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# Court Funding and Judicial Corruption in China

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## ABSTRACT

Few empirical studies have established a relationship between court funding and judicial corruption in China. It is widely assumed that inadequate court funding erodes justice through denying access to the “have-nots”, giving courts an incentive to delay cases and jeopardizing judicial autonomy. I test this theory using qualitative interviews in seven Chinese provinces and a quantitative analysis of two original data sets of Chinese counties and cities. I demonstrate that underfunded courts are more likely to be perceived as corrupt, and further propose direct measures of court funding and perceived judicial fairness.

Insufficient court funding is well documented as an obstacle to achieving the rule of law in China.<sup>1</sup> However, data limitations and measurement difficulties have prevented scholars from establishing a link between court funding and judicial corruption. Beyond anecdotal accounts, few studies have unraveled the causal mechanisms linking court funding and judicial outcomes.

Using newly released data on court budgets and new measures of perceived judicial fairness in China, I test the hypothesis that underfunded courts are more likely to be perceived as corrupt. Relying on the assumptions of “rational choice institutionalism”, I then theorize the relationship between court funding and judicial corruption. I argue that insufficient funding in Chinese local courts creates incentives for judges to engage in activities that harm the fairness and efficiency of judicial procedure. I demonstrate that underfunded courts corrode judicial fairness through three mechanisms. First, an underfunded court system is more

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1. Xin He, “Zhongguo fayuan de caizheng buzhu yu sifa fubai” (Lack of Financial Resources and Judicial Corruption in Chinese Courts), *Ershiyi shiji pinglun* (21<sup>st</sup> Century Review), February 2008, pp. 12–23; Yaxin Wang, “Sifa chengben yu sifa xiaolu” (Legal Costs and Legal Efficiency), *Faxuejia* (Legal Scholars), 2010, pp. 132–37.

likely to deny access to the “have-nots”. Second, a poor financial situation harms the efficiency of the judicial system. Finally, underfunded courts are more likely to be captured by economic interests. As a consequence, inadequate court funding erodes justice by damaging both judicial fairness and judicial efficiency. I test this hypothesis by drawing on qualitative interviews and a quantitative analysis of two cross-sectional data sets of Chinese counties and cities.

This article makes three major contributions to the study of China’s legal system. First, unlike previous studies which have used corruption scandals as a proxy to measure judicial corruption, I utilize a direct measure, perceived judicial corruption, based on surveys of ordinary citizens and business managers. Second, I attempt to examine court funding in China systematically, by taking advantage of newly released local budget data published by the Ministry of Finance (MOF) to examine the pattern of court funding and its effect on judicial outcome. Finally, I investigate the causal mechanisms that link court funding and judicial corruption in sub-national China.

The next section provides an overview of judicial corruption in China, the third section spells out a theory of how inadequate court funding leads to judicial corruption, the fourth elaborates empirical strategies to test the hypothesis that underfunded courts are more likely to be perceived as corrupt, and the last section summarizes the major findings and broader significance of the study.

## JUDICIAL CORRUPTION IN CHINA

Transparency International, a global organization promoting clean government, polled 59,661 people in 62 countries in their Global Corruption Barometer 2006 survey, and found that, in one-third of these countries, more than 10 per cent of respondents who had interacted with the judicial system claimed that they or a member of their household had paid a bribe to obtain a “fair” outcome in a judicial case.<sup>2</sup> Public perceptions of judicial corruption are more prevalent still. In 55 of the 62 countries polled, a higher percentage of people perceived extreme judicial corruption than had paid a bribe. In 33 of the 62 countries polled, a majority of respondents described the judiciary/legal system of their country as corrupt.<sup>3</sup>

The negative effects of judicial corruption cannot be overemphasized. It denies citizens, especially poor citizens, access to justice; it hurts economic growth by delaying cases and favoring politically connected firms; and it erodes the ability

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2. Transparency International, *Global Corruption Report 2007: Corruption in Judicial Systems* (New York: Cambridge University Press, 2007).

3. Transparency International, *Global Corruption Report 2007*.

of the international community to tackle transnational crime and terrorism. In China, judicial corruption has become an increasingly salient social and political issue. According to Ling Li's calculation, the number of court personnel investigated and punished for corruption increased in the latter half of the 1990s and peaked in 1998 at 2,512 cases. The first half of the first decade of the 21<sup>st</sup> century witnessed a decline in the number of corruption cases;<sup>4</sup> however, Li also noticed discrepancies between national and local figures and warned that the national figures might be underestimated.<sup>5</sup>

In addition to the number of corruption cases involving court personnel, the impact of individual judicial corruption cases has been significant. The investigation of Huang Songyou (黄松有), a former vice president of the Supreme People's Court (SPC), revealed corruption at the highest level of the judicial system. Recent cases have prompted large-scale demonstrations, showing the level of public mistrust of the judicial system.<sup>6</sup>

Corruption is broadly defined as the abuse of public power for private gain.<sup>7</sup> There are various types of judicial corruption. Transparency International differentiates two types: political interference in judicial processes by either the executive or legislative branches of government, and bribery.<sup>8</sup> In a similar vein, Volcansek, de Franciscis and Lafon distinguish political corruption, when judges compromise legal standards under external political pressure, from personal corruption, when judges bend the rules to secure private gains for themselves;<sup>9</sup> Gong also adopted this definition.<sup>10</sup> Li divides judicial corruption into three types: Type A involves cases where corrupt judges have physically abused litigants, illegally detaining them by force; Type B includes corrupt conduct without an exchange between the judge and litigants, such as embezzlement, misappropriation of assets, swindling litigants and serious negligence; and Type C principally includes bribery and favoritism.<sup>11</sup>

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4. Ling Li, "Corruption in China's Courts", in Randall Peerenboom (ed.), *Judicial Independence in China: Lessons for Global Rule of Law Promotion* (New York: Cambridge University Press, 2010), p. 201.

5. Ling Li, "Corruption in China's Courts", p. 202.

6. A salient case is the protest in Weng'an County in Guizhou Province in 2008. The death of a female middle school student and the subsequent legal investigation provoked a riot involving tens of thousands of local residents. Rioters smashed government buildings and torched several police cars to protest against an alleged police cover-up of the girl's death.

