



the global voice of
the legal profession®



The International Bar Association Judicial Integrity Initiative: Judicial Systems and Corruption

May 2016

Conducted in partnership with the Basel Institute
on Governance

Contents

1. The Judicial Integrity Initiative	3
2. Executive Summary	5
3. Methodology	8
3.1 Characterisation of the survey data	9
3.2 Definition of terms	11
4. Typologies of corruption in the judiciary	14
4.1 Study context	14
1. Balancing accountability and independence	15
2. Perceived prevalence of corruption in the judiciary	15
3. Drivers of corruption	17
4.2 Types of corrupt behaviours in the judiciary	18
1. Bribery	19
2. Undue influence and other forms of interference	22
3. Extortion, misuse of funds and other forms of corrupt behaviour	26
4. Other forms of corruption identified	27
4.3 Corruption in interactions between different professions	27
1. Judges' interactions with other judicial professionals	27
2. Lawyers' interactions with other judicial professions	29
3. Prosecutors' interaction with other judicial professions	30
4. Court Personnel's interaction with other judicial professions	31
4.4 Prevalence of corruption across types of cases and phases in the judicial process	32

5. Conclusion	33
References	34
Expert Working Group	36
Annex 1: Literature review	38
Annex 2: Characterisation of survey sample	44
Annex 3: Triangulation of data	45
Annex 4: Survey questionnaire	60

1. The Judicial Integrity Initiative

In January 2015, the President of the International Bar Association (IBA), David W Rivkin, launched the IBA Judicial Integrity Initiative (JII). The JII was conceived to combat judicial corruption where it exists by attempting to understand the types of corruption that affect the judicial system and focusing on the role of the various professionals who operate within judicial systems. It seeks to contribute to countering corruption in judiciaries worldwide using the resources and experience of the IBA's global network of individuals and bar association members.

Meetings with a working group of experts in the area (the 'Expert WG')¹ were held in London and Singapore on 19 February and 17 March 2015, respectively. The Expert WG examined the scope of the problem and current efforts to combat judicial corruption. The Expert WG then developed a series of suggestions on how the IBA could best contribute to those efforts.

Following the Expert WG meetings, David W Rivkin and the IBA Legal Policy & Research Unit (the 'LPRU') undertook a complete analysis of the outcomes of those meetings. This analysis indicated that the most appropriate areas to which the IBA could initially contribute were the education and role of lawyers and the development of best practices. As a result, a decision was made to focus on assisting lawyers, judges and other judicial professionals to reach a satisfactory level of knowledge of how their interactions are vulnerable to different forms of corruption. A project plan was developed accordingly.

The JII has first undertaken different forms of research activities, conducted jointly by the LPRU and the Basel Institute on Governance (the 'Basel Institute'), with the goal of identifying the types of corruption affecting judicial systems, in particular, the interactions among professionals within judicial systems.

The purpose of this Typologies Report is to present the results of that multifaceted research, including an extensive survey. Following the publication of this report, the IBA JII will work to develop appropriate measures to address the kinds of practices this report has identified as undermining the effectiveness and legitimacy of judicial processes, as well as undertake educational and other training activities.

In undertaking the JII, the IBA and Basel Institute are cognisant of the extensive work that has been undertaken in the area of judicial reform by organisations such as the United Nations Office on Drugs and Crime (UNODC),² World Bank,³ World Justice Project (WJP),⁴ Transparency International (TI),⁵ International Commission of Jurists (ICJ)⁶, Organisation for Economic Co-operation and Development (OECD)⁷ and European Network of Councils for the Judiciary (ENCJ),⁸ in particular,

1 Members of the Expert WG and others involved in the study can be found at the end of this report.

2 www.unodc.org.

3 www.worldbank.org.

4 worldjusticeproject.org.

5 www.transparency.org.

6 www.icj.org.

7 www.oecd.org.

8 www.encj.eu.

the work that they and others have performed towards implementing reforms in judiciaries.⁹ The UNODC's Guide on Strengthening Judicial Integrity and Capacity¹⁰ is one example of this work.

The JII is not intended to replicate this excellent work. Instead, the JII seeks to complement it by drawing on the experience and expertise of those who work in judicial systems – specifically judges, lawyers, prosecutors and court personnel – through its legal professional network.

9 For example, the UNODC has conducted extensive work promoting the Bangalore Principles on Judicial Conduct in the context of the UN Convention against Corruption and undertaken detail training programmes in countries such as Nigeria; the World Bank and UNODC have provided considerable technical assistance towards justice reform projects across the globe; and the focus of TI's Romanian chapter on curbing corruption in the judiciary.

10 www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709_ebook.pdf.

2. Executive Summary

The JII seeks to identify means by which to counter corruption within judicial systems around the world.

This report presents the key findings arising from the initial phase of the JII, which commenced in June 2015 and was completed in January 2016. A research plan was developed and implemented to identify the patterns underlying corrupt behaviour across judicial systems. The main goal of the research was to identify: (1) the most prevalent patterns (typologies) in which corruption manifests in judicial systems; (2) corruption risks in the interactions among the actors in judicial systems; and (3) the risks arising at different stages of a judicial process.

The JII has not been designed as a comparative study of countries and their judicial systems. It has not sought to measure perceptions of the prevalence of corruption on the part of country experts or public opinion; the WJP's Rule of Law Index (RoLI)¹¹ and TI's Global Corruption Barometer (GCB) already do that. Instead, the JII explores specifically how corruption occurs in judicial systems as reported and experienced by legal professionals across the world. The approach in this phase of the JII represents an effort to develop a sound knowledge base of patterns of corruption and aims to provide preliminary insights into areas of heightened corruption risks and systemic weaknesses in judiciaries, which will indicate key areas for subsequent research.

Details of the JII methodology are set out in Section 3 of this report. In summary, the research programme began with a comprehensive literature review. The literature review revealed that there are a range of studies and projects that focus on how corruption affects specific judiciaries and judicial systems. However, studies that focus specifically on patterns of corruption within judicial systems and interactions between judicial professionals are limited¹² and lack the approach needed to sustain the development of evidence-based anti-corruption strategies. As a result, the research programme adopted a broad scope that aimed to capture, to the extent possible, the variety of ways in which corruption may occur in different judicial systems and contexts. To identify these broad patterns, the IBA and the Basel Institute developed and implemented a survey addressed to judicial professionals around the world and conducted in-country consultations in two countries: Mexico and the Philippines. This approach was further complemented with information from interviews and validated with reference to data obtained from the most renowned indices on the topic: the RoLI and GCB.

The survey was distributed via the IBA's network and partner organisations. We would like to express our gratitude towards contributors and partner organisations, in particular, IBA members, both bar associations and individuals, who participated in the study, as well as the International Association of Judges (IAJ), TI and International Association of Court Administration (IACA), who supported the

11 The RoLI actually relies on both expert assessments and household surveys (including over 200,000 citizens and 5,000 experts) and relies as much as possible on experience as well as perceptions.

12 It is worth mentioning at this point the UNODC's Judicial Integrity Technical Assistance programmes which, in their initial stage, involve a comprehensive assessment of justice sector integrity and capacity. However, these projects have been implemented on a domestic basis in Indonesia, Kenya, Nigeria and South Africa. This report seeks to, as far as possible, internationalise the sample size and build on existing literature.

project by sharing the online survey with their members, and the WJP for making available data that complemented the IBA and Basel Institute analysis. We would also like to express our gratitude to the Supreme Court of Justice of the Nation of Mexico and the Supreme Court of the Philippines for facilitating the consultations in their countries.

The data, which necessarily includes responses provided by some who may be regarded as complicit in corrupt conduct, should of course to be treated with caution. Furthermore, a significant percentage of respondents are in countries where the rule of law is considered to be strong. This has implications for the nature of responses to the survey. For example, the data at times contradicts findings of other studies.

At a general level, our findings show that drawing an accurate picture of how corruption occurs in judicial systems defies any simplistic analysis and requires significant nuance and a strong conceptual foundation. For example, an adequate characterisation of the patterns of corruption affecting judicial professionals, roles and interactions within judicial systems requires a more detailed understanding of the role of each judicial professional; the term ‘court personnel’ was found to be too broad to capture the diversity of roles, responsibilities and associate exposures to corruption risks that are applicable to individuals who fall within this category.

The outcome of the analysis of the survey responses shows that bribery and undue political influence were reported as the two most frequent forms of corrupt behaviour observed in judicial systems. In summary, the survey responses indicate that:

- bribery is considered to be most prevalent in countries where the rule of law is considered to be weak; and
- undue political influence is believed to occur in countries known to have weak governance structures, as well as in those countries where the rule of law is considered to be strong.

While these findings are not new, they point to the fact that undue political influence and bribery do not occur uniformly across systems. Therefore, it would be imprudent to reach any general conclusion that draws on a distinction between, for instance, national and subnational systems. Furthermore, the insights from the in-country consultations suggest that different types of courts may ‘attract’ different forms of corruption. For example, the role of electoral courts may increase the risk of undue political influence, whereas civil courts may be more exposed to the risk of bribery through the actions of influential business people, and criminal courts would possibly be more exposed to pressure from criminal networks.

We have aimed to interpret the findings from the research activities against a solid conceptual foundation, notably by acknowledging that a key challenge for any judicial system is to strike the right balance between independence and accountability. This tension is a key distinctive trait that generates particular corruption risks in judicial systems. In particular, such tension can be associated with both political influence and bribery: whereas strong accountability mechanisms would guard against bribery risks, robust provisions for independence guard against undue political influence.¹³

Undue political influence takes place through several channels and mechanisms; however, we recognise

13 Cf UNODC.

that it also varies in terms of its impact. One of the outcomes stemming from the analysis of our research methodologies indicates that there are many ways in which the judiciary may be subject to undue influence by particular interests. For instance, respondents noted that, at one extreme, undue political influence over the judiciary is exercised so as to guarantee the impunity of members of the political and economic elites. At the other extreme, respondents identified concerns, even in countries typically known for low levels of corruption, regarding the integrity of the judicial system potentially being compromised by attitudes that may constitute racism, ageism or gender bias.

Another essential element that must be adequately assessed involves the impact of corruption on ensuring equity in access to the legal system and, ultimately, on the promise that the law equally protects all citizens. Responses to the survey from several countries, as well as insights from the in-country consultations, suggest that corruption reportedly is associated with wealthy groups. The responses to the survey largely support this view. This conclusion links to the perception that in countries affected by corruption, wealthy and influential individuals are untouchable and enjoy high levels of impunity. Where the ability to corrupt, based on ability to pay, becomes the currency to distort the judicial process to ensure impunity of the rich and powerful, the fundamental basis underpinning the legitimacy of democratic states – the rule of law – is compromised. Therefore, bribery because of its socially regressive consequences, as a way of perpetuating the inequality gap and keeping a corrupt elite in an untouchable status, requires special attention.

