



When corruption hits the judiciary: A global perspective on access to justice and corruption

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KARIN HILMER PEDERSEN* 

LARS JOHANNSEN* 

Abstract

This study asks whether a country's level of corruption relates to perceptions of access to justice. In terms of the supply side of access to justice, a corrupt judicial system will imply that the less well-off cannot afford to secure their rights. However, does corruption widen a justice gap? Studies show that corruption relates to democracy, wealth, and equality, but the link between corruption and the judiciary is less studied. This study explores the general global picture statistically with the use of data from 113 countries. Using multiple regression, it corroborates established findings on inequality and equal access to justice, but critically contributes to this field by finding that corruption has an independent and strong relation to access to justice. This finding suggests that both anti-corruption and equality policies may improve access to justice.

Key words

Access to justice; corruption; global view; anti-corruption policy

Resumen

Este estudio se pregunta si el nivel de corrupción de un país está relacionado con la percepción del acceso a la justicia. Desde el punto de vista de la oferta de acceso a la justicia, un sistema judicial corrupto implicará que los menos pudientes no pueden permitirse asegurar sus derechos. Sin embargo, ¿la corrupción amplía la brecha de la justicia? Los estudios muestran que la corrupción se relaciona con la democracia, la riqueza y la igualdad, pero el vínculo entre la corrupción y el poder judicial está menos estudiado. Este estudio explora estadísticamente el panorama global general con el uso de datos de 113 países. Utilizando la regresión múltiple, corrobora las conclusiones establecidas sobre la desigualdad y la igualdad de acceso a la justicia, pero contribuye

* Department of Political Science, Aarhus University. Email address: khp@ps.au.dk

* Department of Political Science, Aarhus University. Email address: johannsen@ps.au.dk

de manera crítica a este campo al encontrar que la corrupción tiene una relación independiente y fuerte con el acceso a la justicia. Este hallazgo sugiere que tanto las políticas anticorrupción como las de igualdad pueden mejorar el acceso a la justicia.

Palabras clave

Acceso a la justicia; corrupción; visión global; política anticorrupción

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1. Introduction

Equal justice under the law is one of America's most profound principles, but it is widely violated (...). We tolerate a system in which money often matters more than merit, and equal protection principles are routinely subverted in practice. (Rhode 2004, p. 14)

The concept of access to justice (A2J) was developed in the American context, examining whether all American citizens enjoy equal access to justice as envisaged in the country's fundamental principles. It addresses how the power of money in American society has negative consequences for poor people's access to justice in the judicial system. Interpreting the problem as one of economic inequality, the policy response has typically been to set up schemes for providing people with, for example, access to pro bono lawyers and assistance from legal aid organisations. Thus reflecting, that A2J is not only a question of wealth and democracy Rhode notes that in 2013 democratic and in terms of GDP per capita prosperous United States tied with less democratic and poorer Uganda in access to the justice system and affordability of legal services (Rhode 2014). A broader focus on A2J gained momentum in 2003, when the United Nations explicitly included A2J in its Sustainable Development Goal no 16 and thereby conceptualised A2J as an issue of good governance and inclusive society more generally.

This article elaborates theoretically and explores empirically the good governance perspective on a lack of A2J, asking whether corruption has a negative impact on how people perceive their A2J. Corruption's negative effect on society has reached near consensus. Corruption circumvents democratic decisions, dampens economic growth, hampers redistribution of resources and wealth to the detriment of the less well-off, and more generally reduces trust in society (Treisman 2000, Karklins 2002, Holmberg and Rothstein 2011, Serritzlew *et al.* 2014). Adding to these findings, we ask whether corruption is negatively related to A2J when controlling for the well-known effects that are linked with corruption; that is, level of democracy, economic wealth, and equality.

The question of whether corruption disrupts the function of the legal system looks at the supply side of A2J (Albiston and Sandefur 2013). The supply side of A2J focuses on the judicial system and legal profession from a good governance perspective, addressing the function of the judiciary from input to the judicial system – when citizens demand access to justice – through the judicial process, ending with its output – that is, the enforcement of judicial rulings. The contribution of this article is twofold. First, while the link between A2J and corruption seems intuitively obvious, the theory lacks elaboration. Second, this link has not been scrutinized empirically. In this study we make a theoretical claim supplemented with an empirical examination, using statistical methods from among other data sources a survey conducted by the World Justice Project. Our analyses cover 113 countries. Statistical methods do have limitations. Statistics is a method appropriate for exploring relations, but it does not allow to claim causality. Thus, when we ask whether corruption is related to A2J, we cannot claim that corruption (explanans) is the cause to lack of A2J (explanandum) as we theoretically cannot exclude that it may be the other way around. Thus, it may be, that lack of A2J contribute to higher corruption levels. We elaborate further on this in our theory part and in the conclusion.

The question posed in this article is whether corruption – that is, illicit actions taken by employees within the judiciary – is an element that contributes to a lack of A2J. This

question highlights the problem that wealthier members of society may directly bribe themselves into access to the judicial system, both in terms of a smoother procedure and even in terms of being able to influence verdicts themselves and their implementation. The study does not address the problems of political influence on the judiciary but limits itself to looking at potential corruption problems in the judiciary as an organisation. We start by discussing the theoretical mechanism between the four variables and A2J as well as the empirical implications in Section 2. In Section 3, we reflect on the methodology and justify the data used. In Section 4 we discuss the findings, and finally we conclude by discussing limitations related to this study and further research questions.