7. Pranab Bardhan, "Corruption and Development: A Review of Issues", *Journal of Economic Literature*, Vol. 35 (1997), pp. 1320–46.

8. Transparency International, *Global Corruption Report 2007*.

9. Mary L. Volcansek, Maria Elisabetta de Franciscis and Jacqueline Lucienne Lafon, *Judicial Misconduct: A Cross-National Comparison* (Tampa: University Press of Florida, 1996).

10. Ting Gong, "Dependent Judiciary and Unaccountable Judges: Judicial Corruption in Contemporary China", *The China Review*, No. 4 (2004), pp. 33–54.

11. Ling Li, "Corruption in China's Courts", p. 198.

The distribution of cases across the three types is uneven. According to Li, the majority of cases are of Type C. The occurrence of bribery is unbalanced across different stages of litigation: corruption is more likely to happen in the adjudication and enforcement stages, and less in the registration stage.<sup>12</sup>

The type of corruption is related to the institutional configurations of the Chinese judicial system. The source of political corruption is a lack of judicial independence, whereas personal corruption mainly occurs as a result of a lack of accountability.<sup>13</sup> Li argues that judicial corruption in China is a product of its particular decision-making mechanism, guided by the Chinese Communist Party's (CCP) instrumental rule-by-law ideal.<sup>14</sup> Li finds that, among the cases publicized, corruption is most prevalent in civil (especially commercial) cases, followed by criminal cases, and is rare in administrative cases, although this may simply be the result of underreporting in criminal and administrative cases.<sup>15</sup>

Rampant corruption in economic litigation has become a hurdle for business. One consequence is local protectionism. Local courts, under pressure from local governments, tend to favor firms in their jurisdiction. I asked a judge who works in the enforcement bureau in a basic people's court why the enforcement of judicial decisions is so difficult. The judge replied:

The foremost reason is government intervention. For example, enterprises are attracted by the county government. If the court enforces a judgment that harms the enterprise, the county government will say that this is like "killing chickens to get eggs" (*shaji quluan* 杀鸡取卵). Attracting investors is difficult; investors who are already here need to be protected. Enforcement according to the law will set bad examples for other enterprises that are thinking about moving here . . . Here in this place, there is a saying: "No matter whether it is a black firm or a white firm; as long as it pays taxes, it is a good firm".

One consequence of local protectionism is that firms all avoid court. My field research shows that most firms, when signing contracts, include a stipulation that, if they have a dispute, they will seek mediation rather than litigation; firms that litigate are mostly those with political connections. Ang and Jia show that firms led by government-appointed managers are more likely to go to court in case of a dispute.<sup>16</sup>

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12. Ling Li, "Corruption in China's Courts", p. 207.

13. Ting Gong, "Dependent Judiciary and Unaccountable Judges".

14. Ling Li, "The 'Production' of Corruption in China's Courts: The Politics of Judicial Decision-Making and Its Consequences in a One-Party State", *Journal of Law and Social Inquiry* (forthcoming).

15. Ling Li, "Corruption in China's Courts".

16. Yuenyuen Ang and Nan Jia, "Political Connections and Use of Courts in Dispute Resolution: A Survey Analysis of Chinese Private Firms", presented at the Annual Conference of the American Political Science Association, Washington DC (September 2011).

## COURT FUNDING AND JUDICIAL CORRUPTION

Corruption is caused by weak institutions, which fail to penalize those who give or accept bribes, so that the gains from graft are considered to outweigh the potential penalties. Highly developed, long-established liberal democracies are perceived as less corrupt.<sup>17</sup> Mary Noel Pepys lists seven factors that contribute to judicial corruption: 1) undue influence by the executive and legislative branches; 2) social tolerance of corruption; 3) fear of retribution by political leaders, appellate judges, powerful individuals, the public and the media; 4) low judicial and court staff salaries; 5) poor training and lack of rewards for ethical behavior; 6) collusion among judges; and 7) inadequately monitored administrative court procedures.<sup>18</sup> Melanie Manion argues that the design of China's anticorruption enforcement routinely protects corrupt officials from criminal punishment by granting Party agencies a "first-move" advantage over procuratorates in information-gathering and the sequencing of investigations and punishments.<sup>19</sup>

Gong and Li focus on aspects of China's judicial institutions, such as the lack of judicial independence and accountability, collective decision-making mechanisms, and the effect of these on judicial corruption.<sup>20</sup> Xin He and Yaxin Wang point to China's inadequate court funding as a source of judicial corruption.<sup>21</sup> Xin He identifies three reasons that insufficient court funding can lead to judicial corruption. First, insufficient court funding induces judges to engage in "profit-making" activities, such as collecting arbitrary litigation fees and selecting high-fee cases. Second, underfunded courts are more susceptible to government interference, since they are funded by governments at the same territorial level.<sup>22</sup> Third, underfunded courts are more likely to take advantage of legal reforms to maximize rent-seeking opportunities. Wang focuses on the relation between Chinese judges' low wages and their corrupt activities. Important as their contributions to the study of judicial corruption are, though, none of these scholars have provided empirical tests on the relationship between court funding and judicial corruption.

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17. Daniel Treisman, "What Have We Learned About the Causes of Corruption From Ten Years of Cross-National Empirical Research?", *Annual Review of Political Science* (2007), pp. 211–44.

18. Mary Noel Pepys, "Corruption Within the Judiciary: Causes and Remedies", in Transparency International, *Global Corruption Report*, pp. 3–11.

19. Melanie Manion, *Corruption by Design: Building Clean Government in Mainland China and Hong Kong* (Cambridge: Harvard University Press, 2004).

20. Ting Gong, "Dependent Judiciary and Unaccountable Judges"; Ling Li, "The 'Production' of Corruption in China's Courts".

21. Xin He, "Lack of Financial Resources and Judicial Corruption in Chinese Courts"; Yaxin Wang, "Legal Costs and Legal Efficiency".