With regard to corrupt conduct associated with the interactions between the judicial professions, the responses to the survey suggest that those judicial professionals who are reportedly most involved tend to be part of the system itself, that is, judges, lawyers, court personnel and prosecutors. While the survey results indicate that judges and prosecutors are said to be most at risk of undue political influence, respondents were also of the view that lawyers and court personnel often serve as intermediaries for actors within the judicial system, as well as for third parties seeking to influence the outcome of a case.

In relation to judges, the survey results suggest that those judges who purportedly engage in corrupt conduct do so most frequently in their interactions with lawyers and other judges. This suggests that such behaviour is predominantly focused on internal interactions within a judicial system as opposed to third parties.

By contrast, lawyers interact more frequently with third parties and thus were reported to serve frequently as intermediaries to influence cases. While the survey data suggests that most corrupt behaviour allegedly involving prosecutors is linked to interactions with other judicial professionals, the risk of third-party influence on prosecutors is comparatively high.

It was suggested that prosecutors frequently serve as intermediaries for actors inside and outside a judicial system. Such conduct might be triggered by their large discretion in terms of case management, including in common-law countries at least, the discretion as to whether a case ought to be prosecuted.

The survey findings also contradict assumptions with regard to the role of court personnel. According to the survey responses, there is only limited evidence of alleged corrupt conduct among court personnel. In interactions where corrupt behaviour was noted, court staff were more frequently reported to have been approached by external actors rather than actively seeking bribes themselves. With regard to the apparent underlying motivations, there seems to be a difference between staff seeking to influence the decision of cases and staff seeking to extract material benefits.

3. Methodology

The research methodology developed for the JII makes a significant contribution to the body of literature and the empirical evidence on corruption in the judiciary. Our starting point was to further the understanding of the specific manners in which corruption can arise in judicial systems around the world. This is a precondition to developing appropriate measures to eradicate those practices that undermine the effectiveness and legitimacy of judicial processes. For these reasons, the focus of this initial phase of the JII was on a comprehensive evidence-based study aimed at identifying patterns of corruption, also called typologies, in judicial systems around the world, thereby identifying forms of corruption that appear most persistent and the judicial professionals who are believed to be involved in such conduct.

The methodology underpinning this study was designed in recognition of the challenges involved in conducting research on a sensitive topic such as corruption. Thus, the project relied on a mixed methods research design consisting of: (1) desk research to review the available literature on corruption in judicial systems and compile information on international guidelines, standards and principles that have been developed to date (see Annex 1); (2) the implementation of a comprehensive survey at the global level; (3) in-country consultations in two case study countries, Mexico and the Philippines, collecting in-depth information from judicial professionals and stakeholders; and (4) interviews with individual respondents from an additional six countries: Australia, New Zealand, Paraguay, Switzerland, Turkey and Uganda. This combination of research methodologies allowed for significant triangulation of data to maximise the validity of the survey findings. The outcome of this research project was further controlled by reference to work conducted by the WJP and TI, such as its GCB and Corruption Perceptions Index (CPI).

The data we obtained through the survey requires careful analysis and must be considered judiciously (see Annex 2). For instance, the responses that indicate undue political influence within the judiciary may also be attributed to a potential survey bias. This is because the respondents were those who were potentially complicit in corrupt interactions and who thus may have referred to undue political influence as a way to deflect responsibility. Qualitative findings obtained from in-country consultations and interviews also suggest that perceptions of corruption reported by lawyers can be exaggerated. For example, a lawyer who has lost a case may allege corruption as the basis for having done so rather than concede the other side had a stronger or better case.

Another aspect to note is that we received a considerably higher number of responses from countries where the rule of law is generally strong. In these countries, regulatory frameworks are comparatively reliable and processes are highly automated, thus limiting risks such as conflict of interest and misuse of funds. These assumptions linked to the survey methodology can be validated in further research.

When the survey results were triangulated and compared with relevant indicators from the WJP's RoLI and TI's GCB, we found the survey findings to be generally consistent with these established indices. For some of the categories probed, for instance, the reported incidence of corrupt conduct by a specific group of judicial professions, we did however observe some variation in our survey data. This can likely be attributed to the different methodologies of the indices: while the GCB is based on citizens' perceptions of corruption and the RoLI builds on both expert assessments by academics,

practitioners and community leaders and citizens’ experiences with corruption, our survey can be characterised as a self-assessment by judicial professionals. The data gathered thus contributes a new perspective and this may explain the variation when compared with the outcomes of those other indices. For a detailed overview of the triangulation of the findings from the indices for the countries studied, see Annex 3.

In some isolated cases the survey responses suggest levels of corruption in particular judicial systems that directly conflict with results of other external and trusted sources of data. This further indicates the importance of triangulation and cross-checks of the survey responses.

3.1 Characterisation of the survey data

The survey was conducted online from 2 October 2015 to 30 October 2015 and was promoted through the IBA’s individual members, its network of national bar associations, its committees, such as the Judges’ Forum, and several partner organisations. The survey, which was provided in eight languages (English, French, Chinese, Russian, Arabic, Japanese, Korean and Indonesian), can be found in Annex 4 (English version only). We received a total of 1,577 responses from 120 countries. However, the limited responses received from 89 of the surveyed countries were too few to allow for a meaningful and reliable analysis. For that reason, and to ensure the validity of our results, we restricted the analysis to those countries for which we received a minimum of ten responses.

The survey findings that we report here, therefore, emanate from a total of 1,204 respondents from 31 countries. Although ostensibly representing a narrower number of countries, the resulting sample nonetheless retains significant variation across geographical regions, types of judicial systems and reported levels of corruption, and is therefore appropriate to fulfil the goals of this phase of the JII.

The following are the countries represented in the final sample (the ‘Study Countries’):



Figure 1: Study Countries on a world map

Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Costa Rica, Denmark, England, Finland, France, Germany, India, Ireland, Italy, Mexico,¹⁴ Netherlands, New Zealand, Nigeria, the Philippines, Poland, Portugal, Russia, South Korea, Spain, Sweden, Turkey, Uganda, Ukraine and the United States.

The Study Countries can be further characterised according to the ranking provided by the RoLI in terms of the adherence by each country to the rule of law as illustrated in Table 1. Note that Ireland is not included in the RoLI ranking.

Number	Country	WJP Rule of Law Index	General Ranking (out of 102)
Strongest adherence to the rule of law: 1.0			
1	Denmark	0.87	1
2	Sweden	0.85	3
3	Finland	0.85	4
4	Netherlands	0.83	5
5	New Zealand	0.83	6
6	Austria	0.82	7
7	Germany	0.81	8
8	Australia	0.80	10
9	Republic of Korea	0.79	11
10	United Kingdom	0.78	12
11	Canada	0.78	14
12	Belgium	0.77	16
13	France	0.74	18
14	United States	0.73	19
15	Poland	0.71	21
16	Portugal	0.70	23
17	Spain	0.68	24
18	Costa Rica	0.68	25
19	Chile	0.68	26
20	Italy	0.64	30
21	Brazil	0.54	46
22	Philippines	0.53	51
23	Argentina	0.52	54
24	India	0.51	59
25	Ukraine	0.48	70
26	Russia	0.47	75
27	Mexico	0.47	79
28	Turkey	0.46	80
29	Uganda	0.41	95
30	Nigeria	0.41	96
Weakest adherence to the rule of law: 0			

Table 1: World Justice Project, Rule of Law Index 2015¹⁵

- 14 Mexico is a special case to the extent that in this country, the survey was piloted initially prior to the in-country consultation and during that pilot phase over 3,000 responses were received. Because of its size, that database of responses will be analysed and reported separately at a later stage.
- 15 The WJP measures the rule of law in 102 countries. It is informed by experiences and perceptions of the general public and in-country experts. Scores range from zero to one, with one indicating strongest adherence to the rule of law <http://worldjusticeproject.org>.

In light of the above, it is important to acknowledge the limitations of the survey methodology. As in any voluntary survey, responses from the Study Countries cannot be said to be representative of the opinions and perceptions of all members of the judicial professions across all the countries surveyed or even of the individual Study Countries. Rather, the responses received from respondents in the Study Countries reflect the opinions and perceptions of individuals who have self-selected, and therefore the sample may be skewed towards a particular type of respondent.¹⁶ The comparatively high number of responses received from lawyers further reflects the distribution channels used and the importance attached to the study by the IBA. This may create a certain bias that needs to be taken into consideration in any further analysis. This needs to be borne in mind when reading the analyses set out in this report.

Figure 2 describes the survey respondents according to their professional profile.

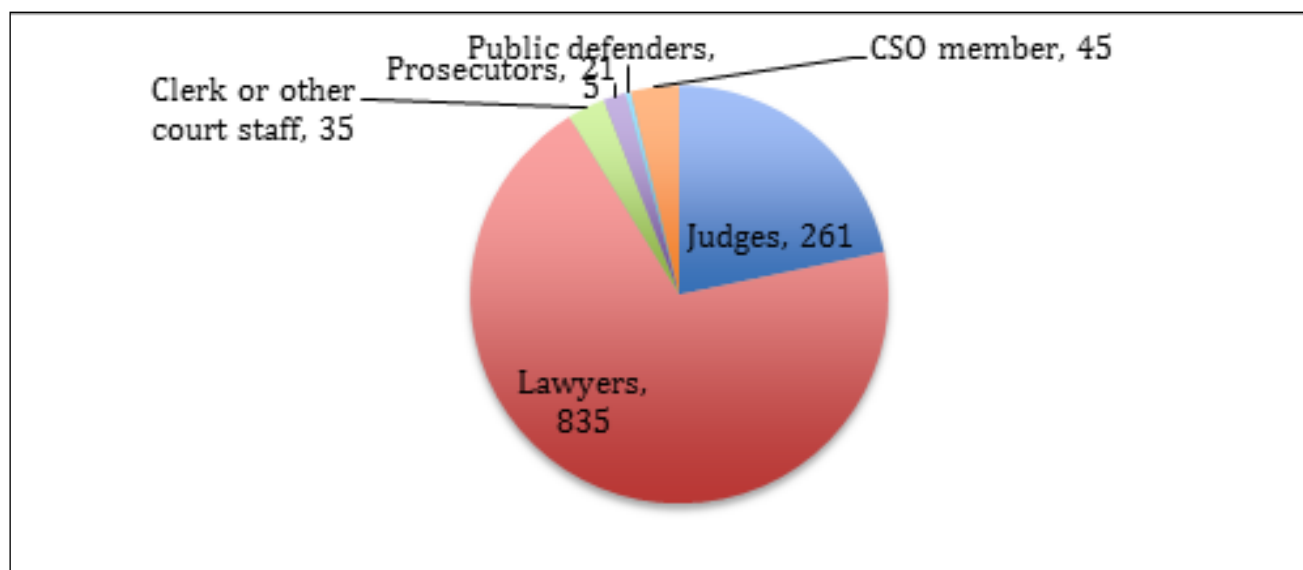


Figure 2: Survey respondents according to professional profile

The findings reported here reflect the Study Countries from which we received sufficient responses. Therefore, while the report makes reference to specific countries in the context of certain patterns of corruption, this does not mean and is not intended to mean that those countries are the most representative or acute cases of the corresponding types of corrupt behaviours. Instead, they are referred to more as examples indicative of more general patterns. In addition, the analysis does not intend to draw any general or specific conclusions about specific countries or to rank the Study Countries in any way.