2. Theoretical mechanisms: Access to justice

To define access-to-Justice (A2J) has proven to be an elusive task (Cornford 2016, p. 27). On the one hand, A2J is described as a “feel-good” concept – a good thing that is impossible to disagree with, but it is also a concept open for interpretation to what exactly contributes to access and what exactly characterises justice. Thus, what constitutes A2J for some people may constitute a lack of A2J to others. To disentangle the concept, we follow Cornford’s distinction between a rather uncontroversial descriptive aspect of A2J and its vaguer normative meaning, which we elaborate on below. We then extend the conceptual discussion with an empirical view on A2J.

Describing A2J seems simple and relatively uncontroversial. A2J indicates the extent to which citizens can gain access to the legal services necessary to protect and vindicate their legal rights. Historically, this concern about A2J can be traced back to English law, where equal rights of access to justice have been recognized since 1495 just as the continent’s medieval ecclesiastical courts provided free trials (Latham and Watkins 2016). Thus, the descriptive aspect of A2J may be associated with the outcome of a case – that is, A2J implies an answer to the question of whether justice was served in one or another concrete case. Answering the question of what constitutes A2J in this way, however, according to Rhode (2003, p. 376), appears to conflate solutions to the lack of adequate access with equal access itself. It is also based upon a pragmatic understanding of A2J in contrast to a more normative understanding associating A2J with social rights (Cornford 2016, p. 30). According to this pragmatic understanding, proponents of A2J like Rhode contend that “low-income individuals who need legal aid but cannot realistically afford its cost should have access to competent, government-subsidized assistance” (Rhode 2003, p. 376). This is obviously an argument for a policy solution – legal aid – to the problem of adequate access. Illustrative of this is the Obama administration’s 2010 Access to Justice Initiative, with its focus on “innovative strategies to close the gap between the need for and availability of quality legal assistance” (Albiston and Sandefur 2013, p. 102). The intuitive policy solution to A2J from this perspective is and has long been to develop programs for legal aid and pro bono schemes allocating resources to ensure that even the less well-off have access to justice.

Turning to the normative aspect, international law states that A2J is a human right (The Universal Declaration of Human Rights, 1948, article 7). Amartya Sen argues a human right must meet a “threshold condition” of relevance in the sense that it has sufficient social importance to generate obligations for others. Thus, a human right must have ethical affirmation, not only reasoned in the interest of our own rights and liberties but reasoned in the interest of the freedoms and rights of others (Sen 2009, p. 367). In this

sense, equal access to justice is relevant because lack of access undermines the rule of law principles of neutrality and objectivity when settling disputes. Ideally, this would mean that the law is implemented with no considerations of social, political, economic, or other differences between people. In calling attention to A2J, the UN acknowledges a justice gap between what people have the right to and what they have access to (World Justice Project 2018). Following our conceptual understanding of A2J, we focus on the gap between the principle of equal access and unequal practices of access to the judicial system. We define access in terms of processes, which is different from access to a just legal decision. This distinction is important and addresses what the UN Sustainable Development Goal means by access to justice – that it is an indispensable element of good governance. Although the global community, through UN conventions and the Sustainability Goals, expresses concern about equal A2J, the gap between rights on paper and rights in practice remains considerable. Against this backdrop, we follow up on recommendations forwarded by Albiston and Sandefur that understanding A2J needs to be reframed as a universal issue rather than a concern limited to stigmatized groups such as the poor, immigrants, or the disabled (Albiston and Sandefur 2013, p. 119). This conceptualization of A2J relates a lack of A2J directly to state inefficiency and governance failure but also to a more empirical deconstruction of the concept.

Building on models of the political system, we deconstruct A2J into three distinct governance phases – input, throughput, and output (Schmidt 2013). First, input constitutes the direct access to the judicial system that claimants of legal rights may have and experience; that is, equal access into the system (*ex ante*). At this phase, the impartiality of gatekeepers, judicial personnel, and the police force is key to A2J. Second, throughput focuses on the court process, its effectiveness, and its character being non-discriminatory and with strict focus on the case matters at hand. The key actors in this case are professional judicial personnel, judges, lawyers, etc. Third, output addresses how court decisions are implemented (*ex post*); thus, a claimant may win in court but lose in practice if rulings are not effectively enforced. A2J in terms of output justice may depend, for example, on the clarity and precision of the verdict and whether its implementation depends on organisations outside the judicial system to act (see Watts and Roberson 2014, p. 222). In all, A2J requires that all three stages of justice are unbiased, i.e., without discrimination or unreasonable delays. We now turn to corruption as our key independent variable.

Corruption is commonly defined as the misuse of an entrusted position for private gain. First, corruption is an action of misuse, inappropriate by cultural norms and in most cases illegal according to formal law (Osborne 1997). Second, the act of misusing is related to the position one is entrusted to hold. As such, corruption is an illegal exchange between two persons who benefit while there is and with no immediate victim (for example Graeff 2009). The absence of a concrete victim – while negative consequences of corruption fall on the whole of society – makes investigation and judicial action especially difficult in corruption cases. The difficulty lies in the problem of collective action as incentives to maximize individual benefits will in most cases overrule incentives to do what is best for the common good, even though the person engaging in corruption knows – due to judicial professionalism – what is the right thing to do (Persson *et al.* 2013). However, judicial corruption departs from the perspective that corruption is victimless because the claimant or defendant who does not have the

economic resources or moral willingness to unduly influence the court will suffer. Hence it is of imminent importance to address judicial corruption in that this type of corruption is more visible and therefore key if societies are to, paraphrasing Fukuyama (2011) and Mungiu-Pippidi (2013), “get to Denmark” – a prosperous, inclusive, trusting, and honest society.