22. See the article in this issue (pp. 20–42) by Xin He, "Judicial Innovation and Local Politics: Judicialization of Administrative Governance in East China", which also refers somewhat to this problem.

Observational studies are limited in their ability to facilitate the drawing of causal inferences. To help to investigate causal links, I conducted qualitative interviews with judges, government and CCP officials, scholars, investors and ordinary citizens in seven Chinese provinces, and combined my field research with quantitative data analysis to reveal general patterns. I then used rational choice institutionalism to help explain judges' behavior. Many existing studies have assumed, explicitly or implicitly, that Chinese officials are rational actors whose goal is to maximize their utility; examples include Whiting's study of the cadre evaluation system and Minzner's study of the judicial responsibility system.<sup>23</sup> Fundamental to rational choice institutionalism is the assumption that actors have a fixed set of preferences or tastes, behave instrumentally to maximize the attainment of these preferences, and do so in a highly strategic manner that presumes extensive calculation. This approach also emphasizes the role of institutions in shaping the incentives and the corresponding behavior of actors embedded in the institutional structure.<sup>24</sup> I demonstrate how China's court fiscal rules, both formal and informal, create incentives for judges to engage in "profit-maximizing" activities.

### CHINA'S COURT FUNDING REGIME

Local governments at the same territorial level finance China's local courts. The courts depend on local governments for basic necessities, including judges' salaries and bonuses, office supplies, vehicles and court buildings. This funding—court spending—is listed as an independent category in the government budget, as stipulated in a 1982 central Party document and later in the 1983 Categories of State Budget.<sup>25</sup> In 1998, a "dual-track" system (*shouzhi liangtiaoxian* 收支两条线) was applied to court revenues and expenditures, in which all court income, including litigation fees and fines, must be passed to the territorial government. Each year, the court prepares a budget to be submitted to the government, which determines the budget according to the needs of the court and the financial situation of the government. The core principle of the "dual-track" system is that a

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23. Susan Whiting, "The Cadre Evaluation System at the Grassroots: The Paradox of Party Rule", in Barry Naughton and Dali Yang (eds), *Holding China Together: Diversity and National Integration in the Post-Deng Era* (New York: Cambridge University Press, 2004), pp. 101–19; Carl Minzner, "Judicial Disciplinary System for Incorrectly Decided Cases: The Imperial Chinese Heritages Lives On", in Margaret Y. K. Woo and Mary E. Gallagher (eds), *Chinese Justice: Civil Dispute Resolution in Contemporary China* (New York: Cambridge University Press, 2011), pp. 58–90.

24. Peter A. Hall and Rosemary C. R. Taylor, "Political Science and the Three New Institutionalisms", *Political Studies*, Vol. 44 (1996), pp. 936–57.

25. See "Guanyu jie jue renmin fayuan yewu jingfei kunnan wenti de tongzhi" (On Solving Financial Difficulties of People's Courts), issued by the Supreme People's Court and the Ministry of Finance on 31 August 1985.

court's spending should be independent of its income; that is, how much money a local government allocates to the court in the budget should be unrelated to how much money the court passes to the government.<sup>26</sup>

In 2007, a new regulation on litigation fees was issued, significantly decreasing litigation fees in almost all categories of dispute.<sup>27</sup> As a consequence, the fees collected by local courts dropped significantly in that year, as did local governments' revenue. To compensate for the loss of revenue, and especially to guarantee court funding, the MOF allocated 3 billion yuan (approximately US\$380 million) to finance courts at various levels, especially in western provinces where financial resources had long been scarce.<sup>28</sup> This was the first time that the central government had paid for local court expenditures out of the central budget. Centralizing the court fiscal system so that the central government will pay for all local courts is also under consideration, to make local courts less dependent on local governments.<sup>29</sup>

#### COURT FUNDING AND JUDGES' BEHAVIOR

I asked a court official in Guangdong who had traveled to many courts in China, "Why are some courts clean, efficient and professional while others are corrupt, incompetent and inept?" His answer was simple but illuminating: "It's all about money!" Whether a court can secure funding from the government largely determines the "quality" of the court, so funding has great implications for judicial efficiency and judicial fairness.

Water Grass in Guangdong Province is one of the richest cities in China. It is adjacent to one of the special economic zones (SEZs) opened in the early 1980s. Taking advantage of the "open door" policy and its location, Water Grass attracted a large number of foreign investors from Hong Kong during the 1980s and 1990s. As a result, the city has drawn many migrant workers, so that migrants now make up more than half its population. Its cheap labor, proximity to Hong Kong and ports, and favorable policies also attract many investors from the US, Japan and Europe, and the city has become a manufacturing center. In 2009, its GDP per capita was around US\$8,800, well above the national average of US\$6,800.

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26. For details about the "dual-track" system, see "Guanyu renzhen guanche luoshi 'shouzhi liangtiaoxian' guiding de tongzhi" (Circular on Strictly Implementing and Enforcing the "Dual-Track" Regulation), issued by the Supreme People's Court on 9 June 1998.

27. See "Susong feiyong jiaona banfa" (Methods of Paying Litigation Fees), [http://www.gov.cn/zwggk/2006-12/29/content\\_483407.htm](http://www.gov.cn/zwggk/2006-12/29/content_483407.htm), accessed 5 November 2012.

28. See a news report on this at <http://politics.people.com.cn/GB/1026/6286758.html>, accessed 15 February 2012.

29. See <http://news.21cn.com/domestic/yaowen/2008/12/05/5573183.shtml>, accessed 15 February 2012.

I visited a people's basic court in Water Grass in March 2010. The court is located in a township (*zhen* 镇),<sup>30</sup> and has 159 judges and staff members; of these, 131 have bachelor's degrees and 13 went to graduate school. In 2009, the court received 31,728 cases and completed 30,518 (completion rate: 96.19 per cent). The average number of cases that each judge completed is 402, nine times the national average of 46 per judge. The court has a newly built nine-floor building; a court official told me that the construction was completely taken care of by the town government, and cost 70 million yuan (approximately US\$10 million). I interviewed the president of the court, who told me that the court relies completely on the municipal government for financial resources; luckily, the city government is well off, so she "can focus on work rather than finding money for the court!" Her court is required to prepare a budget at the beginning of each year to be submitted to the city government, and the government "always gives what we ask for!" The president also said that the "dual-track" regulation is strictly enforced, so the government decides on the budget based only on how much the court needs, rather than on how much it has collected in fees and handed on to the government.

