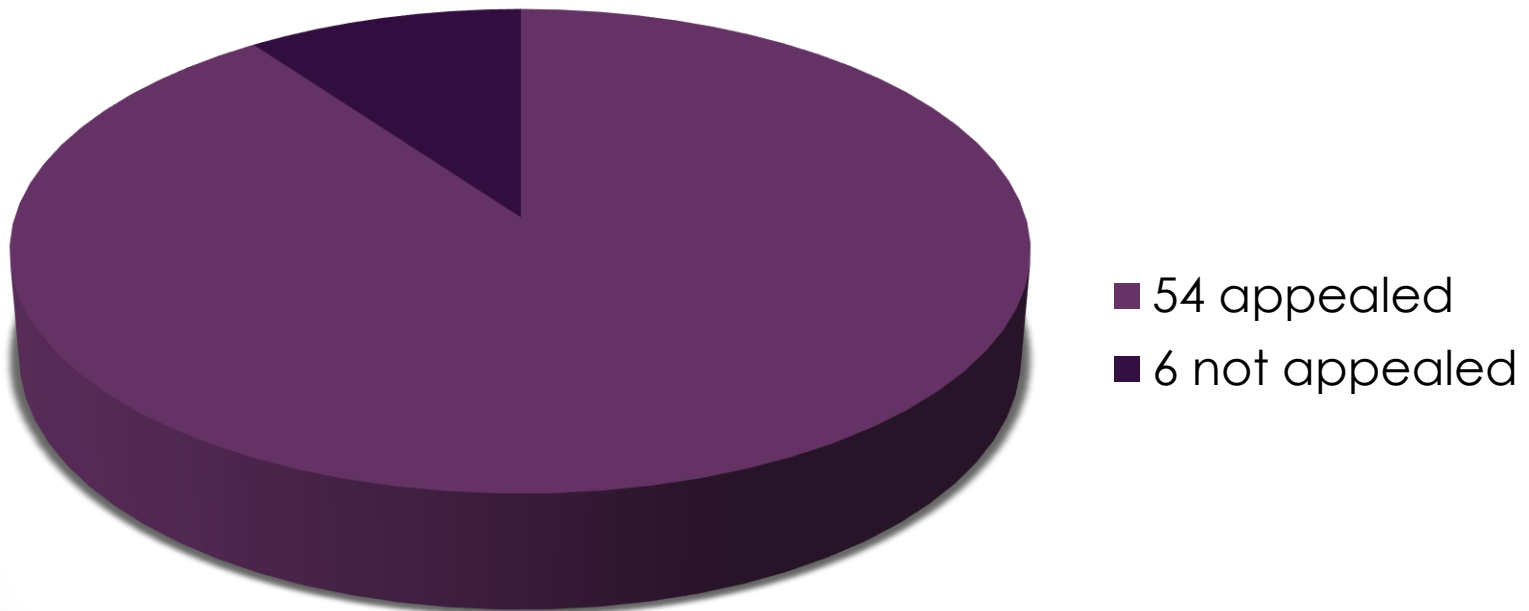
93 trials by jury (2015-2016)



- 60 guilty verdicts
- 33 not guilty verdicts

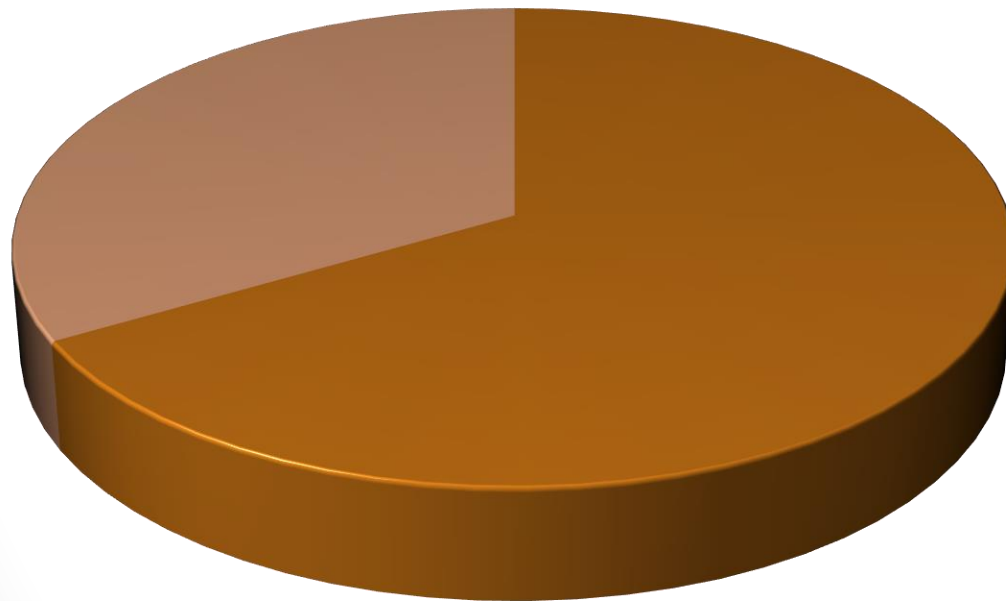
Buenos Aires' experience

60 guilty verdicts



Buenos Aires' experience

9 reviewed so far



- 6 facts and evidence
- 3 other grounds

Could the defendants question the convictions?

- Yes
- They did not have to guess
- They really knew why the jury found the accused guilty



Could the courts of appeal make a broad review?

- Yes
- They adopted the precedents of the common law about the reasonable jury
- They could review the convictions based on the grievances of the defendants
- They affirmed jury's decisions in most cases

- The defendants were able to have a broad appeal of convictions
- The courts of appeal were able to make a broad review



What else have we learned in these first years of experience?

- There are deficit practices of the litigants in the stage of appeal
- It is a consequence of the remains of the old inquisitorial tradition.



The problems observed were:

1. The resistance of the prosecutors to lose the right to appeal a not guilty verdict

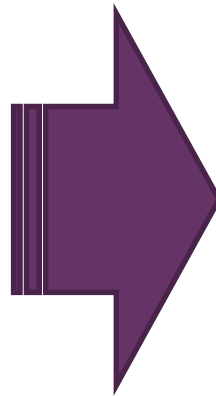


The problems observed were:

2. Litigants often fail to point out their grievances at the proper times.



Hearings



The problems observed were:

3. Attorneys have difficulty in explaining the errors



The problems observed were:

4. The lack of use of the hearing and litigation techniques in the stage of appeal



The courts of appeal in Argentina

- Affirmed the essential aspects of the classic jury
- Reinforced this institution in our country



“Duel of practices”

the new methodologies of the adversarial system are struggling with the old ones of the inquisitorial system



The new role of the appeal stage

Proposals:

- Pedagogical role
- Establish clear rules of evidence
- Active role of the judges in hearings of the appeal stage





Conclusion

The trial by jury has worked as a Trojan horse during the appeal stage as well as the trial stage.

It has broken the historical way of control and has brought in a new and more modern litigation technique.