Corruption comes in many forms, and the most common typology is to distinguish between petty and grand corruption (Karklins 1988). Petty corruption takes the form of small-scale payoffs to street-level bureaucrats, police officers, or administrative clerks. In some cases, these payments are understood as “gratitude” money; that is, a payment expressing thanks for help one has received from the administration. In others, payments may take the form of “speed money” – that is, payment given to get the service you are entitled to but without delay. Grand corruption involves considerably more money and has more direct impacts on society and on the beneficiaries of the corruption. A thought exercise illustrates this: imagine a political decision regarding whether to finance a hospital or a highway where the politician is faced with a wealthy entrepreneur who offers 10 percent if the politician chooses the highway. As Uslaner puts it, “Grand corruption is all about extending the advantages of those already well endowed” (Uslaner 2009, p. 129). Returning to our deconstruction of A2J, we address both petty and grand corruption when looking at pre-judicial administrative efficiency (input), impartiality of the legal process focusing on the judicial elites (throughput), and finally post-judicial efficiency in administratively implementing judicial decisions (output).

Returning to the general definition of corruption as self-serving misuse of entrusted power corruption is a phenomenon that in the public administration literature is referred to as a principal-agent problem. In this tradition it is argued that because the subordinate (agent) is better informed about concrete details than their superior (principal), the asymmetrical information bias makes it possible for the agent to use his position in a self-serving way and contrary to the goals and principles of his organisation. Thus, corruption grows the more control the agent has over tasks distributed to him and the less interest the principal has in controlling him. As Klitgaard (1988) claims, corruption is a function of “monopoly plus discretion and minus control”. The question raised is how these elements of corruption work as a mechanism that deepens the gap between principles of equal access to justice and justice in practice.

The issues of monopoly and discretion in Klitgaard’s equation is particularly important in the case of A2J. That the judicial system has monopoly on legitimate and state backed conflict solution, the degree of the system’s discretion is a separate concern. A judge is obliged to look objectively and without bias at a court case. Nevertheless, different judges look at and evaluate a case differently. The reasons for different verdicts can be many. If self-regarding interests guide judicial decisions, a pathway is open for the wealthy to have their way in court cases against less prosperous citizens. In this sense, corruption touches upon what is the most basic obligation for judges and thus the core of judicial ethics in any court system: judges’ professional obligation to decide cases impartially without concern for elements unrelated to the case. This obligation and judicial ethics, however, involve the exercise of discretion, as argued by Posner (2006). Combined with the fact that the judiciary holds a monopoly on legitimate legal

effectuation, the issue of discretion within the judicial system reflects one of the factors in Klitgaard's corruption equation.

The willingness to use discretion and thus accept corrupt deals is not only a question of opportunity and control but also one of individual moral and economic incentives. The causes of corruption as a moral question, and thus the consequences of entrusting power to dishonest men, has for many years been the most common approach in corruption studies (Caiden and Caiden 1977, Osborne 1997). Indirectly, yet building on the dishonest man thesis, several recent studies emphasise the importance of professionalism and meritocracy in public administration as a strong suppressor of corruption (for example Dahlström *et al.* 2011, Pedersen and Johannsen 2015). Thus, morality and honesty can be taught (Ostrom 1998). In that sense, the professional ethos can be an important factor when a judge decides the pros and cons for accepting a bribe. In effect, it is reasonable to assume that the judicial profession should be a strong factor for keeping corruption at bay. The material or pecuniary temptation to accept bribes is likewise disputed. While Van Rijckeghem and Weder (1997) find that public officials' relative wages compared to the private sector influence corruption, Wei (1999) finds that there is at most a small effect. Likewise, Navot *et al.* (2016) argue that increasing wages for public employees is a questionable measure against corruption.

The relation between corruption and the judicial system has been addressed in several case studies (for example on Italy see Vannucci and Della Porta 2012). To our knowledge corruption has not directly been connected to A2J. This may seem surprising, as corruption challenges the professional judicial ideal that decisions should be timely and made with no consideration other than the facts and their legal consequences. Put differently, equity and neutrality constitute the basis of the judicial system, meaning that characteristics such as for example wealth, race, gender, or sexuality that are unrelated to the facts and the law shall have no bearing on judicial decisions. Moreover, the ideals of impartiality, equality, and fairness are not partisan or ideological, conservative or liberal – even authoritarian states formally uphold the same principles. In conceptualizing A2J as citizens' equal ability to protect their legal rights, corruption defined as a "misuse of entrusted power for personal gain" (as it is for example by Transparency International) bears with it a risk to A2J. Corruption builds per definition on partiality – that is, unequal treatment of citizens due to differences in their status and wealth.

The question posed in this study is whether corruption makes an independent contribution to lack of A2J. As mentioned, we answer this question statistically when controlling for three competing variables: democracy, economic wealth, and inequality. In the following we discuss how these variables connect to A2J and therefore are theoretically justified as competing variables. First, democracy is an important competitor because legal culture as well as many democratic constitutions assume "equal justice under law" (Cornford 2016, p. 29). Over the years in studies of democracy, the procedural definition of democracy initiated by Schumpeter (1942/1964) became near standard. According to the procedural definition, democracy is a method in which institutional arrangements ensure that everyone has power to influence political decisions through free and fair elections based on a competitive struggle between different political views. However, democracy has also been given more demanding and

substantial definitions. Dahl (1971) argues that several freedoms, such as free speech and the right to form and participate in organisations, underpins contestation, and O'Donnell (2001) finds that, in turn, rule of law and due process guarantee these freedoms.