I did not have to travel far to find a vastly different situation. In April 2010, I arrived in Youth Town in Jiangxi Province, where I visited the people's basic court. This court has only 13 judges, four of whom are officials who do not usually adjudicate cases. In 2009, the court completed about 600 cases, or about 60 per judge. According to the chief of staff, the court's revenue came from two sources: the local government, and a central government transfer. The transfer from the central government is usually guaranteed, but local funding rarely arrives on time. She added: "The 'dual-track' regulation is never enforced here: the city government always returns 100 per cent of what we hand over, and that's it; they give us no more! But now litigation fees are too low to run the court."

As a consequence, the court has no money for investigations. The chief of staff said:

We have to postpone cases. We don't have many cars. Judges have to walk or ride a bike to investigate a case. Sometimes, it's too far; we just don't go. We don't like people coming to our court to start a case. The fee is five yuan or 10 yuan for a case, but the cost is 500 yuan. We sometimes don't let them register, or if they register, we just postpone it!

The chief of staff also complained that most firms in Youth Town were private firms and that they did not need courts, preferring to seek help from the government or the police.

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30. Water Grass is a prefecture-level city, but it does not have districts or counties, so the basic courts (county-level) are located in towns.



The court's fiscal system governs the incentive structure for judges. A general observation is that judges are more likely to be focused on the quality of cases if their courts have sufficient funding; otherwise, they are more likely to be focused on the number of cases. This corresponds to the pay structure of local judges: in wealthy courts, judges' salaries depend upon rank and performance, and the latter is assessed on the basis of indicators such as completion rate and number of errors. However, in places where courts cannot secure funding from the government, judicial pay is tied to the number of cases that a judge can help his or her court to register and adjudicate. Furthermore, the cases have to involve high stakes, because the litigation fees are proportional to the stakes involved. A government official who had been chief of staff in a court in Hunan Province told me:

Judges have to make money on their own! For example, in the court that I was working for, we had a policy called "return" (*fanhuan* 返还). The way it works is that judges usually go to talk to people working in banks and ask them to transfer their debt disputes to the court. Those cases often involve a great deal of money, so the litigation fees will be high. Although there is a "dual-track" system, my court had a deal with the district government that part of the litigation fees would be returned to the court, and the court paid judges based on the number of cases they adjudicated. Their wages were fixed, but bonuses were very flexible. Some judges had very close connections with lawyers, and lawyers always gave cases to the judges with whom they were friends.

Thus, because underfunded courts must rely on litigation fees for their revenues, access is denied to those unable to pay high fees. In addition, underfunded courts delay cases that do not contribute significantly to their revenues. Finally, inadequate funding gives judges a reason to be "captured" by economic interests that can bring potential benefits both to the court and to the judges personally.

### STATISTICAL ANALYSIS

While previous empirical studies on judicial corruption in China have relied primarily on corruption scandals as a measure of the degree of judicial corruption,<sup>31</sup> this measure is subject to error, since corruption scandals reflect anticorruption efforts rather than the actual level of corruption. To remedy this, in line with most cross-national studies on corruption, I use public perception as a measure of judicial corruption. The three most widely used corruption measures are based on

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31. For instance, Ling Li's research has been based on a data set of 350 judicial corruption cases reported by the public media. See Ling Li, "The 'Production' of Corruption in China's Courts".

the subjective evaluations of experts or survey respondents.<sup>32</sup> These include the Corruption Perception Index (CPI) constructed by Transparency International, a rating of the control of corruption published by a team led by Daniel Kaufmann at the World Bank (Governance) and a rating by Political Risk Services (PRS) based on evaluations by its network of experts and published in its International Country Risk Guide (ICRG).

I use two original data sets at the county level and the city level to test the link between court funding and judicial corruption. In the county data set, I focus on the public perception of judicial corruption, measured by the subjective evaluations of ordinary Chinese citizens. The city data set measures perceived judicial fairness using firm managers' ratings. The two measures are supplementary, in the sense that the former reflects the public's view of the judiciary, while the latter reflects the view of investors.

The key independent variable—court funding—is drawn from newly released “internal” data on local budgets published by the MOF of the People's Republic of China.<sup>33</sup> The reports include information on how much money each local government allocates to courts.

The following section will elaborate on the empirical strategies and the results of the empirical tests. I test the following hypothesis:

The more adequately a local government funds the local court, the less likely the court is to be perceived as corrupt, other things being equal.

The quantitative data used in this section is drawn from a survey of the Institutionalization of Legal Reforms in China (ILRC) 2003, conducted by the Research Center of Contemporary China (RCCC) at Peking University. This survey interviewed a national probability sample of 7,714 respondents on a wide range of items related to their attitudes and behavior in dispute resolution. All the respondents are Chinese adult citizens.

The ILRC survey employed the spatial sampling technique to draw a national sample of Chinese adults.<sup>34</sup> The primary sampling units (PSUs) of the sample were counties and county-level units (county-level cities or urban districts).

32. Daniel Treisman, “What Have We Learned About the Causes of Corruption?”

33. See Ministry of Finance of the People's Republic of China, *Quanguo dishixian caizheng tongji ziliao* (Statistics on China's Prefectures, Cities and Counties) (Beijing: Zhongguo Caizheng Jingji Chubanshe, 2004). The reports are now available in Beijing's National Library.

34. For more details about the spatial sampling technique used in the ILRC survey, see Jie Yan, Pierre Landry and Liying Ren, “GPS in China Social Surveys: Lessons from the ILRC Survey,” *The China Review* (2009), pp. 147–63. For a general introduction to spatial sampling, see Pierre Landry and Mingming Shen, “Reaching Migrants in Survey Research: The Use of the Global Positioning System to Reduce Coverage Bias in China,” *Political Analysis*, Vol. 13 (2005), pp. 1–12.