3.2 Definition of terms

For the purpose of this study and report, key terms are defined as follows:

‘Bribery’ means the:

- promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; or

¹⁶ For a detailed characterisation of the survey sample, refer to Annex 2.

- solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.¹⁷

‘Civil status disputes’ means disputes relevant to an individual’s personal status, such as divorce, custody or other family law disputes.

‘Commercial disputes’ means disputes of a commercial or business nature involving businesses or individuals.

‘Extortion’ means an extension of the act of bribery, which ‘becomes extortion when this demand is accompanied by threats that endanger the personal integrity or the life of the actors involved’.¹⁸

‘Influence peddling’ means ‘the use of position or political influence on someone’s behalf in exchange for money or favours’.¹⁹

‘Interference’ means the direct misuse of authority, political or otherwise, exercised to manipulate procedures and decision-making to ensure a specific and desired outcome. See also the definition of undue political influence.

‘Judicial corruption’ means ‘all forms of inappropriate influence that may damage the impartiality of justice and may involve any actor within the justice system, including, but not limited to, judges, lawyers, administrative Court support staff, parties and public servants’.²⁰

‘Judicial professionals’ are the principal actors involved in judicial systems: judges, prosecutors, lawyers and court personnel. ‘Judicial professions’ means a grouping of each of these judicial professionals.

‘Judiciary’ means ‘the institutions that are central to resolving conflicts arising over alleged violations or different interpretations of the rules that societies create to govern members’ behaviour; and that, as a consequence, are central to strengthening the normative framework (laws and rules) that shapes public and private actions’.²¹ Building on this, ‘judicial system’ means the system of law courts that administer justice and the judicial professionals involved in it.

‘Misuse of funds’ means an act by a person who holds office in an institution, organisation or company and who dishonestly and illegally appropriates, uses or traffics public funds, public property or public assets, directly or indirectly for personal enrichment – or the enrichment of others – or other activities.

‘National level’ means those administrative institutions that have national jurisdiction in a national territory.

‘Subnational level’ means those administrative institutions that have a more localised jurisdiction within a national territory, such as a state, province, region or local.

17 Art 15 of the UN Convention against Corruption.

18 OECD Guidelines for Multinational Enterprises, quoted in www.unglobalcompact.org/what-is-gc/mission/principles/principle-10.

19 www.oxforddictionaries.com/definition/english/influence-peddling.

20 Siri Gloppen, ‘Courts, Corruption and Judicial Independence’ in Soreide T and Williams A (eds), *Corruption, Grabbing and Development: Real World Challenges* (Edward Elgar Publishing 2014).

21 World Bank 2007.

‘Triangulation’ and triangulated means the process of validation of data through cross-verification from two or more sources. It is achieved through the use of various research methods to confirm the validity and reliability of the data collected.

‘Undue influence’ means a situation in which ‘someone uses their power or authority in an unfair way in order to influence a legal decision’.²²

‘Undue political influence’ means the manipulation of policies, institutions and rules of procedure including, not exclusively, in the allocation of resources and financing by political decision-makers who abuse their position to sustain their power, status and wealth. See also the definition of interference.

22 <http://dictionary.cambridge.org/dictionary/english/undue-influence>.

4. Typologies of corruption in the judiciary

4.1 Study context

Corruption in the judicial system has a deleterious impact on citizens and can seriously compromise the legitimacy and stability of democratic institutions. The IBA and Basel Institute are cognisant of the efforts being undertaken by many, including international organisations such as the UNODC, World Bank, TI and WJP, to address corruption in the judicial system across many countries.

While this is a sensitive topic, the IBA and Basel Institute are committed to promoting an open and evidence-based discussion on this essential topic to advance efforts to identify effective anti-corruption strategies.²³ The findings of our mixed methods study show that drawing an accurate picture of how corruption happens in judicial systems defies any simplistic analysis and requires significant nuance and a strong conceptual foundation.

While judicial systems and judicial professionals play a key role in the fight against corruption, judicial professionals themselves can be exposed to risks of corrupt practices within judicial systems. Our research findings substantiate this claim. Judicial integrity is thus of utmost importance: a fair and impartial judicial process can be said to be a precondition for accountable governance and for anti-corruption safeguards to take effect. Otherwise, any person charged with corruption may escape punishment by corrupting the judicial process. This is underscored by the recent resolution on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, adopted by the UN Human Rights Council on 30 June 2015.²⁴ At the societal level, integrity in a country's judicial system also serves a preventive and catalysing function: impartial judicial professionals who ensure due process is adhered to make clear that wrongdoings are punished, thus not only curbing corruption within the judicial system but also fighting it at all levels of society.²⁵

The focus of our study is explicitly on corruption risks arising in the interaction between judicial professionals within judicial systems. By contrast, other governance and rule of law indices take into account the broader general context within which such interactions take place.²⁶ Precisely because of the more narrow focus and purpose of the JII, it is necessary to assess the findings stemming from the JII mixed methods approach against the background of other considerations, conceptual and evidence-based, that help to contextualise the observations on the behaviour of key actors within judicial systems. For instance, balancing accountability and independence, perceived prevalence of corruption in the judiciary and drivers of corruption.

23 A handful of them has already been devised by the UNODC, such as the Guide on Strengthening Judicial Integrity and Capacity (www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709_ebook.pdf), which serves as tool for those who are tasked with reforming and strengthening the justice systems of their countries, as well as development partners, international organisations and other providers of technical assistance who provide support to this process.

24 Cf HRC Resolution on the Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers http://ap.ohchr.org/documents/E/HRC/d_res_dec/A_HRC_29_L11.docx.

25 See, generally, Transparency International, *The Global Corruption Report 2007: Corruption and Judicial Systems* (Cambridge University Press, 2007) www.transparency.org/whatwedo/publication/global_corruption_report_2007_corruption_and_judicial_systems.

26 Those other measures of corruption affecting the judiciary are considered, addressed and referred to in the literature review (see Annex 1).

1. *Balancing accountability and independence*

It is the challenge of any judicial system to find the optimal balance between independence and accountability. This is necessary to protect judicial professionals – and others – from undue influence of any nature in the performance of their duties, while promoting adequate monitoring and transparency mechanisms to ensure judicial conduct adheres to the highest standards of impartiality and justice. There is no perfect system that can fully address both imperatives simultaneously; indeed, there are trade-offs associated with the institutional and regulatory mechanisms adopted in any given context to address this tension between constitutionally guaranteed independence and socially demanded accountability. Some legal systems emphasise accountability (eg, judges appointed by popular vote, which in turn runs the risk of political interference), whereas others have strong provisions for independence (eg, judges appointed for life, which runs the risk of insularity in judicial decision-making). This tension is a key distinctive trait that generates particular corruption risks in judicial systems and can be associated with the particular findings of our study. Such tension can be associated with the most prevalent reported forms of corruption we have found: political influence and bribery. Whereas strong accountability mechanisms would guard against bribery risks, robust provisions for independence guard against undue political influence.

2. *Perceived prevalence of corruption in the judiciary*

Our literature review suggests that in countries where political corruption is generally very widespread, the judicial system is likewise perceived to be very corrupt. However, the survey results indicate that overall, perceptions of the levels of corruption in the judiciary are lower compared with other arms of public administration.

The impact of public perceptions of corruption in the judiciary is an important topic that is, in fact, highly contested because it is not always clear to what extent perceptions are substantiated by reality. For example, a participant of one in-country consultation highlighted that the perceptions of the levels of corruption by ordinary citizens are informed by small-scale petty corruption or bureaucratic corruption cases that are not representative of the overall situation prevailing in the judiciary as an institution. Others commented that lawyers, if they lose a case, may blame the ‘corrupt conduct’ of the successful party rather than acknowledging the other party had a stronger case. However, the cases where grand-scale corruption takes place usually occur at higher spheres with an extreme level of secrecy and collusion, which means that such cases are frequently not exposed by the media and therefore average citizens may lack the means to gain awareness of them. Where cases of grand corruption are uncovered, however, this does – at least at an initial stage – impact negatively the perception of the government’s integrity and effectiveness, even though the uncovering of corruption cases is in fact a sign of stronger accountability and control mechanisms taking effect.

Based on our survey data, perceived levels of corruption can vary significantly and may not be reliable indicators of actual levels of corruption, as suggested by the discussion about the problems associated with perception-based measurements. In a first analysis, when asked about their views on corruption in the judicial system overall, respondents from some countries considered it to be very high. However, when asked more specifically for their views on corruption in the judiciary at the national level and then the subnational level, the same respondents reported low or moderate levels. That

is, the respondents contradicted their own responses when responding to a variation of the initial question. Respondents from only one of the Study Countries provided responses that consistently reported very high levels of perceived corruption across national and subnational levels. This further highlights the discrepancy between perceived and experienced levels of corruption, where measures based entirely on perceptions have proven to systematically overestimate the prevalence of actual corruption.

The survey also indicates that a significant number of the respondents from the Study Countries perceive corruption in the judicial system in which they work to be a serious risk. While 764 of the 1,204 respondents of the Study Countries stated that they have never – and do not know anyone who has – encountered any form of judicial corruption in the judicial system in which they work, more than one-third of respondents across the Study Countries have – or know someone who has – done so.

Table 2 illustrates the percentage of respondents from each of the Study Countries that reported never having had – and do not know anyone who has had – any direct experience with corruption in the judiciary.

Country	Percentage of respondents reporting no direct experience with or knowledge of cases of judicial corruption (%)
Argentina	19
Australia	85
Austria	95
Belgium	74
Brazil	39
Canada	100
Chile	60
Costa Rica	50
Denmark	92
England	90
Finland	100
France	81
Germany	92
India	73
Ireland	93
Italy	57
Mexico	45
Netherlands	86
Nigeria	56
Philippines	30
Poland	81
Portugal	92
Russia	18
South Korea	54
Spain	49
Sweden	92
Turkey	25
Uganda	13
Ukraine	48
United States	81

Table 2: Percentage of survey respondents of Study Countries reporting no knowledge of cases of corruption in the judiciary

The role of the media is contested. While it can be seen as a key non-state actor that plays a watchdog function, according to some of the participants in the in-country consultations, the media is also sometimes perceived as exaggerating information on the prevalence of corruption within the judiciary or even as influencing public opinion in ongoing trials in a biased way. Media reports thus may negatively influence the perceived prevalence of corruption in a particular country.