Taking a slightly different path to the definition of democracy, Møller and Skaaning (2013) suggest that instead of debating *the* best definition of democracy, a conceptual typology is possible. The hierarchical typology consists of four levels: minimal democracy (cf. Schumpeter 1942/1964); electoral democracy – that is, inclusive of contested elections; polyarchy (cf. Dahl 1971), which adds civil liberties; and finally liberal democracy (cf. O'Donnell 2001, 2004), which, aside from the three other dimensions, includes rule of law. Moreover, Møller and Skaaning (2013) contend that democracy develops in sequence. Democratic regimes establish minimal democratic characteristics and politically contested elections before developing characteristics of a polyarchy. Finally, fully developed liberal democracies add rule of law elements. It may be from this perspective that Tom Cornford argues that A2J is essentially about the rights of being a citizen; that is, the doctrine that all inhabitants of a country have a single legal status and that each case must be considered equally (Cornford 2016, p. 29). A2J connects with the liberal understanding of democracy and political systems enabling citizens to exercise their autonomy to choose, modify, and realize their life projects (Crawford and Maldonado 2020, p. 4). Accordingly, we expect that a country's level of democracy or authoritarianism influences A2J.

Second, a country's economic wealth may affect its capacity to achieve A2J. Intuitively, expenditures used for the functioning of the judicial system and thus A2J in the direct sense are related to the resources available. In terms of allocating resources to programs dedicated to improving broad-based legal access, a country's general level of wealth is almost as important as the political will to do so. The impact of wealth can be substantiated by studies showing that austerity situations which shrink public spending also decrease A2J (Palmer *et al.* 2013). Wealth may also impact the salaries of staff employed in the judiciary and thus temptations to accept small or larger bribes. This, however, is of minor concern as studies show that salaries have limited effect on corruption (Wei 1999). Although allocation of resources to the judiciary is also a matter of political will, we assume that national economic wealth matters to A2J.

Third, inequality in a society also relates to A2J. The French economist Thomas Piketty (2014) has in recent years raised concern about high and increasing levels of inequality. While neoliberal thinkers cherish inequality as a driver for economic growth and innovation, socio-economic inequality connects with poverty and a systematic unequal distribution of resources and individual opportunity. On a global scale, eradication of poverty is the first out of the UN's 17 sustainability goals (UN 2021). Eradicating poverty is extremely difficult, and more so because inequality and poverty itself undermine the political solidarity needed to decide upon and implement redistributive policies. Moreover, it has been found that inequality breeds resentment between groups, which may cause political destabilisation (Uslaner 2009, p. 130). In addition, inequality obstructs the realisation of fundamental rights for the poorest part of the population. As stressed by Rhode in our introduction, individual wealth and income can be a decisive factor for securing one's rights through the judicial system. While lack of material wealth is an important factor, so is lack of knowledge about one's rights and about the workings

of the judicial system (Crawford and Bonilla 2020). Accordingly, and as also mentioned above, the policy solution to minimise the consequences of socio-economic inequality is to focus on state-subsidised legal assistance.

The importance of inequality to A2J also runs through its connection to corruption. Economic inequality creates incentives for decision makers to favour the rich. As argued by Gleaser *et al.* (2003, quoted in Uslaner 2009, p. 129), inequality “enables the rich to subvert the political, regulatory, and legal institutions of society for their benefit. If one person is sufficiently richer than another, and the courts are corruptible, then the legal system will favour the rich, not the just”. Inequality influences A2J because the better-off in society have more resources to secure justice through the judicial system, not only because they can afford better legal assistance but also because they have resources to unduly influence the process, i.e., the use of bribery or other means of influence. Thus, the question we raise is whether corruption, when controlling for democracy, wealth, and inequality – three factors that in themselves relate to A2J – has an independent impact on A2J. We now turn to the data and methodology used for the study.

3. Method and data

This study uses multiple regression to estimate the impact of corruption on access to justice while controlling for differences in democracy, wealth, and income inequality. Statistical modelling comes with limitations, most importantly its insensitivity to causality. However, the advantage of statistical modelling is its ability to estimate the relation between corruption and access to justice while simultaneously considering the impact of the three other variables. In the following, we discuss the data used to estimate each variable, starting with A2J, followed by corruption, and then the three control variables.

A2J, the dependent variable, is measured with the use of the Rule of Law Index developed by the World Justice Project (WJP).¹ The WJP Rule of Law Index combines assessments from household surveys – that is, ordinary citizens’ perceptions – and assessments from country experts. The WJP Rule of Law Index consists of eight dimensions, among them two focusing on the judicial system, namely civil justice and criminal justice. When using perceptions as a measure of institutional quality, it is relevant to consider whether it is reasonable to believe that respondents indeed have knowledge about the institutions in question – in this case, judicial institutions. Civil justice reflects ordinary citizens’ contact with the judicial system. Civil justice includes domestic and housing problems as well as disputes regarding, for example, environmental and health issues. Citizens are thus more frequently in contact with civil law than, say, criminal law, and their perceptions therefore more broadly reflect how a country in general complies with procedural standards.

The WJP civil justice dimension is conceived as and consists of questions that measure “whether ordinary people can resolve their grievances peacefully and effectively through the civil justice system” (WJP 2018). The component consists of seven items.