Using provinces as strata, 102 PSUs were selected by PPS (probability of selection proportional to measure of size, that is, population); within each county, two townships were also drawn by PPS. Tertiary sampling units (TSU) are cells of spatial grids drawn for each township, namely a half square minute of latitude and longitude. This method is based on population density, rather than population size. Specifically, the sample space (township) was divided into a GIS (geographic information system) grid that linked specific cells to the boundary map of the township. The TSUs were drawn using the PPS technique. Trained surveyors equipped with GPS receivers were then sent to locate and enumerate the sampled “spatial square seconds”, or SSSs. To maintain equal probabilities of selection across households, all dwellings enumerated in the SSSs were included in the sample. Respondents were selected from each dwelling using the Kish grid method.<sup>35</sup> The advantage of using spatial sampling is its ability to overcome coverage problems in sample frames based on formal household registration (*hukou* 户口) that do not include the migrant population.

Included in the sample are 102 counties, spanning all 31 provinces and provincial-level cities. I compiled a unique cross-sectional data set using the survey data and data collected from various sources ranging from yearbooks to government websites.<sup>36</sup> All the variables in the data set were measured in 2003 at the county level.

In the analysis, I choose to focus on Li’s Type C corruption (bribery).<sup>37</sup> I assume that it is this type that influenced respondents, since the Types A and B cannot be observed directly by the public. I rely on respondents’ subjective evaluation of basic people’s courts to measure the degree of judicial corruption, and use basic people’s courts as the focus of study because, for the majority of litigants, they are the first hurdle in the Chinese legal system.

The survey questionnaire includes three vignettes, as shown in Appendix 1, using three types of dispute to solicit respondents’ evaluation of local courts. The survey asked why the respondents would choose to go or not to go to court in each of the three hypothetical situations; I focus on the proportion of respondents in each county who chose “the court is corrupt” as their response.<sup>38</sup> The dependent variable—“corruption”—is constructed by adding up the proportions of respondents in all counties who chose “the court is corrupt” in the three types of disputes, and then normalizing to 1.

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35. See Leslie Kish, *Survey Sampling* (John Wiley and Sons, 1965), pp. 398–99.

36. Data sources include the University of Michigan’s China Data Center, *2003 Statistics Report on Finance in All Chinese Counties* edited by the Ministry of Finance, and China Statistics Yearbooks published by the National Bureau of Statistics.

37. Ling Li, “Corruption in China’s Courts”.

38. The data is weighted by taking into account sampling design effects.

Making the questions hypothetical greatly reduces the sensitivity of these questions to the respondents, so the validity of the questions is enhanced, but there are several potential challenges to the effectiveness of the measure. First, the respondents' evaluations might simply be the result of media influence. It is possible that, if the media expose more court corruption, respondents will be more likely to feel that their local courts are corrupt; on the other hand, respondents could have confidence in local courts because of positive media propaganda. A second challenge to validity is social desirability. After all, questions about corruption are sensitive, and telling an interviewer from outside that "the court is corrupt" might give a bad impression of the county. If so, respondents who have grown up in the locality may be more likely to "save face" by not saying that "the court is corrupt" than are respondents who have come from elsewhere.

To validate the measure of judicial corruption, I examine individual-level characteristics which could influence respondents' evaluations; this auxiliary analysis is presented in Appendix 2. The results show that none of the media-related variables is significant, either individually or jointly. In addition, the results also show that respondents who grew up in the locality were more likely to say that "the court is corrupt" than were those who came from outside,<sup>39</sup> which suggests that the respondents were not trying to save face for the local court when they were asked about judicial corruption. Overall, there is no empirical evidence showing that the respondents' subjective evaluations were biased by media influence or social desirability.

The core independent variable—"funding"—is constructed to measure how much financial support a court obtains from the local government. The 2003 Statistical Report on Finance in All Chinese Counties, edited by the MOF, provides data on how much each county government spends on the police, the procuratorate, the court and the legal bureau as an aggregate. "Funding" is calculated as the proportion of these expenditures in the overall government budget. It is not a perfect measure, since no disaggregated data exists, but it provides a measure of the priority that local governments give to legal affairs.

Judicial corruption has also been shown to be highly correlated with the amount of foreign direct investment (FDI) in a locality.<sup>40</sup> To control for this variable, the analysis includes "foreign capital actually used". Foreign capital actually

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39. This is consistent with Gallagher and Wang's finding that migrant workers usually have more positive views of the legal system than do city residents. See Mary Gallagher and Yuhua Wang, "Users and Non-Users: Legal Experience and Its Effect on Legal Consciousness", in Margaret Woo and Mary Gallagher (eds), *Chinese Justice: Civil Dispute Resolution in Contemporary China* (New York: Cambridge University Press, 2011), pp. 204–33.

40. Yuhua Wang, "When Do Authoritarian Rulers Tie Their Hands? The Rise of Limited Rule of Law in Subnational China", PhD dissertation, Department of Political Science, University of Michigan (2011).

Table 1. Summary statistics

Variable	Mean	Std. Dev.	Min.	Max.	N
Corruption	6.782	7.241	0	43.532	102
Funding	5.962	2.617	1.8	18.04	102
Foreign capital	3.193	5.583	0	35.409	101
Rural	23.131	15.349	0	57.041	96
GDP pc (logged)	8.895	0.836	7.322	10.784	101

used includes FDI and foreign loans, although the latter usually comprise only a small proportion of the total. Since what matters for local officials is the importance of foreign capital in the local economy, I use the percentage of this “foreign capital actually used” in the overall GDP to measure the weight of foreign capital. The variable is collected using sources provided by the University of Michigan’s China Data Center.

As a developing country, China still has a marked rural–urban divide, so I expect to discover different degrees of judicial corruption in rural and urban areas. As previously noted, Li found that civil (especially commercial) cases attracted the greatest level of corruption; since such cases arise more frequently in urban than in rural areas, I thus expect to see more corruption in urban areas. The “rural” variable is constructed using the proportion of agricultural products in the overall GDP to measure the “ruralness” of the county.