3. *Drivers of corruption*

Various drivers of corruption have been identified in the literature. Our focus, however, is on those drivers that are reported most prominently according to our research findings. The following list is by no means meant to be exhaustive. In some cases, participants in the in-country consultations suggested that there are gaps in the organisation of a judicial system or the quality and clarity of proceedings, regulations, rules and procedures. Structural complexity and lack of transparency would supposedly increase corruption risks and often enable or mask corrupt behaviours. The manipulation of bureaucratic complexities and lack of clarity in procedures were reported as means for illegitimate purposes, in many ways, that span the spectrum from petty to grand corruption. For example, in some countries, complex procedures can reportedly be used by court personnel interacting with the public to extract a bribe to expedite services. In other cases, convoluted or vague processes and sanctions regimes are supposedly used to ensure impunity of influential individuals. It is unclear whether such institutional shortcomings occur by design or omission.

Findings of the literature review, as well as insights from our in-country consultations, suggest the importance of taking into account the independence of prosecution services. When the head of the executive appoints the authorities responsible for the prosecuting agency, this could potentially impact the caseload that comes in front of judges. In other words, the risks of selective criteria for prosecution of cases are greater if the appointment and removal of the top officers at the prosecuting authority falls under the direct authority of a powerful political actor, for example, the president. This type of situation may also create the more subtle but nonetheless significant issue of conflict of interest arising when prosecuting cases of corruption runs against political accountabilities.

Several participants in the in-country consultations also highlighted a lack of an institutional culture of integrity and accountability as generating corruption risks. In an environment where ‘no one cares’ and judicial professionals are ‘treated poorly’, the incentives to refrain from abusing entrusted authority are negatively affected.

Closed groups based on professional identification was also noted during the in-country consultations as a possible risk for judicial systems: because of the nature of the professional profiles of members of a judicial system (eg, judges who arguably need to have significant independence but consequently have limited oversight) combined with the structure of career paths of judicial professionals, they tend to overly rely on each other for guidance. This reliance may influence each other’s decisions and isolate them from external criticism. The risk inherent in such behaviour becomes apparent when members of the judiciary are themselves in charge of performance evaluations. In other cases, it generates risks for collusive behaviours and Groupthink: as one participant expressed it, judicial power is ‘one big family and a closed circle’ and can generate incentives for individuals to protect each other.

Vulnerability to corruption risks can also be associated with the relative influence of groups outside of the judiciary. Survey results from one-third of the Study Countries suggest that current and former political figures, wealthy citizens and members of organised crime networks are the most frequently identified external actors who reportedly engage in some form of corrupt conduct when dealing with the judiciary.

In addition, in some countries, organised crime allegedly poses major risks to the performance of the judiciary and is a significant factor associated with heightened corruption risks. Still, the reported impact of organised crime is not uniform across the judiciary in the concerned countries. During the in-country consultations, participants suggested that in some jurisdictions, some judges, for instance at the national level, may be better protected from the interference of organised crime than judges at the subnational level. Associated risks may also vary significantly on a case-by-case basis.

4.2 Types of corrupt behaviours in the judiciary

According to the literature, corruption in the judicial process comes in many forms. Most forms of corruption can be attributed to individual wrongdoers based on distorted incentive structures. However, this unethical behaviour is largely enabled through systemic or institutional features and characteristic of a sector that often lacks independent oversight, and where accountability may be problematic because of provisions put in place to guarantee an effective separation of powers. Nonetheless, as stated above, judicial integrity requires an independent and accountable judicial system and individual professionals who are also independent and accountable.²⁷

Some forms of corrupt behaviour can be identified across judicial systems affecting all the judicial professions, to varying extents and at different stages of the judicial process. These are as follows:

1. bribery;
2. undue political influence over the outcome of, or political interference in, a judicial process;
3. extortion of judicial professions, victims and witnesses; and
4. misuse of public funds and resources.

For the purpose of the study, it is useful to outline the specific risks linked to the different judicial professions. Based on results from our survey, we therefore provide a detailed analysis of:

- the different kinds of corrupt behaviour identified according to the opinions of respondents; and
- how different judicial professionals are affected and involved in them,

with the caveat that the particular set of judicial professionals who may be involved or complicit in a corrupt transaction may vary significantly from case to case. In fact, judicial professionals are likely to be not the only actors involved: results from the survey suggest that in some Study Countries, such as Mexico and Russia, use of non-legal intermediaries to facilitate corrupt transactions reportedly occurs frequently. Furthermore, corruption can manifest differently and its prevalence can vary depending on the jurisdiction.

²⁷ ENCJ, *Independence and Accountability of the Judiciary and of the Prosecution: Performance Indicators 2015* (The Hague 2015) 17 www.encj.eu/images/stories/pdf/GA/Hague/encj_report_independence_accountability_2014_2015_adapted_ga.pdf2015.

Our research findings suggest that bribery and undue political influence are the most frequently reported types of corruption in judicial systems. The following sections thus describe these two categories in more detail.

1. *Bribery*

The literature suggests that bribes may be accepted, demanded or paid across judicial professions or throughout judicial systems. External actors might seek to interfere in a case, for instance, by bribing:

- a judge to influence his or her decision-making;
- a lawyer to advise his or her client in a specific way; or
- court staff to tamper with evidence.

Our findings suggest that bribery is perceived to be a serious concern in several of the Study Countries. The responses from the sub-Saharan Study Countries, Uganda and Nigeria, perceive a high incidence of bribery in their judicial systems: 87 per cent and 50 per cent, respectively. Among the Latin American Study Countries, respondents from Mexico perceive the highest incidence of perceived bribery, with 82 per cent of the respondents believing there is a high incidence of bribery cases occurring within the judicial system. Among the Asian Study Countries, responses from the Philippines and India suggest there is a high incidence of perceived bribery within their judicial systems, as indicated by 40 per cent of the respondents in both countries. Similarly, among the post-Soviet Study Countries, Ukraine and Russia, 44 per cent and 34 per cent, respectively, of the respondents indicate a high incidence of perceived bribery cases occurring within their judicial systems. It is worth recalling that the Study Countries represent only a small proportion of the countries in each region. However, the high correlation between our survey data and other sources, such as the RoLI and TI data, provides a strong indication that our survey findings may also be applicable beyond our study countries.

Responses to the survey also suggest that across most of the Study Countries, the main incentive driving judicial professionals to engage in corrupt behaviour is believed to be material benefits, as opposed to potential career opportunities or their mere lack of oversight.

(i) PATTERNS OF BRIBERY

The literature review shows that the incidence and forms of bribery can vary from one country to another. In our research, we have sought to distinguish specific patterns of bribery across the Study Countries as follows.

Endemic bribery

Some countries purportedly have high levels of corruption permeating all pillars of the state, which impacts on all levels of political, government and judicial activity and where petty corruption is believed to be rampant. In this context, the survey findings suggest that perceived bribery in the judiciary, as in all sectors, is the norm. In some cases, according to one interviewee, it is indispensable when obtaining any kind of service.

Limited bribery

Recourse to bribing is regarded as common but not widespread:

- it could be limited to an ability to pay, generating unequal access to the judicial process along socio-economic lines; and
- it could be more prevalent in certain specialised courts or associated with specific types of cases, whereas other spheres in the judiciary remain essentially corruption-free.

There are also reported differences between perceived prevalence of bribing between subnational and national level judicial systems.

Intimidatory and targeted bribery

In some countries the political and government systems reportedly are heavily influenced, if not captured, by organised criminal networks. In these cases, the most prominent reported form of corruption is heavy-handed bribery or extortion, often accompanied by threats of violence for non-compliance.

(ii) JUDICIAL PROFESSIONALS INVOLVED

Judges

Individual judges may accept or demand bribes from political actors, lawyers, one of the parties – especially where economic interests of a company are at stake – or other external actors, to tamper with a case or grant access to legal services otherwise not granted.²⁸

According to survey responses, judges were reportedly involved in bribery relatively frequently in the Study Countries of Mexico (27 per cent), Nigeria (15 per cent), the Philippines (22 per cent), Russia (28 per cent) and Ukraine (26 per cent), with the highest incidence, 40 per cent, being reported for Uganda. In terms of drivers of corrupt behaviours on the part of judges, remuneration issues (ie, insufficient salaries) were mentioned during in-country consultations to generate corruption risks. Respondents from several of the Study Countries (Brazil, Mexico, the Philippines and Russia) believed that obtaining material benefits was the strongest motivation for judges to engage in corrupt behaviours. In the Philippines, it was said that judges allegedly depend heavily on private benefactors and subnational government units, whose discretionary allowances sometimes amount to up to 30–40 per cent of the judge's salary. Other reported potential drivers of corruption referred to include lack of adequate resources, heavy workloads and pressures to decide cases within short timeframes.

Lawyers

The literature suggests that lawyers may play an active role in corruption. For example, lawyers may demand that their clients pay additional fees so that they, in turn, can pay bribes to improperly influence one or more judicial professionals to favour their client's interest. Lawyers may also

²⁸ Transparency International, Global Corruption Barometer 2010/11 (2010).

themselves accept bribes to mishandle cases or charge additional ‘fees’ to expedite or delay cases, or to direct clients to judges known to take bribes for favourable decisions.²⁹ In other situations, the role of lawyers is more passive or complicit, for example, when they are coerced into a certain type of behaviour by being confronted with threats to their reputation. Our survey observed that lawyers were reportedly actively involved in bribery, reported as common or very common, in the Study Countries of Argentina (19 per cent), the Philippines (22 per cent), Russia (22 per cent), Uganda (33 per cent) and Ukraine (12.5 per cent).

Prosecutors

Our study findings suggest that prosecutors may ask for bribes or possibly face external pressure to delay or accelerate the judicial process. Reportedly, bribes are also being paid to prosecutors to tamper with evidence, such as police records and reports, to lose documents, inappropriately accept/deny plea offers or interfere with the investigation process. This was confirmed by a study conducted in the US, which showed that the most common offence was to hide relevant evidence.³⁰ Bribery of prosecutors is also often intended to delay cases until they reach the statutory limit.³¹ Survey results indicate that bribery was perceived among survey respondents to happen very frequently or frequently among prosecutors in the Study Countries of Mexico (36 per cent) the Philippines (30 per cent), Russia (26 per cent), Uganda (53 per cent) and Ukraine (30 per cent).

Court personnel

According to the literature, court administrative and support staff serve key roles in ensuring a smooth judicial process, while also keeping a low profile. They can also play a key role in engaging in irregularities in the judicial process. Several risks may arise that are characteristic of court personnel: clerks and paralegals often have direct and largely uncontrolled access to relevant documents, such as evidence, reports, judgments and so on. Court personnel are often poorly paid or at least paid significantly less than judges or lawyers, which potentially increases incentives for unethical behaviour.