¹ The World Justice Project was founded in 2006 by former president of the American Bar Association William H. Neukom. The project’s website states that they are “an independent, multidisciplinary organization working to create knowledge, build awareness, and stimulate action to advance the rule of law worldwide”. Data can be downloaded at worldjusticeproject.com.

Specifically, it measures whether civil justice systems are accessible and affordable as well as free of discrimination, corruption, and improper influence by public officials. Moreover, it examines whether court proceedings are conducted without unreasonable delays and whether decisions are enforced effectively. It also measures the accessibility, impartiality, and effectiveness of alternative dispute resolution mechanism. To align it with our conceptualisation of A2J focusing on input, throughput, and output, we exclude three items. First, the item evaluating “alternative dispute resolution mechanisms” as an alternative to the formal civil justice system is excluded simply because the mechanism is, as it says, an alternative to the formal justice system. Although the mechanism of ADR is important, our research question focuses on the formal judicial system. Second, we exclude the two items asking whether civil justice is “free of improper government influence” and “free of corruption”, which both touch upon illicit conduct within the judicial system. Including these items would conflate the right and left sides of the statistical equation – that is, explain the explanandum with the explanans.

This leaves us with four items, listed in Table 1, that measure the three elements in the input, throughput, output model. Input is measured by whether citizens can access and afford civil justice. Throughput is measured by whether civil justice is free from discrimination and not subject to unreasonable delays, and output is measured by whether justice is effectively enforced. In the regression analysis (see Table 5), we use the four items as an added index measuring overall access to justice in the civil justice system.²

TABLE 1

	Item
Input	People can access and afford civil justice
Throughput	Civil justice is free from discrimination Civil justice is not subject to unreasonable delays
Output	Civil justice is effectively enforced

Table 1. Core A2J: Input, throughput, and output.

Source: World Justice Project (data for Access to Justice index points 7.1; 7.2; 7.4; 7.7; 2018).

We now turn to a discussion of the independent variables. Data on perceptions of country-level corruption is available from the World Bank, various business risk surveys, and from civil society organisations.

To measure corruption, we could have used the item “free of corruption” from the WJP survey. To strengthen the validity of our model, we instead use Transparency International’s CPI index, which has been published on a yearly basis since the beginning of the 1990s. The Corruption Perception Index (CPI) is similar in fashion to the WJP in that it was developed with the use of surveys of households and businesses and with assessment by experts. A common issue with both the WJP and the CPI is that

² Several statistical tests of the items and index show that the four items form a single dimension. An unrotated principal component matrix factor solution demonstrates that the four items load highly (0.795 – 0.874) into one dimension with an eigenvalue of 2.743. All in all, the factor explains 68.6 percent of the variation.

perception data will always be subjective and thus prone to concerns of validity and biases (Rose and Mishler 2010, Ginsburg 2011). These concerns are especially relevant to corruption research because the issue touches on illicit actions that few people have actual knowledge of and where local rumours or scandals broadcast by the media may influence respondents, thus overestimating the actual level of corruption. These concerns have been extensively studied. For example, experimental research shows that how a person evaluates accessibility of justice and perceives inequality of justice largely depends on having himself experienced unfair outcomes in past civil legal conflicts and on negative accounts heard from others (Pleasence and Balmer 2018). Other studies find that perception of corruption corresponds to personal experience with (attempts at) being bribed. Johannsen and Pedersen (2012), for example, show that there is a correlation between those who have firsthand experience with corruption and those who perceive it from various indirect sources or the general cultural perception within the country and its institutions. Studies, however, cast doubt on the actual effect of media scandals. Survey experiments exposing one group of respondents to media scandals before evaluating the seriousness of corruption compared to a second group which was not given the same treatment shows no difference (Pedersen and Johannsen 2016). Finally, perception data has long been applied as a valid indicator of organizational properties in that there is a distance between written formal codes and structures and that which can be observed and felt in real life (Yang and Callahan 2007, Pedersen and Johannsen 2016). While none of the offered measures are free from criticism (see for example Baumann's 2017 critique of CPI), the CPI index constitutes probably the most used data set with respect to perceived corruption. While the CPI is referred to as a corruption index, the scale is not intuitive in the mathematical sense, in that higher values reflect less corruption, with the highest value reflecting a corruption-free society. Thus, it is correct to say that the CPI measures the absence of corruption. We will use this terminology in our reporting of the data in the tables below.

The democracy measure uses data from Polity IV, which is a coding of the level of democracy for most of the world's independent states (Center for Systemic Peace 2021). This choice also raises issues of validity in that Polity IV, like competing measures, is made up of components to which experts give scores and weight by hand. Moreover, Polity IV takes the multidimensional concept of democracy and reduces it to a unidimensional scale. Thus, by definition, it entails a loss of information (Munck and Verkuilen 2002). If we hypothesised that specific dimensions of democracy would have a larger or smaller imprint on access to justice, it would be necessary to rework the index back to its original components. However, as this is not the purpose here, in that we pursue a simple model, and since the developers of the index argue that it captures all of Dahl's dimensions of democratic regimes, such as for example political competition and assessment of formal voting procedures, we find it suitable for the model (Marshall *et al.* 2002). Even though Polity IV is a reliable measure of democratic regimes and is often applied in the literature, all indices of democracy carry a small component of rule of law. In statistical terms we run the risk that Polity IV will vary with our dependent variable, provoking an artificially strong and more significant explanation.