Modernization theorists predict that a rule-of-law regime should emerge as a country becomes economically better off,<sup>41</sup> and indeed by far the strongest and most consistent finding of the new empirical work on corruption is that lower perceived corruption correlates closely with higher economic development.<sup>42</sup> For example, a recent study conducted by Michelson and Read shows that the subjective evaluation of court performance improves with economic development.<sup>43</sup> Is it simply a matter of development? To test this hypothesis, I included a log-transformed GDP per capita (GDP pc [logged]) in the model.

All the variables in the data set were measured at the county level in 2003. Table 1 shows the summary statistics of these variables.

41. Randall Peerenboom, *China Modernizes: Threat to the West or Model for the Rest?* (Oxford: Oxford University Press, 2007).

42. Daniel Treisman, “What Have We Learned about the Causes of Corruption?,” p. 223.

43. Ethan Michelson and Benjamin Read, “Public Attitudes toward Official Justice in Beijing and Rural China”, in Margaret Woo and Mary Gallagher (eds), *Chinese Justice: Civil Dispute Resolution in Contemporary China* (New York: Cambridge University Press, 2011), pp. 169–203.

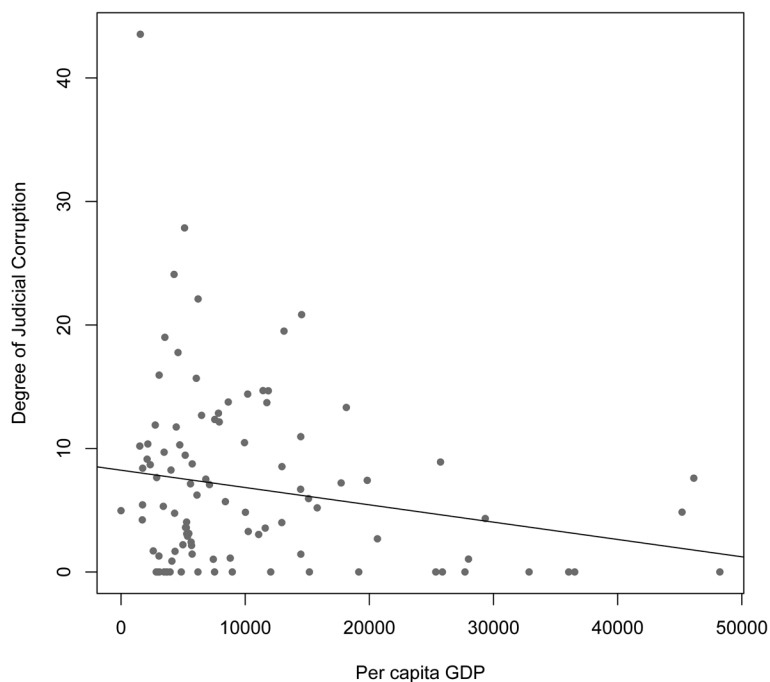


Figure 1. Distribution of perceived judicial corruption across Chinese counties  
Source: ILRC2003

Figure 1 graphs “corruption” against county GDP per capita. It is interesting to see that there is a “lower triangular” pattern, which implies that the level of economic development is, not a necessary, but a sufficient condition for judicial integrity.

Based on the hypothesis, a benchmark model is specified as follows:

$$\text{corruption} = \beta_1 + \beta_2 \text{funding} + \beta_3 \text{foreigncapital} + \beta_4 \text{rural} + \beta_5 \text{GDPpc}(\text{logged}) + \varepsilon \quad (1)$$

where corruption is the dependent variable and  $\beta_2$  is expected to be negative because it is the marginal effect of “funding”, which should reduce corruption.  $\beta_3$  is expected to be negative: it is the marginal effect of foreign capital, which should also reduce corruption.  $\beta_4$  is expected to be negative, as corruption should be more rampant in urban areas than in rural areas.  $\beta_5$  is expected to be negative as corruption should become less frequent as the economy develops.

Table 2 shows the regression estimates of model 1.<sup>44</sup> As shown, court funding has a significantly negative effect on perceived judicial corruption. The first

44. Prior to estimating the model, I carried out a diagnosis using Cook’s methods to identify highly influential cases. Two observations are highly influential and therefore dropped in the following analysis. In

Table 2. Determinants of perceived judicial corruption at the county level (OLS)

Variable	Coefficient	Robust S.E.
Funding	-0.488**	0.220
Foreign capital	-0.565***	0.131
Rural	-0.210***	0.052
GDP pc (logged)	-2.080**	0.889
Intercept	34.201***	8.967
N	94	
R <sup>2</sup>	0.215	
F	7.000	

\*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$

derivative shows that a one per cent increase in the proportion of government legal expenditures in the overall fiscal budget yields a 0.488 per cent decrease in the number of people who think that the local court is corrupt. Foreign capital has a negative effect, and the effect is distinguishable from zero. The first derivative shows that a one per cent increase in foreign capital in the overall GDP yields a 0.565 per cent decrease in the number of people who think that the local court is corrupt. The magnitude of the agricultural industry also has a negative sign, and passes the .01 level of significance. The first derivative shows that a one per cent increase in the weight of agriculture in the overall economy yields a 0.210 per cent decrease in the number of people who think that the local court is corrupt. Finally, the level of economic development also has a significantly negative impact, which is consistent with the findings of cross-national studies.

In general, the findings from the county-level data are supportive of the hypothesis: a higher level of government financial support leads to a lower level of perceived judicial corruption. However, there are two major problems with the county-level data. First, the dependent variable is measured by the survey responses of ordinary citizens who are not frequently exposed to the legal system.

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addition, Cameron and Trivedi's decomposition of IM-test rejects the null hypothesis of homoskedasticity ( $\chi^2 = 21.9$ ,  $p < .1$ ); see A. Colin Cameron and Pravin K. Trivedi, "The Information Matrix Test and Its Applied Alternative Hypotheses" (Working Paper 372, Institute of Governmental Affairs, University of California, Davis, 1990). Thus, robust standard errors are estimated in the regression analysis.