Corruption opportunities of court personnel can be linked to legal proceedings and case administration. For example, many have the opportunity to tamper with the judicial process by accepting kick-backs to deliberately lose or alter files,³² influence case management or give access to judicial decisions before they are officially released.³³ They may also solicit bribes to manipulate minutes as well as forging figures or favouring particular insurance firms in association with the filing of bonds.

Some published case studies suggest that court personnel can further serve as middlemen for judges and/or lawyers and request, or pretend to request, bribes on their behalf. With a view to individual benefits, they might be tempted to charge unauthorised fees for court services or inflate existing administrative fees, and might extort money for work they should do anyway. For example, a case has

29 Victoria Jennett, *Fighting Judicial Corruption Topic Guide* (Transparency International, 2014) 5 www.transparency.org/whatwedo/answer/fighting_judicial_corruption_topic_guide.

30 Balko 2013.

31 We thank TI for bringing this point to our attention.

32 TI (n 26).

33 Jennett (n 30) 5.

been uncovered in Benin where treasury employees and court clerks overcharged legal fees allegedly amounting to around 2bn CFA francs over a three-year period.³⁴ Such actions often take advantage of a lack of understanding of court procedures among the population.

The literature suggests that those members of judicial systems who interact with or are conduits for parties from outside the judicial system, such as court personnel, are the most vulnerable to corruption, particularly bribery. For example, in some countries, filing clerks constantly interact with litigants. It may be that litigants offer illicit payments to ensure their matter is expedited or filing clerks may insist on being paid an illicit payment before agreeing to file a litigant's matter. By contrast, in some countries, court stenographers have limited exposure to external parties, which means they have less opportunity to request or be offered inappropriate or illicit payments.

According to the survey data, however, the assumption that court personnel serve a key role when it comes to bribery in the judicial system was only distinctively reported by the respondents from the Study Countries of Brazil (28 per cent), Nigeria (21 per cent), the Philippines (30 per cent), Turkey (40 per cent) and Uganda (47 per cent).

Other

In addition to the role of bribery with regard to the judicial professionals discussed above, several other actors were perceived to be involved in some of the Study Countries. These included prosecutors (Mexico, the Philippines, Russia, Uganda and Ukraine), investigators (the Philippines, Russia, Uganda and Ukraine) and regulatory authorities (Brazil, Mexico, the Philippines, Russia, Turkey, Ukraine and Uganda), as well as expert witnesses (Argentina, Italy, Mexico, Nigeria, Russia and Uganda). This overview shows that while in some countries, perceptions of bribery in judicial systems appears to be prevalent among a broad set of judicial professions, in other countries, such as Brazil, Italy and Turkey, it apparently seems to be more clearly related or limited to specific judicial professionals.

2. *Undue influence and other forms of interference*

The literature notes that different actors from within and outside judicial systems can seek to unduly influence the judicial process. A relatively common risk is that the overall independence of the judicial system can be undermined at the political level. This might involve appointment procedures, budget allocations and oversight mechanisms.

This must be distinguished from instances where political influence may be legitimate and even actually called for. Certainly in constitutional courts and probably in all high appellate courts, the appointment of judges is a definite political act. The values of appointees affect their decisions and it is perfectly legitimate for governments in democratic countries to seek to choose judges who, in their view, are likely to reflect in their decisions the values of those who appoint them to office.³⁵ This is not to be considered corrupt to the extent that the judge in question articulates his or her rulings in a way that reflects his or her own values. Rather, when specific interests or political groups are

³⁴ See, for example, Marie Chêne, Overview of Corruption and Anti-corruption in Benin (EU Helpdesk Answer, Transparency International 2014).

³⁵ We thank Michael Kirby for raising this point. Indeed, it may be a requirement under a particular country's constitution.

given systematically preferential treatment by a judge, one may speak of undue political influence or political interference.

Survey findings show that the number of Study Countries rated as having perceived high levels of undue political influence or political interference in their judicial systems is significantly higher than for those Study Countries rated as having high levels of bribery occurring in their judiciaries.

It is therefore important to highlight that, in some countries, despite reform efforts and the adoption of international instruments protecting the independence of the judiciary, judicial professionals continue to face undue pressure to rule in favour of powerful political and economic individuals. All in all, the survey responses perceived the incidence of undue political influence or political interference as very high by at least 40 per cent of respondents in 12 Study Countries.³⁶ In addition, the results from the survey show that high incidences of undue political influence or political interference purportedly aimed at ensuring that important political figures remain untouchable when it comes to matters in the court are perceived by respondents in Brazil (33 per cent) and Chile (25 per cent).

Not only is this the type of corruption for which the highest perceptions of incidence are reported, but the group of countries for which this high incidence has been reported is also more diverse than in the other categories because it includes examples from Europe and the Middle East. This suggests that undue political influence can be high, or perceived to be so, even in countries that have strong institutions and where the rule of law is generally respected.

(i) PATTERNS OF UNDUE INFLUENCE AND INTERFERENCE

Based on the literature and our analysis of the survey results, it is important to distinguish between undue influence on the one hand and more direct interference, political and otherwise, exerted on judicial professions on the other.³⁷

Undue influence, or interference, of some form, but particularly of a political nature, was believed to be significant to respondents in most of the Study Countries. Furthermore, the diversity of the countries represented in the ‘very high’ prevalence for undue influence or interference would appear to suggest that risks for undue influence or interference are more prevalent regardless of other macro-level determinants, such as income level, population, political regime and type of judicial system. Rather, undue influence or interference purportedly seems to be exerted in countries that otherwise have stable institutions and where the rule of law is generally respected.

Undue influence

- a) *Undue influence through closed informal networks representing particular economic or political interests:* In most countries, there exist informal social networks that may be based on kinship, ethnicity or other types of particular connections, such as where one was educated. Informal networks can span public and private sectors and operate across government, business, politics and judicial systems.

36 Argentina, Mexico, Nigeria, Turkey, Brazil, Italy, Russia, Uganda, Costa Rica, India, Spain, Ukraine

37 The survey itself did not distinguish between undue influence and interference, political or otherwise. However, the nature of the responses to the survey indicated that such a distinction was necessary. Our analysis of the survey responses was conducted on this basis.

Informal networks are not inherently corrupt. However, their existence means there is a risk that individuals of influence can, through their networks, penetrate judicial systems with the intention of selectively influencing the outcomes of cases. Or it may be that the membership of an informal network means one judicial professional is treated more leniently or granted more flexibility than another who is not a member. For example, a judge may be more prepared to accept a particular line of reasoning if it is presented by a lawyer with whom that judge went to university.

Undue political influence

- b) *Undue political influence through appointments on an openly partisan basis:* In some jurisdictions, where judges are appointed by popular vote or where the government controls the appointment process, they rely on political parties for their nomination. In many countries where this occurs, the nomination and election or selection processes tend to be transparent. However, there is always the risk that a legitimate process of this type can be subverted for improper purposes. This could manifest in a number of ways. For example, a judge may purposely compromise his or her approach to judicial decision-making to retain political support.³⁸
- c) *Undue political influence through manipulation of budget allocations:* Budgetary control by either the legislative or executive branch can play an important role in subverting the independence of the judiciary. This view was supported by several in-country consultations participants. Governments may seek to manipulate judicial decisions by threatening to minimise or significantly reduce budgets allocated to the judiciary if judicial professionals are not compliant with the government agenda.
- d) *Undue political influence exercised through closed informal networks:* In addition to the findings set out under the heading ‘Undue influence’, our study indicates that informal networks can be manipulated for political reasons. The manner in which this is done is by strategically appointing regime insiders, including to high positions in the judiciary, knowing they will perform a gatekeeper-like function to guarantee protection and impunity of the ruling elite.³⁹ Other examples include the Filipino patronage or padrino system.

Political and other types of interference

- e) *Interference through closed informal networks representing particular economic or political interests:* The influence of informal networks can extend beyond undue influence and undue political influence to direct interference. Where such informal networks are particularly strong, members of those networks may seek to directly intervene in the judicial selection process or in judicial decision-making to ensure particular interests – political, commercial or social – remain protected. Although this pattern may take different specific forms, where political and economic power is concentrated and monopolised by informal networks, it is often the

38 According to one interviewee, because partisan nomination of judges is inherently a political process, the risk is that political parties may use undue influence on judges to the extent that they can elect and strike off judges without necessarily giving reasons.

39 This example is from a political economy analysis conducted by the Basel Institute in a country in sub-Saharan Africa.

case that strategic appointments embed individuals in the judiciary who perform a function as ‘gatekeepers’ to those in power. For example, informal networks of political and business interests may work together to deliberately manipulate political, business and legal structures and appointments to preclude any potential opposition from securing access to positions of power and influence. As with undue political influence, this can be done by strategically appointing regime insiders, including to high positions in the judiciary, but in this case with the expectation that they can be and will be directed to make decisions that will guarantee protection and impunity of those in power.

- f) *Political interference through appointments based on particular but transparent criteria:* Key appointments are controlled, either directly or indirectly, by powerful actors and openly reflect practices of nepotism or other forms of favouritism. In such cases, accountability tends to be weak and therefore, although such instances may be openly identifiable and their impact on judicial performance evident, there are limited mechanisms to circumscribe this type of political interference. Examples of such practices would be found where a politician may exert pressure on a judge who is due to be re-elected, encouraging the judge to make unduly favourable decisions on matters that have political resonance, or in highly autocratic regimes where high-level nepotism is the norm (eg, members of the president’s family are openly appointed into high-level positions in government) and key state institutions, such as the prosecutorial agencies, are openly and effectively captured by private interests.
- *Interference by organised crime groups:* Undue interference in the judiciary may also be of a violent nature, as in cases where organised crime is involved. The goal is to ensure specific outcomes, that particular cases be dropped or to ensure acquittal of some individuals, and is often accompanied by threats and/or extortion. This category is different from the previous ones in that the interference of such networks is exercised selectively on judicial professionals on a case-by-case basis, without regard for the manner in which they have been appointed. Because of its informal and non-transparent nature, it is extremely difficult to monitor its impact on the overall performance of the judiciary.

(ii) JUDICIAL PROFESSIONALS INVOLVED

Judges, prosecutors and investigators

The literature notes that independence and accountability of judges are fundamental to an impartial judicial process. As a consequence, judges’ protection from undue influence or interference is a key concern and various principles and standards for judicial independence have been introduced by different bodies.⁴⁰ At the same time, cases where judges have used their margin of discretion to make biased decisions have evinced the need for more accountability and oversight. This is of particular importance with regard to the criminal justice chain: because of the need for security and confidentiality, the degree of discretion is extremely high, combined with limited external oversight.⁴¹

40 For an overview of the principles, refer to the literature review in Annex I.

41 Richard E Messick and Sofie A Schütte (eds) *Corruptions Risks in the Criminal Justice Chain and Tools for Assessment* (U4 Issue 2015: 6, Chr Michelsen Institute 2015) 49.