Wealth is measured using GDP per capita, and inequality is measured through the Gini index (or "Gini coefficient"), both based on World Bank data. GDP per capita reflects the general level of prosperity in a country. While there are few "hard laws" in social science,

there is a mountain of evidence that wealth matters to a population's health, education, state capacity, and democracy. In colloquial language, all good things go together. Suffice here to say that a wealthy country can allocate more resources to the justice system, education, and other desirables that in turn contribute further to wealth.

A wealthy country is not necessarily equal in income terms, just like a poorer country is not necessarily unequal. The Gini index is a measure of how equal a country's distribution of income is. Gini is scored between 0 and 100, where 0 represents perfect equality and 100 represents perfect inequality. Perfect equality means a country's total income is shared equally among its residents, whereas perfect inequality means a country's total income is owned by a single individual. The Gini index does not, however, stand unquestioned. Piketty (2014) prefers to measure inequality in terms of quintiles, especially the top 10 percent upper class and the top hundredth percent, i.e., the dominant class, in terms of wealth and income. While important insights could be gained from applying these measures instead of the Gini index, the analysis would then come to focus on the existence of a very rich class – that is, the 10 percent – rather than the general inequality in a society on which our theoretical claim linking inequality to A2J is based. Finally, the Gini index also speaks to the literature in that it remains the most widely used measure on inequality at the aggregate level and, for our purposes, within corruption research. In order not to lose country cases, we use data from the year nearest to 2016. Table 2 describes the data.

TABLE 2

	N	Minimum	Maximum	Mean	Std. Deviation
A2J Core index	113	0.76	3.38	2.12	0.51
Corruption (absence)	179	9	89	43.09	19.1
Democracy	164	-10	10	4.18	6.15
Wealth (USD)	186	698	127480	19958	21718
Inequality	165	23.60	60.80	39.06	8.84

Table 2. Descriptive statistics.

(Dependent variable: Core A2J index. Independent variables: Absence of Corruption = CPI score (2016); Democracy = Polity IV; Wealth = GDP per capita 2016; Inequality = Gini >2016<.

Sources: World Justice Project (data for core Access to Justice index 2018); Transparency International (CPI score 2016); Centre for Systemic Peace (CSP), Polity IV dataset version 2015 (Democracy); World Bank (GDP per capita 2016); World Bank, UNDP, OECD, Eurostat (Gini year closest to 2016)).

Table 2 offers the descriptive statistics of the data revealing substantial variation in each variable. For example, ranging from GDPs per capita of approximately 700 USD to 128,000 USD with a mean of 20,000 USD, the data represents some of the world's poorest and richest countries. In terms of the absence of corruption, the Scandinavian countries and New Zealand are among the best performers (close to 90), whereas countries such as Venezuela, Afghanistan, and Somalia are among the worst, if not the worst, performers (close to 10). Empirically, we see that the Netherlands scores higher on access to justice than Hungary, which in turn scores higher than, say, Cambodia. Intuitively, it may seem that all good things go together – access to justice and democracy and wealth and equality and absence of corruption – but as mentioned in the introduction this is not

the fact, leaving room to explain why some countries fail to secure equal access to justice. We now turn to the results from our statistical analysis, pursuing the question of whether corruption within the judicial system has a separable, distinct, and negative impact on the system's supply of access to justice.

4. Findings and analysis: Corruption does matter for access to justice

We structure our discussion by first presenting our statistical analysis, which falls into three steps. First, we look at the correlation between corruption and the three elements of A2J: input, throughput, and output (Table 3). Second, we turn to the bivariate relations, i.e., the direct correlations, between each independent variable and access to justice (Table 4), and third, we present the OLS regression model with the relation between absence of corruption and access to justice controlling for democracy, wealth, and equality. After the statistical presentation we discuss the impact and theoretical implications of each variable.

The theoretically developed relationship between absence of corruption and an improvement in equal access to justice is substantiated in Table 3, which shows that absence of corruption correlates with each of the four items: justice is accessible and affordable, it does not discriminate, the courts work without unreasonable delays, and enforcement takes place in due time. Thus, the less corrupt people perceive their country to be, the more likely it is that all aspects of access to justice – input, throughput, and output – work satisfactorily.

TABLE 3

		Input		Throughput	Output	Independent variable (explanans)
		Access and affordable	No discrimination	No delays	Enforcement	Corruption (absence)
Access and affordability	Pearson	1	0.713**	0.398**	0.529**	0.697**
	N	113	113	113	113	110
No discrimination	Pearson	0.713	1	0.490**	0.597**	0.714**
	N	113	113	113	113	110
No delays	Pearson	0.398	0.490**	1	0.750**	0.560**
	N	113	113	113	113	110
Enforcement	Pearson	0.529	0.597**	0.750**	1	0.729**
	N	113	-113	113	113	110
Corruption (absence)	Pearson	0.697	0.714**	0.560**	0.729**	1
	N	110	110	110	110	179

Table 3. Correlations between corruption and input, throughput, and output in core A2J. (Sources: World Justice Project (data for core Access to Justice index 2018); Transparency International (CPI score 2016). Note: *** significant at the 0.001 level; ** significant at the 0.05 level; * significant at the 0.01 level.)

Having substantiated the importance of corruption for each element of the model, we proceed to the second step. Table 4 reveals that three of the four explanations individually relate to our conceptualisation of A2J. That is, A2J improves significantly in societies where corruption is absent, wealth is high, and income is more equally distributed. Democracy, our fourth variable, however, does not have a statistically significant bivariate relationship with A2J.