In addition, the key independent variable—court funding—is not directly measured. An aggregate measure of spending on all judicial institutions is used.

To test the robustness of the findings, I then used a second data set on the city (prefectural) level to test the hypothesis. The city-level data set uses evaluations of senior firm managers and a direct measure of court funding.

The city-level analysis is based on a survey titled “Competitiveness Enhancements for 120 Cities in China”, designed and implemented by the World Bank and China’s National Bureau of Statistics in 2005.<sup>45</sup> The survey interviewed senior managers at 12,400 firms in 120 Chinese major cities, so it provides a relatively comprehensive view of judicial corruption from the business side. One question asked, “In the case of commercial disputes with the suppliers, clients or subsidiaries in your locality, how much confidence do you have that the disputes will be settled with justice by the local legal system?” A continuous variable—“confidence in courts”—is constructed, based on the firms’ answers aggregated at the city level. It is a percentage measure ranging from 27 per cent to 98 per cent.

To verify the empirical findings from the county-level analysis, I use a similar set of explanatory variables to explain the variation of “confidence in courts” among Chinese cities. Again, the key independent variable is “court funding”. The analysis uses a *provincial*-level variable, “provincial court funding”, from data made available by the MOF in the Statistics Report on Local Finance. I use the provincial measure because the report breaks down government spending on courts *per se*. Unlike the aggregate data for all legal-related departments at the county level, “provincial court funding” measures the financial priority that provincial governments give to courts in the overall fiscal budget. It is a percentage measure.

Foreign capital is constructed using the proportion of “foreign capital actually used” in the overall municipal GDP in 2005. Next, a log-transformed GDP per capita (GDP pc [logged]) is included in the model to control for the level of economic development. To take into account the overall economic structure of the locale, the “service” variable, which measures the weight of the service industry in the overall GDP, is listed on the right. In addition, the GDP growth rate—“growth”—and the proportion of the urban population in the overall population—“urban”—are also included. Since there are four provincial-level cities and 116 prefectural-level cities in the sample, the dichotomous “level” variable is included to distinguish the cities’ administrative levels (1 = provincial level and 0 = prefectural level).

All variables are measured based on data from 2005 at the city (prefectural) level. Since variables are measured at two levels (city and province), hierarchical

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45. For details of the survey, see World Bank, *Governance, Investment Climate, and Harmonious Society* (Washington, 2007) at [http://siteresources.worldbank.org/INTCHINA/Resources/3188621121421293578/120cities\\_en.pdf](http://siteresources.worldbank.org/INTCHINA/Resources/3188621121421293578/120cities_en.pdf), accessed 16 February 2012.



Table 3. Determinants of “confidence in courts” at the prefectural level (MLE)

Variable	(1) Coefficient (S.E.)	(2) Coefficient (S.E.)
Provincial court funding	52.485*** (13.192)	42.033*** (12.812)
Foreign capital	9.079** (3.708)	16.451*** (4.824)
GDP pc (logged)	—	1.154 (3.815)
Service	—	-0.611** (0.258)
Growth	—	-0.794* (0.479)
Urban	—	-0.139 (0.169)
Level	—	2.404 (4.060)
Intercept	—	59.865 (37.091)
N	117	105
Log-likelihood	-474.6	409.4

\*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$

linear modeling (HLM) is employed to analyze the data where cities are nested within provinces. A benchmark model is specified as follows:

$$confidence_{ij} = \beta_{ij} + XB + \varepsilon_{ij} \quad (2)$$

$$\beta_{ij} = \gamma_{11} + \gamma_{12}provincial\ court\ funding + \mu_{ij} \quad (2.1)$$

To simplify the model specification, all the controls are omitted in model 2. Model 2 is the usual linear model;  $\beta_{ij}$  is the usual intercept,  $XB$  is the usual control-coefficient matrix, and  $\varepsilon_{ij}$  is the usual residual error term. The subscript  $j$  is for the provinces ( $j = 1 \dots 31$ ), and the subscript  $i$  is for individual cities ( $i = 1 \dots 120$ ). The difference from the usual regression model is that each province has a different intercept coefficient  $\beta_{ij}$ . The residual errors  $\varepsilon_{ij}$  are assumed to have a mean of zero and a variance to be estimated. It is assumed that the variance of the residual errors is the same in all provinces. Across all provinces, the intercept coefficient  $\beta_{ij}$  has a distribution with a mean and a variance.

As specified in model 2.1, the variation of  $\beta_{ij}$  can be explained by a provincial-level variable, “provincial court funding”. Equation 2.1 predicts the average “confidence in courts” in a province (the intercept  $\beta_{ij}$ ) by provincial government spending on courts. Thus,  $\gamma_{12}$  is expected to be positive, because the average “confidence in courts” should be higher in a province where the government provides more financial support to courts than in a province which gives them limited financial support.

Table 3 shows maximum likelihood estimation (MLE) of model 2.<sup>46</sup> As shown in column 1, the provincial-level variable “provincial court funding” has a positive effect on “confidence in courts” at the city level, and the effect is distinguishable from 0. This confirms the finding from the county-level data that government financial support enhances judicial fairness. Column 2 shows the results with other controls. As shown, the inclusion of other controls does not alter the results, except that the magnitude of the effect of “provincial court funding” is smaller. A closer look at the results reveals that the magnitude of the effect of “provincial court funding” is quite large (52 without controls and 42 with controls). However, the range of the variable “provincial court funding” is from .599 to 1.099; thus, in reality, a usual change, such as a 0.1 per cent increase in the budget, will yield a 4 per cent increase in “confidence in courts”.

In sum, the empirical evidence from the prefectural-level business survey data reconfirms the evidence derived from county-level survey data. Using multi-level modeling, I find that spending by provincial government on courts has a significantly positive effect on judicial fairness at the prefecture level.

### CONCLUDING REMARKS

This article uses a direct measure, perceived corruption, as well as qualitative interviews to examine judicial corruption and court funding in China. Based on extensive qualitative interviews and the analysis of two cross-section data sets for Chinese counties and cities, I have shown that underfunded courts are more likely to be perceived as unfair. I have also outlined the link between court funding and judicial corruption, showing that inadequate funding results in the poor being denied access, in cases being delayed where there is little financial benefit, and in the diminution of court autonomy.