In fact, undue political influence on the appointment and promotion of judges, their tenure and working conditions have been highlighted in the literature as one of the biggest risks at the institutional level.⁴² Impartial decision-making is compromised where judges face potential reprisals, such as threats to be dismissed or appointed to a remote area if they issue an unpopular judgment.

Our survey findings show that respondents from the Study Countries considered undue political influence or political interference to be directed not only at judges, but also prosecutors and investigators. The highest perceived incidences for these professions were reported in Turkey (between 25 and 58 per cent) and Russia (between 43 and 46 per cent).

3. *Extortion, misuse of funds and other forms of corrupt behaviour*

The literature review reveals that extortion of judges or lawyers is another means by which political actors, businesses or influential persons may seek to interfere with a judicial process. Organised crime groups pose another risk: as a Europol investigation has shown, they frequently make use of corrupt practices, such as bribery and extortion, to avoid investigation and detection.⁴³

In the survey, of the Study Countries, only in one case – Uganda – was the incidence of extortion perceived to be very high by a majority of respondents. Seventy-three per cent of the respondents in Uganda perceived significant incidences of extortion within the judiciary. In terms of specific legal professionals being targeted with extortion, survey respondents from Uganda reported the highest levels (common or very common) of high extortion levels perceived to occur involving prosecutors (40 per cent); investigators, lawyers and court personnel (33 per cent); judges, regulatory authorities, civil status disputes litigants and defendants in criminal prosecutions (27 per cent); and expert witnesses and public defenders (20 per cent). By contrast, respondents perceived extortion to occur less frequently in Nigeria, Mexico and Ukraine. Other legal professionals that respondents suggested were involved in extortion included prosecutors (Ukraine 16 per cent and Argentina 15 per cent), and regulatory authorities (Brazil 17 per cent and Argentina 15 per cent).

Another form of judicial corruption consists of the misuse of the scarce public funds. For example, judges may hire family members to staff their courts or offices, or contracts for court buildings and equipment may be manipulated.⁴⁴ In some cases, as was highlighted by one interviewee, this is made evident by the bad condition of premises as well as the lack of minimum equipment and materials courts need to operate.

Reported perceptions about the misuse of funds in the survey suggest that this is a problem severely affecting the judiciary in some of the Study Countries. For instance, 53 per cent of the respondents from Uganda believed that judicial personnel misused funds within the judiciary. Similarly, 45 per cent of the respondents from Mexico also perceived a high incidence of misuse of funds within the judiciary, while 44 per cent and 40 per cent of the respondents from Brazil and Nigeria, respectively, shared the same view. The survey results further reveal that 27 per cent, 25 per cent, 22 per cent and 13 per cent of the respondents from India, Turkey, Costa Rica and Italy, respectively, believed that there was a significant incidence of misuse of funds within the judiciary in their respective countries.

42 See eg, TI (n 26).

43 Europol 2009.

44 TI, *Advocacy Toolkit: Combating Corruption in Judicial Systems* (2007).

4. *Other forms of corruption identified*

In addition to the aforementioned categories, survey respondents from Study Countries as diverse as Australia, Belgium, France, India, New Zealand, Nigeria, South Korea, Spain, and the Philippines believe that nepotism and favouritism are prevalent manifestations of corruption. As a result, it is possible that unqualified individuals may occupy key positions in the judiciary, which in turn may have repercussions on the guarantee of a fair trial.

A related form of corrupt behaviour that was frequently referred to is influence peddling. This was reported by respondents from Argentina, Costa Rica, England, India, the Netherlands and Nigeria. According to them, such conduct was most frequently initiated by influential persons, both from the private and public sectors, as well as ordinary persons relying on political or family ties, or alumni networks, as well as between members of the judiciary.

Other sources of corrupt conduct that respondents believed occurs includes conflict of interests (Belgium and the Philippines), money laundering (Russia) and collusion between the political branches of power (Chile, Argentina and Spain).

Uganda was the only Study Country where respondents perceived corruption to be 'very high' for all four types of corruption identified. The two other Study Countries where high levels of misuse of funds are believed to occur are middle-income Latin American countries.

4.3 Corruption in interactions between different professions

Identifying the dynamics underlying and shaping interactions between judicial professionals is a key focus of this research project. The survey questionnaire therefore specifically asked judicial professionals to rate the perceived incidence of corrupt conduct in the interaction between them, aggregated by the different judicial professions. Based on this data, the following section provides an overview of what respondents, in their experience, believed to be corrupt conduct in the interactions between judicial professionals.

Given that secrecy is a key characteristic of corrupt behaviour, such an assessment must necessarily rely on the experiences and views expressed by judicial professionals, who are potentially themselves involved in it. We therefore assume that in the Study Countries where the number of responses received from the different judicial professions varied significantly, the data might be subject to a certain bias. For instance, in India, Italy, Uganda, Mexico, Brazil, the US, Russia, Nigeria, Spain, England, Belgium and Costa Rica, most or even all the responses received came from lawyers. There is more balance in the responses from Australia, Germany, Ukraine, the Philippines, Chile and Turkey, which represent comparative shares of lawyers and judges. However, notable numbers of responses from staff personnel or non-governmental organisations (NGOs) were only received in Ukraine and the Philippines.

1. *Judges' interactions with other judicial professionals*

TI's Global Corruption Report 2007 identified three key problems of corruption with regard to unethical behaviour among and between judges. These are linked to: (1) judicial appointments (vulnerability of judges to bribery due to the limited terms and insecure working conditions, including unfair processes for promotion and transfer); (2) accountability and discipline (unfair or ineffective

processes for the discipline and removal of corrupt judges can often lead to the removal of independent judges for reasons of political expediency); and (3) a lack of transparency of court processes, preventing the media and civil society from monitoring court activity and exposing judicial corruption.

Our survey data for the Study Countries suggests that judges, in general, are perceived to conduct their work independently and impartially, with either very low or no incidences of corrupt conduct initiated by judges reported. Nonetheless, judges are not immune to corruption: respondents were of the view that corrupt behaviour was frequently initiated by judges with other judicial professions in Ukraine, Russia, Nigeria, Argentina, the Philippines, Uganda and Mexico. According to the survey data, judges reportedly most frequently approach lawyers, with the highest incidence reported in Mexico (27 per cent), Argentina (25 per cent) and Uganda (20 per cent). In Ukraine, Russia, Argentina and Mexico, respondents were of the view that judges frequently approach other judges to initiate corrupt behaviour. It stands out that Uganda is the only country where 40 per cent of the respondents believed that judges approach court personnel to engage in corrupt behaviour.

In addition to judges' active roles, in ten of the Study Countries at least ten per cent of the respondents perceived judges as being involved in corrupt behaviour initiated by other judicial professionals, and about half of those respondents claimed to have actual knowledge of such cases. Judges were most frequently perceived to have been complicit in corrupt conduct in Argentina, Brazil, India, Mexico, Nigeria, the Philippines, Russia, Turkey, Uganda and Ukraine. Whereas, according to the survey data, judges in Brazil and India are perceived most likely to be approached by lawyers, in Uganda and Mexico, 18–36 per cent of the respondents reported that judges reportedly were frequently approached by colleagues representing all the judicial professions.

Some participants in the in-country consultations were of the opinion that judges are the key figures when it comes to corrupt behaviour in the judiciary because the power of conviction or acquittal ultimately lies with them. However, information from some Study Countries, and in particular from others involved in the in-country consultations, also indicates the difficulties that can occur when seeking to bring corrupt judges to account. In the Philippines, for instance, participants in the in-country consultation explained how the Bar depends on judges to endorse admissions and exercise disciplinary measures. This may make it difficult for lawyers to raise concerns about corrupt judges for fear of repercussions. In the experience of some participants, when a lawyer makes a complaint against a judge, it is frequently met with a disbarment counterclaim.

Some participants in the in-country consultations raised several issues that may make judges vulnerable to corruption. These included judicial discretion in general and evaluation criteria for judges in particular: a participant in an in-country consultation noted that in Mexico, judges are evaluated by the number of cases ruled only rather than taking into account the number of reversals made by the courts of appeal. Judges' discretion was also perceived to open the door to abuse of power and compromised rulings, even more so where magistrates coming from administrative or political careers are appointed, or in cases where judges do not discuss cases in the presence of both parties.⁴⁵

45 The topic of judicial discretion is broad and open to controversy. On the one hand, it can legitimately be argued that there are cases where judicial discretion is in fact necessary, especially where laws may be contrary to upholding human rights or yielding unintended consequences. On the other hand, too much discretion on the part of judges may open the door for abuse of power to the advantage of particular groups or interests. The issue of where to draw the line that ascertains up to which point discretion is admissible and when it becomes a vehicle for corruption is beyond the scope of this study.

Overall, our survey findings suggest that judges are perceived most frequently to engage in corrupt conduct in their interactions with lawyers and other judges, which indicates that such behaviour is predominantly focused on internal interactions within the judicial system as opposed to third parties.

2. *Lawyers' interactions with other judicial professions*

Lawyers are exposed to a number of corruption risks that are quite similar to the other judicial professions, but are more frequently overlooked.⁴⁶ In fact, the attorney–client privilege of lawyers can be a double-edged sword in the context of integrity: while it is a crucial precondition for lawyers to fulfil their mandate and advise clients in their best interest, at the same time, it decreases transparency and can potentially be used to hide conduct that, while legal, may be unethical.⁴⁷ Attorney–client privilege generally does not apply when conduct is clearly illegal.

Conflicts of interest are another key concern in the relationship between lawyers and their clients: lawyers might be requested to act as intermediaries in hiring distributors, agents and vendors on behalf of their clients. This might obscure links between clients and contractors and can create distorted incentives for lawyers to benefit from such structures.

Corruption risks for lawyers are further aggravated because anti-corruption guidelines in the profession are still relatively recent and awareness of them is limited. In addition, internal policies and controls may be weak and oversight limited because lawyers, in many cases, work on matters alone. Concerns such as these were raised during the in-country consultations, where participants were of the opinion that low levels of professionalism of lawyers; lack of adequate, non-compulsory membership of bars; and poor educational standards in law schools create or result in corruption risks.

In 11 of the Study Countries, between ten and 40 per cent of respondents were of the opinion that lawyers were the judicial professionals most likely to initiate corrupt conduct in their interactions with other judicial professions. Respondents were of the view that corrupt behaviour most frequently occurred in interactions with judges,⁴⁸ investigators,⁴⁹ prosecutors⁵⁰ and other lawyers.⁵¹ Based on the survey data, in Russia, lawyers purportedly most frequently approach judges (32 per cent), other lawyers (26 per cent) and investigators (24 per cent); in Mexico respondents believed that lawyers approach prosecutors and court staff (36 per cent each), judges, litigants and other lawyers (27 per cent each); whereas in Uganda, the highest incidence perceived is in interactions with court staff (40 per cent), prosecutors (33 per cent), investigators, judges and other lawyers (26 per cent each).