TABLE 4

Bivariate regressions			
	R	Sig.	N
Corruption (absence)	0.805	***	110
Democracy	0.176		102
Wealth (USD)	0.739	***	112
Inequality	-0.386	***	102

Table 4. Core access to justice: Bivariate relations, 2017.

(Sources: World Bank (GDP per capita); Transparency International (CPI score); World Bank, UNDP, OECD, Eurostat (Gini year closest to 2016); Polity IV (Democracy); World Justice Project (data for core Access to Justice index). Note: Dependent: Core A2J index. Explanation: Wealth = GDP per capita 2016; Absence of Corruption = CPI score (2016); Inequality = Gini >2016<; Democracy = Polity IV. *** significant at the 0.001 level; ** significant at the 0.05 level; * significant at the 0.01 level.)

In statistical terms, bivariate relationships can only point to the fruitfulness of the proposed theories and mechanisms. We therefore go to the third step in the analysis, the multiple regression analysis, which includes all variables simultaneously. Table 5 reveals that wealth loses explanatory power, and only the absence of corruption and inequality remain. These effects are not only significant in statistical terms but also substantial. A few examples illustrate their effect. If Morocco reduced inequality from its present level (Gini = 40.72) to that of Jordan (Gini = 37.60), access to justice should improve by 0.45 points. If Denmark (Gini = 27.40) became as unequal as the neighbouring United Kingdom (Gini = 32.40), access to justice in Denmark would be predicted to drop by 0.72 points. Given that the recorded maximum value of access to justice (Table 2) is 3.38 and the mean 2.12, these examples demonstrate a substantial effect. With respect to our proposition that societies free from corruption are also characterised by more equal access to justice, Brazil (40) would be expected to improve access to justice by fully 1.24 points if it became as corruption-free as the United States.

TABLE 5

	Std. Error	T	Beta coefficients	Sig.	
(constant)	0.192	7.937		0.000	***
Corruption (absence)	0.003	5,820	0.730	0.000	***
Democracy	0.007	-1.850	-0.128	0.068	
Wealth (USD)	0.000	0.756	0.092	0.451	
Inequality	0.004	-2.180	-0.143	0.032	*
Adjusted r ²					0.658
N					94

Table 5. Explaining core access to justice: Multiple regression analysis.

Sources: World Bank (GDP per capita); Transparency International (CPI score); World Bank, UNDP, OECD, Eurostat (Gini year closest to 2016); Polity IV (Democracy); World Justice Project (data for core Access to Justice index). Note: *** significant at the 0.001 level; ** significant at the 0.05 level; * significant at the 0.01 level.

Our model explains 65.8 percent of the observed variance in core access to justice. This implies that the model does not tell the full story, nor could we expect it to. There are potential other factors to be included, some of which may be contextual and can only be understood with a deep knowledge of each individual country. Therefore, the model may overshoot or underestimate the effect on individual countries. We can use a measure of standard deviations to identify outliers in the model, as outliers to some extent defy expected cause and effect. When we do this case-wise diagnostic, we find that Egypt, India, and Cambodia are all outliers, i.e. the furthest away from the predicted values. While it speaks to the solidity of the model that we only identify these three outliers when we adopt a conservative rule of two standard deviations, it is also the case that being able to identify these outliers is useful in theory building (Gibbert *et al.* 2021). Thus, rather than treating the outliers as a nuisance and removing them from the data set – surprisingly common in statistical analysis – it can be of particular use if a set of countries is identified and compared to help generate new research questions.

This leaves the issue of democracy and wealth. We have already mentioned that the possible bias in the Polity IV index raised our expectation that democracy would have a correlation with A2J. Hence, when we find that democracy, in both the bivariate relationships and the multiple regression analysis, does not have a statistically significant impact on A2J, it deserves further consideration. The fact that democracy turns out to be insignificant contributes to the debate about democratic sequencing. Recall the proposition, following Møller and Skaaning (2013) and Mechkova *et al.* (2018), that the rule of law normally only develops once civil liberties and democratic procedures and institutions are in place. The present findings qualify this expectation, in that not all dimensions of the rule of law, here access to justice, are related to democracy. This relates to the second explanation discussed in the theoretical section: some authoritarian countries have well-functioning systems of justice. This is true with respect to Singapore and Hong Kong, both of which have strong regulatory enforcement. It is not, however, only an East Asian phenomenon. Countries such as the United Arab

Emirates and, perhaps more surprisingly, Rwanda rank above their peers. However, it may also reflect that in mature democracies like the United States and western Europe, citizens are more demanding and A2J is more discussed and problematised.

Turning to wealth, one partial explanation, as mentioned above, is that democracy and wealth are tightly connected. With roots in modernisation theory from the late 1950s, it is generally accepted within the literature that wealth stabilises democracy as a regime form once it is achieved (Przeworski and Limongi 1997). Furthermore, wealth is generally understood to change traditionally held values over the course of generations in favour of modern rational values and, later, as generations grow up in prosperity, in favour of inclusive values – reflecting, in a Maslow-style argument, that these generations have fulfilled their basic needs and can now turn to self-actualisation (Welzel *et al.* 2003). This argumentation opens a proposition for further research in that, while the model we present is a “single shot” measuring the state of democracy across countries in a specific year, a fruitful hypothesis may be that it is not the present state of democracy that has an impact on A2J but rather sustained democracy and wealth over time. This proposition also follows Treisman’s (2007) suggestion that we only see an effect of democracy on the level of corruption in mature democracies – that is, where democratic values have become habituated in the political culture. Pursuing this proposition requires that the statistical model becomes multilevel; that is, includes data for all years available and controls each year by the preceding year. While this is a worthwhile endeavor, the currently available series of data with respect to A2J covers an insufficiently long timespan and is outside the scope of this article.