I acknowledge a weakness in this study, however: reliance on *perceived* judicial corruption to measure the *actual* level of corruption. Although I conducted tests to validate the subjective measure, there are many other factors which could

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46. Again, prior to estimating the model, I carried out a diagnosis using Cook's methods to identify highly influential cases. Two observations (Shantou and Dongguan) are highly influential, and therefore dropped in the analysis that follows.

influence people's perception. Zhu, Lu and Shi, for example, show that citizens who have been exposed to official media are less likely to view the government as corrupt.<sup>47</sup> People's opinion of the overall performance of the local government will also affect their view of the judiciary. While I recognize these possibilities, data limitations do not allow me to measure judicial corruption directly, however. Future research exploring experience-based measures of corruption may correct measurement errors in perception-based measures.

## APPENDIX 1: THREE VIGNETTES REGARDING THREE TYPES OF DISPUTE

### Civil Dispute

“Since you have not had such experiences, let's use a hypothetical case to understand your views. The labor contractor of a construction site has been embezzling the workers' wages, and the workers have had their demands for payment denied numerous times. If you were one of the workers, what would you do? Would you take action to settle the dispute, or would you do nothing?”

### Economic Dispute

“Since you have not had such experiences, let's use a hypothetical case to understand your views. To help a township business through some financial difficulties, a township government borrows 100,000 yuan from villager Wang Lin. The agreement stipulates that this amount should be repaid in two years, but two years have passed and the amount has still not been repaid. If you were Wang Lin, what would you do? Would you take action to settle the dispute, or would you do nothing?”

### Administrative Dispute

“Since you have not had such experiences, let's use a hypothetical case to understand your views. Zhang Jie is an individual industrial household with a license to set up a stall, but the relevant authority found his stall detrimental to aesthetics of the city, so it confiscated his goods and fined him. If you were Zhang Jie, what would you do? Would you take action to settle the dispute, or would you do nothing?”

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<sup>47</sup> Jiangnan Zhu, Jie Lu and Tianjian Shi, “When Grapevine News Meets Mass Media: Different Information Sources and Perceptions of Government Corruption in Mainland China”, *Comparative Political Studies*, Vol. 46, No. 8 (forthcoming, 2013).

## APPENDIX 2

The two potential challenges discussed in the text can be phrased as two null hypotheses:

*Null Hypothesis 1: Respondents' exposure to public media is correlated (positively or negatively) with their evaluations of judicial corruption in local courts, other things being equal.*

*Null Hypothesis 2: Respondents who grew up in the locality are less likely to say that "the court is corrupt" than those who came from outside, other things being equal.*

For the measure to be valid, both null hypothesis 1 and null hypothesis 2 should be rejected.

Using individual-level data collected in the same survey, I constructed a model to test these two null hypotheses. I coded the dependent variable "perceived corruption" as a dichotomous variable that equals 1 if the respondent chose "the court is corrupt" in any of the three hypothetical cases, and 0 otherwise. The explanatory "media exposure" variable is the sum of a battery of ordinal scales measuring the respondents' usage of various media outlets, including newspapers, magazines, TV and the radio. Higher values mean more media exposure. To capture whether a respondent was interested in the political and legal issues covered by public media specifically, two other variables are constructed. One dichotomous "attention" variable was coded 1 if the respondent chose "current issues" or "legal issues" as one of the top three attended topics in the media, and 0 otherwise.<sup>48</sup> Another variable, "interest", measures the respondents' interest in politics. It is on an ordinal scale, with larger values meaning more interest.<sup>49</sup> The dichotomous "local" variable equals 1 if the respondent grew up in that locality, and 0 otherwise. Controls include the respondents' Party membership, satisfaction with their local leaders,<sup>50</sup> trust in courts, and connections with officials in the police department, procuratorate and court. The demographic variables include age, sex and education.

An econometric model is specified as follows:

$$\text{PerceivedCorruption} = \beta_1 + \beta_2 \text{Media} + \beta_3 \text{Attention} + \beta_4 \text{Interest} + \beta_5 \text{Local} + X'B + \varepsilon \quad (3)$$

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48. The original question was: "Among the types of information provided by these various media, which three are you most concerned with?" Options included: current issues, economy, culture and sports, life, education, society, legal issues, technology, health, and others.

49. The original question was: "Some people care deeply about the affairs of the government, while others are not too interested. With regards to affairs of the government, are you very concerned, somewhat concerned, not very concerned, or not concerned at all?"

50. The question was: "In general, are you satisfied with the leadership of this village or this unit?"

Table 4. Who said “the court is corrupt”: complex survey design effects logistic regression

Variable	Coefficient	Std. Err.
Age	-0.124**	0.061
Age <sup>2</sup>	0.002**	0.001
Sex	0.067	0.280
Education	-0.106	0.154
CCP member	0.714	0.470
Media exposure	-0.057	0.069
Attention	0.316	0.272
Interest in politics	0.089	0.152
Local	1.214**	0.478
Connection	0.928***	0.303
Satisfaction	-0.567***	0.154
Trust in courts	-0.679***	0.196
Intercept	1.335	1.825
N		2276
Population size		264000000
Design df		2275
F <sub>(12,2275)</sub>		4.925

\*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$

Table 4 reports the results of the logistic regression. As shown, none of the media-related variables (media, attention and interest) are significant either individually or jointly ( $F[3,2273] = 0.86$ ,  $p = 0.46$ ). This rejects null hypothesis 1. This finding suggests that the respondents’ evaluations of judicial corruption were not influenced by the public media. In addition, the “local” variable has a significantly positive effect, which means that respondents who grew up in the locality were more likely to say that “the court is corrupt” than those who came from outside. This rejects null hypothesis 2 and suggests that the respondents were not trying to save face for the local court when they were asked about judicial corruption. In sum, there is no empirical evidence showing that the respondents’ subjective evaluations were biased by media influence or social desirability.

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