It seems noteworthy that according to respondents from Italy, the only counterparts with whom lawyers reportedly initiate corrupt behaviour in that country are court staff. The survey data further suggests that lawyers in Argentina, Russia, Brazil, Uganda, Turkey and Mexico are believed to

46 Samira Lindner, *Integrity Issues Related to Lawyers and Law Firms* (U4 Expert Answer, Chr Michelsen Institute 2014).

47 The most recent and sensational example of this can be found in the Panama Papers, which purportedly reveal conduct by a range of very public figures that is legal but potentially highly questionable <https://panamapapers.icij.org>.

48 Argentina, Brazil, India, Mexico, Nigeria, the Philippines, Russia, Turkey Uganda and Ukraine.

49 Argentina, Brazil, India, Mexico, the Philippines, Russia, Uganda and Ukraine.

50 Argentina, Mexico, the Philippines, Russia, Uganda and Ukraine.

51 Argentina, Brazil, Mexico, the Philippines, Russia, Uganda and Ukraine.

frequently influence witnesses, with a higher incidence reported for expert witnesses when compared with witnesses more generally.

In addition to lawyers' active roles, in nine of the Study Countries, at least ten per cent of the respondents perceived lawyers to be involved in corrupt behaviour initiated by other judicial professions, most frequently court staff, judges and prosecutors. Lawyers were most frequently reported to be complicit in corrupt conduct in Uganda and Mexico. While according to the survey data, lawyers in Ukraine are considered most likely to be approached by judges and prosecutors only, in Uganda and Mexico, about one-third of the respondents believed that lawyers were frequently approached by colleagues from all judicial professions.

This analysis shows that respondents are of the view that lawyers, compared with judges, more frequently interact with third parties and thus are more likely to serve as intermediaries to influence the outcome of cases.

3. *Prosecutors' interaction with other judicial professions*

Prosecutors have diverse roles and responsibilities at the various stages of adjudication in different countries.⁵² This makes a comparison of corruption risk arising during prosecution rather difficult. The most significant difference can be found between common law countries, where prosecutors traditionally have a large margin of discretion to dismiss cases, and civil law countries, where they must pursue every criminal case based on the legality principle.⁵³ Both systems bear different risks and entry points for corrupt behaviour among prosecutors.

In those Study Countries in which prosecutors were perceived to initiate corrupt conduct, it was in the context of approaching judges, lawyers, investigators and other prosecutors. The highest incidences were reported in Mexico, Ukraine and Uganda, where in respondents' views, corrupt behaviour occurred in the interaction with all the aforementioned professions. In addition, 46 per cent of respondents in Uganda and 18 per cent in Mexico believed that corrupt behaviour was initiated by prosecutors and targeted court staff.

In addition to the view by respondents of this active role, in seven of the countries analysed at least ten per cent of the respondents perceived prosecutors as being involved in corrupt behaviour initiated by other judicial professions, most frequently judges, lawyers and defendants in criminal prosecutions. Prosecutors reportedly were most frequently complicit in corrupt conduct in Argentina, Uganda, Mexico, Ukraine, Russia, Nigeria and the Philippines.

While our data shows that most perceived corrupt behaviour involving prosecutors is linked to interactions with other professionals within the judicial system, the risk of third-party influence on prosecutors may be comparatively high. Participants in one of the in-country consultations were of the opinion that prosecutors are at risk of coming directly in contact with organised crime. In this regard, participants believed that prosecutors who are pressured by criminal groups often choose to resign when they or their families are threatened or co-opted (bribed) by criminal interests. Lack of mechanisms to protect prosecutors from threats was cited as an aggravating element.

52 Gramckow H, *Corruption Risks in the Criminal Justice Chain and Tools for Assessment* (c3 U4 Issue 2015: 2, Chr Michelsen Institute 2015) 18.

53 *Ibid.*

Remuneration issues, as well as heavy workloads, were also mentioned in in-country consultations as reasons why prosecutors may engage in corrupt activities. Prosecutors reportedly serve as intermediaries for actors inside and outside the judicial system, which also puts them at risk of being targeted for corrupt activities.

4. *Court personnel's interaction with other judicial professions*

Between ten and 40 per cent of respondents in eight of the Study Countries believed that court personnel initiate corrupt conduct in their interactions with other judicial professions. Corrupt behaviour was most frequently believed to occur in interactions with lawyers (Argentina, Brazil, Mexico, Nigeria, the Philippines, Russia, Turkey and Uganda), other court staff (Argentina, Brazil, Mexico, Nigeria, the Philippines and Uganda), judges (Mexico, Russia and Uganda) and litigants both for commercial dispute and civil status disputes (Mexico, the Philippines and Uganda), that is, with actors within the judicial system. Respondents from Uganda were of the view that court personnel initiate corrupt conduct with witnesses and public defenders (26 per cent each) and regulatory authorities (20 per cent). The highest perceived incidence of corrupt behaviour was observed in interactions with lawyers in Uganda (40 per cent), Mexico (36 per cent), Brazil and the Philippines (22 per cent each), with about two-thirds of respondents saying they have actual knowledge of such cases.

As the analysis of other judicial professionals already indicated, court personnel are frequently perceived to be involved in corrupt behaviour initiated by other judicial professionals, most frequently lawyers⁵⁴ and defendants in criminal prosecutions.⁵⁵ Interestingly, Uganda stands out as the only country where court personnel reportedly are also approached by prosecutors (46 per cent), judges and litigants (40 per cent each) and public defenders (15 per cent).

In many countries, raffles are used to ensure an impartial assignment of cases. However, participants in the Philippines consultation were of the opinion that even this procedure was subject to manipulation by connivance between judges and court clerks.

While the literature review suggests that court personnel have a more prominent role in corrupt conduct in judicial systems, particularly bribery and interactions with counterparts outside the judicial system, our survey findings provide only limited indications of corrupt conduct among court personnel. In interactions where respondents believed corrupt behaviour occurred, court personnel were reportedly more frequently approached by external actors rather than actively seeking bribes. With regard to the underlying motivations, differences are observed between staff reportedly seeking to influence the outcome of cases as opposed to staff seeking to extract material benefits. However, a more nuanced analysis would be necessary to properly assess the role of court personnel because there are many different positions within the court administration and, as a consequence, court personnel's exposure to external parties varies significantly from one position to another.

54 Argentina, Brazil, India, Italy, Mexico, Nigeria, the Philippines, Turkey and Uganda.

55 Brazil, Mexico, Nigeria, the Philippines and Uganda.

4.4 Prevalence of corruption across types of cases and phases in the judicial process

The literature suggests that different risks arise and different actors are most at risk of corruption at different stages of the process: before a case reaches the court, lawyers, prosecutors and police officers are most at risk as they build up the case. Risks include political influence or bribery in order to tamper with evidence and the charges brought before the court. During court proceedings, judges, lawyers and clerks might be approached to influence the outcome of the case, to delay or accelerate it, drop charges or sway the judge's final verdict. Once a judgment has been pronounced, lawyers might be bribed not to appeal it.

Results from the survey, as analysed in the Study Countries, indicate that the types of cases where corrupt behaviours are most often perceived to occur are criminal cases, followed by general civil status cases. Other cases mentioned were commercial cases, labour law and social security cases, property cases, family cases and enforcement procedures. The reportedly high incidence of corruption in criminal cases may be attributable to the high sanctions that are at stake for defendants in criminal prosecutions and, to an even higher extent, in cases related to organised crime. In Mexico, for instance, participants in the in-country consultation were of the opinion that the incidence of organised crime is highest in relation to criminal matters, followed by commercial cases associated to money laundering activities. While corrupt behaviour was perceived to be prevalent across all types of cases, the lowest incidence was reported for constitutional cases.

In-country consultations also highlighted a number of interesting patterns of reported corrupt behaviour arising to circumvent existing policies and regulations. For instance, according to some participants in the Philippines consultation, bribery was believed to be extraordinarily high in marriage annulment cases, given that divorce is not legal and annulment cases may take a long time.

The information derived from the survey data from the Study Countries is inconclusive as to the prevalence of corrupt behaviour at the different stages of the judicial process: our findings suggest that this may vary significantly from one country to another. Russia stands out to the extent that respondents consider that corruption occurs in all stages of the process, whereas in Mexico and Uganda, respondents mentioned the enforcement of sanctions as a key concern. In fact, in Mexico, participants in the in-country consultation even indicated that the enforcement of sanctions was where most of the corrupt transactions occur.

5. Conclusion

The approach adopted by the JII is unique. The mixed methods research design developed for this phase of the JII was in recognition of the challenges involved in conducting research on a sensitive topic such as corruption in judicial systems. Our findings show that it is not possible to draw an accurate picture of how corruption occurs across all judicial systems. Instead, it requires an approach that has significant nuance and a strong conceptual foundation. We sought to interpret the findings of the research against such a solid conceptual foundation, notably by acknowledging that a key challenge for any judicial system is to strike the right balance between independence and accountability. This tension is a key distinctive trait that generates particular corruption risks in all judicial systems.

The IBA will continue to pursue the JII to identify and develop, in the context of these findings, appropriate measures to provide support to judicial systems seeking to improve the effectiveness and legitimacy of their judicial processes.