In sum, the core takeaway from the analysis, presented in Table 5, is that our statistical model reflecting input, throughput, and output justice confirms the established finding that both corruption and inequality have a negative impact on A2J. In short, in more equal and less corrupt countries we find more equal access to justice. Despite the reservations discussed above, the model is robust and, for a simple model developed as a baseline for future studies, its explanatory power is remarkable.

5. Discussion, limitations, and conclusion

Asking whether corruption has a separable, distinct, and negative impact on the system’s supply of access to justice, we control for democracy, wealth, and inequality. Our results are in the affirmative, and the findings are statistically robust. The analysis also corroborates that the harmful effect of inequality on access to justice remains. These findings come of course with limitations known to statistical analysis, most importantly its inconclusiveness with respect to causality. Moreover, the reliability and validity of what is measured can be discussed and checking the robustness of the findings by using alternative indices could be fruitful. In a similar vein, the level of statistical power given the number of data observations can also be improved by expanding the data across years, if available. On both accounts, however, we believe that the chosen data and number of observations give us reason to argue that the findings are relevant.

In finding that corruption and inequality link to access to justice, the present study breaks new ground. Both the correlation study between corruption and the individual elements of access to justice and the multiple regression provide strong support for the position that corruption disrupts access to justice. The advantage of a statistical approach

in this case is not only that it identifies possible explanans for a given outcome, but its findings also enable selection of cases to be used in qualitative studies (Lieberman 2005, Turner *et al.* 2017, Campbell *et al.* 2020). We find that especially phenomena such as corruption call for a multimethod approach in that it, like other issues in criminology and sociology, suffers from dark figures, i.e., underreporting and undiscovered cases. As there is a consensus within the literature that inequality hampers access to justice, statistical modelling of the impact of corruption controlling for inequality is a fruitful first step in this line of research.

Furthermore, our analysis points to new questions that need not only be addressed with quantitative analysis. Egypt, India, and Cambodia are outliers to the model, meaning that the relation between corruption and A2J is less well predicted in these countries. Going into detailed case analysis, whether that be studies of cases before the courts, qualitative interviewing, historical analysis, or country comparisons, with the agenda of discovering unobserved, undertheorized, or simply contextual factors will advance research. Moreover, India, where corruption varies among the states (Charron 2010), calls not only for comparison between these states but is an interesting case in its own right. Illicit phenomena like corruption call especially for the use of several methods to shed light on their dark and hidden aspects.

Aside from the call to apply a mix of social science methods to the study of individual cases and countries, a further research agenda should include critical analysis of the concepts applied and the two-way causality that may arise between inequality, corruption, and access to justice. With respect to the first, we have discussed at some length elements of democracy and whether it is the longevity of democratic rule rather than democracy itself that has an impact on access to justice. The concept of inequality should also be further examined, not only as Piketty (2014) suggests, i.e. by looking at the well-to-do, but also by raising the question of what form of inequality. Inequality can take many forms, such as the income inequality applied here, but also over differences in wealth, intellectual resources, and status. The concept of corruption and the types of corruption should also be questioned. Corruption not only takes many forms, such as bribery and political favouritism, but some parts and layers of society may be more prone to corruption than others. Pedersen and Johannsen (2006) compare oft-used distinctions applied in the literature between petty and grand corruption on the one hand with a more elaborate typology of street-level, administrative, and political corruption on the other. In terms of access to justice, it may well be fruitful to examine corruption at the meso level – that is, the administrative level – in that it encompasses the justice system. Focused cases looking into how the prosecution and police examine and prepare cases before the court are of equal importance.

With respect to the second – the two-way causality between inequality, corruption, and access to justice – the question arises of whether it is a vicious circle. It has been suggested that inequality leads to corruption (Jong-Sung and Khagram 2005, Policardo and Carrera 2018) and, in turn, corruption increases inequality (Gupta *et al.* 2002, Dincer and Gunalp 2012), and both affect access to justice, which, in turn, affects inequality. Breaking a vicious circle is not easy, either in terms of identifying the remedy or determining where to intervene. With respect to the effect of inequality on A2J, the classical efforts to mitigate inequality before the court with legal aid is still the intuitive policy implication

of the present study. Changing a vicious circle of corruption and A2J is, however, a different matter to which establishing anti-corruption agencies and increasing control is a policy solution at hand (Meagher 2005).

Anti-corruption agencies have indeed been established in many countries. Research on detailed legislation and ministerial orders is, however, inconclusive and has not confirmed any effect of anti-corruption efforts (Mungiu-Pippidi 2015). A possible explanation for this failed effect may be that anti-corruption reformers set out to do too much at the same time (Sampson 2010). On the specific topic of corruption's relation to access to justice, carefully chosen partial reforms of the judicial system which may turn vicious circles into virtuous circles could be a way forward. The judicial system in many ways reflects Robert Klitgaard's (1988) proposed corruption recipe, namely that corruption equals decision makers' monopoly over a decision, their degree of discretion in making the decision, and the absence of external control. It is evident, however, that increasing external control of the judicial system are an especially complex problem bearing the risk of infringing upon the independence of the judicial system. A different solution takes the stand of seeing corruption as a collective action problem (Persson *et al.* 2013). According to this perspective, a policy proposal would suggest increasing the transparency of the judicial system and its processes, working to create a society-wide moral stance against bribery.

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