References

- Bertelsmann Foundation, *Bertelsmann Transformation Index 2014: Political Management in International Comparison* (Verlag Bertelsmann Stiftung 2014)
- Chêne M, *Overview of Corruption and Anti-corruption in Benin* (EU Helpdesk Answer, Transparency International 2014)
- Despouy L, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Right, including the Right to Development: Report of the Special Rapporteur on the Independence of Judges and Lawyers* (No A/HRC/11/41 1–29, United Nations Reports 2009)
- Diaz C and Fix M ‘Measuring Judicial Independence’ (2012) 22(1) *Law & Courts* 21
- European Network of Councils for the Judiciary, *Independence and Accountability of the Judiciary and of the Prosecution: Performance Indicators 2015* (The Hague 2015) www.encj.eu/images/stories/pdf/GA/Hague/encj_report_independence_accountability_2014_2015_adopted_ga.pdf
- Eurobarometer, *Justice in the EU*, (Flash Eurobarometer 385 2013) http://ec.europa.eu/public_opinion/flash/fl_385_en.pdf
- Gloppen S, ‘Courts, Corruption and Judicial Independence’ in Soreide T and Williams A (eds), *Corruption, Grabbing and Development: Real World Challenges* (Edward Elgar Publishing 2014)
- Gramckow H, *Corruption Risks in the Criminal Justice Chain and Tools for Assessment* (c3 U4 Issue 2015: 2, Chr Michelsen Institute 2015)
- Human Rights Council *Report of the Special Rapporteur on the independence of judges and lawyers* (No A/HRC/26/32, United Nations Reports 2014)
- IBA, OECD and UNODC, *Risks and Threats of Corruption and the Legal Profession* (Survey, 2010)
- Jennett V, *Fighting Judicial Corruption Topic Guide* (Transparency International, 2014) www.transparency.org/whatwedo/answer/fighting_judicial_corruption_topic_guide
- Kaufmann D et al, ‘The Worldwide Governance Indicators: Methodology and Analytical Issues’ (2011) 3 *Hague Journal on the Rule of Law* 220
- Kenya Anti-Corruption Commission, *The Report of the Integrity and Anti-Corruption Committee of the Judiciary* (Government Press 2003)
- Latinobarometer, Online Data Analysis: ‘Grado de confianza en instituciones-personas: El poder judicial’ (2013) www.latinobarometro.org/latOnline.jsp
- Lindner S, *Integrity Issues Related to Lawyers and Law Firms* (U4 Expert Answer, Chr Michelsen Institute 2014)
- Mann C, *Corruption in Justice and Security* (U4 Expert Answer, Chr Michelsen Institute 2011)
- Messick R E and Schütte S A (eds) *Corruptions Risks in the Criminal Justice Chain and Tools for Assessment* (U4 Issue 2015: 6, Chr Michelsen Institute 2015)

Rios-Figueroa J, *Judicial Independence, Definition, Measurement, and Its Effect on Corruption. A Study of Latin America*. (Doctoral Dissertation, New York University, 2006)

Salazar K and de Gramont J, 'Civil Society's Role in Combating Judicial Corruption in Central America' in *The Global Corruption Report 2007: Corruption and Judicial Systems* (Cambridge University Press 2007)

Transparency International, *The Global Corruption Report 2007: Corruption and Judicial Systems* (Cambridge University Press, 2007) www.transparency.org/whatwedo/publication/global_corruption_report_2007_corruption_and_judicial_systems

Transparency International, *Advocacy Toolkit: Combating Corruption in Judicial Systems* (2007)

Transparency International, *Global Corruption Barometer 2010/11* (2010)

Transparency International, *Corruption Perceptions Index 2014: Clean Growth at Risk* (2014)

United Nations Office on Drugs and Crime, *Guide on Strengthening Judicial Integrity and Capacity* (2011)

World Justice Project, *Rule of Law Index* (2015)

Expert Working Group

Lead: David W Rivkin, *President, International Bar Association, US*

Rapporteur: Diego Sierra, *Von Wobeser y Sierra, Mexico*

Research team:

IBA Legal Policy & Research Unit: Jane Ellis, Director; Rocio Paniagua, Senior Legal Advisor; Rob White, Project Coordinator

Basel Institute on Governance: Gretta Fenner, Managing Director; Claudia Baez-Camargo, Head of Governance Research; Franziska Stahl, Public Governance Specialist; Christian Müller, IT Supporter

Working Group members (listed in alphabetical order)

Cecil Abraham, *Cecil Abraham & Co, Malaysia*

Luis María Bunge Campos, *Argentinian National Court of Criminal Appeals, Argentina*

Justice Martin Daubney, *Supreme Court of Queensland, Australia*

Marco Fabri, *Research Institute on Judicial Systems (IRSIG-CNR), Italy*

Martin Forst, *Organisation for Economic Co-operation and Development (OECD), France*

Baroness Helena Kennedy, *Co-Chair, IBA Human Rights Institute, UK*

Young-Ran Kim, *Former Supreme Court Justice and Chairwoman of the Anti-Corruption and Civil Rights Commission, South Korea*

The Hon Michael Kirby, *former Justice of the High Court of Australia, Vice-Chair, IBA Human Rights Institute Council, Australia*

Wong Hong Kuan, *Director, Corrupt Practices Investigation Bureau, Singapore*

Dr Kyela Leakey, *University of Glasgow, UK*

Ministro Guillermo Ortiz Mayagoitia, *Former Chief Justice of the Supreme Court of Justice of Mexico, Mexico*

Renelie B Mayuga, *The Institute of Corporate Directors, Philippines*

Chief Justice Sundaresh Menon, *Supreme Court of Singapore, Singapore*

Pek Siok Lan, *Temasek International, Singapore*

Hon Justice Ayotunde A Phillips, *Former Chief Judge of Lagos State, Nigeria*

Professor Dr Mark Pieth, *Basel Institute on Governance, Switzerland*

Dr Alejandro Ponce, *World Justice Project, US*

Vani Sathisan, *International Legal Adviser, International Commission of Jurists, Myanmar*

Chief Justice Maria Lourdes P A Sereno, *Supreme Court of the Philippines, Philippines*

Martin Šolc, *International Bar Association, Czech Republic*

Michael Stock, *Standard Chartered Bank, UK*

Tan Siong Thye, *Deputy Attorney-General of the Republic of Singapore*

Dadang Trisasongko, *Secretary-General, Transparency International, Indonesia*

Debra Valentine, *Group Executive Legal & Regulatory Affairs, Rio Tinto, UK*

Candice Welsch, *United Nations Office on Drugs and Crime, Austria*

Robert Wyld, *Co-Chair, IBA Anti-Corruption Committee, Australia*

Justice Kevin Zervos, *High Court of Hong Kong, Hong Kong*

Annex 1: Literature review

The negative impact of corruption is globally recognised today. Regarding the role of the judicial professions, the impact is most visible in the marginalisation of the most vulnerable groups of society because it denies citizens access to justice, the impartial settlement of disputes and makes a ‘fair’ judicial process a privilege for those who can afford it. Thus, corrupt judiciaries risk fracturing and dividing communities by keeping alive the sense of injury created by unjust treatment. Where judicial processes are perceived to be compromised and corruption is tolerated, public trust in institutions erodes. As a consequence, citizens may turn to informal or traditional justice mechanisms, which may be less transparent and less equitable or may significantly have an impact on the human rights of certain groups, such as women and children.⁵⁶ Where citizens use such mechanisms, this risks further undermining the legitimacy of state institutions and the political system as a whole.⁵⁷ This has significant implications on three dimensions: (1) access to justice; (2) the quality of justice; and (3) the legitimacy of judicial actors.

The integrity of the judicial process has been identified as a key challenge across many jurisdictions worldwide.⁵⁸ Its importance has also been attested by recognised global and regional surveys, such as TI’s CPI, Eurobarometer and Latinobarometer, in which the judiciary is regularly rated to be one of the most corrupt institutions.⁵⁹

Strikingly, however, despite the broad recognition of the importance of a fair trial and an impartial judicial process to the rule of law, underscored by academic research and evaluations, there is still a lack of reliable indicators to operationalise the concepts and identify measures to enhance their realisation.

An analysis of the recognised assessments and indices on corruption, governance and the rule of law shows that they all include indicators for corruption in the judiciary and/or for judicial independence.⁶⁰ However, in all these indices, the judicial system only features as a subcategory or an element of the ‘rule of law’, or is discussed as a particular instance of public administration or general corruption risks. In addition, where judicial independence or accountability is included as a component or composite indicator, the category lacks objective measurement criteria and is thus a weak indicator with which to work.

Of the available indices, the WJP’s RoLI and the World Economic Forum’s (WEF) Global Competitiveness Index (GCI) provide the most comprehensive data on the ‘absence of corruption in the justice sector’ and ‘judicial independence’, respectively. Yet, more empirical evidence and qualitative analysis is needed to substantiate where the biggest risks arise and which roles different actors (can) play.

56 An assessment of the potential corruption risks arising with regard to traditional justice mechanisms would require further analysis which is, however, beyond the scope of this study and thus not covered in this report

57 Messick and Schütte (n 41) 48.

58 WJP, RoLI (2015).

59 TI, Corruption Perceptions Index 2014: Clean Growth at Risk (2014); Eurobarometer, *Justice in the EU*, (Flash Eurobarometer 385 2013) http://ec.europa.eu/public_opinion/flash/fl_385_en.pdf; Latinobarometer, Online Data Analysis: ‘Grado de confianza en instituciones-personas: El poder judicial’ (2013) www.latinobarometro.org/latOnline.jsp.

60 Bertelsmann Transformation Index, CPI, Worldwide Governance Indicators, WJP’s RoLI.

Previous research has shown that the key components of judicial integrity are independence (eg, from undue (political) influence) on the one hand, and accountability (towards citizens), both at an individual and institutional level, on the other hand.⁶¹ Various indicators to measure these components have been explored, but measurement problems, data availability and reliability are a challenge to all of them. While they have some merit as analytic exercises, they have only limited explanatory value: the data used does not capture important ways of measuring independence and accountability, such as undue influence on legal professionals, unless this is documented in media outlets. This would require more use of qualitative data that is rarely factored into these indices.

In general, a distinction can be made between de jure indicators, which focus on constitutional guarantees and legal texts, and de facto indicators, which try to assess the real-life situation based on observable conditions and proxies, such as perceptions of the judicial institutions to be free of corruption⁶² or the fulfilment of constitutional guarantees.⁶³ Attempts to further operationalise 'judicial independence' and 'judicial accountability' have been undertaken, most notably by the WEF and ENCJ assessments. However, data is often insufficient⁶⁴ and none of this data allows for a disaggregated analysis of corruption or control thereof in the sector.

Research has further identified a lack of systematic studies of prosecutorial corruption.⁶⁵ In addition, a need for more evidence of patterns of corruption common in the judiciary, as well as for regular assessments of corruption risks⁶⁶ and more case studies,⁶⁷ has also been identified.

At the policy level, various steps have been taken by international and regional bodies to address the identified challenges. As a consequence, there is a plethora of international standards to enhance the accountability and independence of the judiciary and the integrity of the legal professions. The 2014 annual report by the current Special Rapporteur on the Independence of Judges and Lawyers provides an overview of the existing international standards and principles relevant to the accountability and independence of justice operators.⁶⁸ In addition, the ICJ regularly compiles an overview report on the International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors, which explains how international standards can be used to strengthen the independence and accountability of judges, lawyers and prosecutors.⁶⁹

61 Gloppen (n 21) 77.

62 TI (n59); Bertelsmann Foundation, Bertelsmann Transformation Index 2014: Political Management in International Comparison (Verlag Bertelsmann Stiftung 2014); Leandro Despouy, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Right, including the Right to Development: Report of the Special Rapporteur on the Independence of Judges and Lawyers* (No A/HRC/11/41 1–29, United Nations Reports 2009).

63 Julio Rios-Figueroa, *Judicial Independence, Definition, Measurement, and Its Effect on Corruption. A Study of Latin America* (Doctoral Dissertation, New York University, 2006); Clarissa Diaz and Michael Fix 'Measuring Judicial Independence' (2012) 22(1) Law & Courts 21.

64 Diaz and Fix (n 63).

65 Messick and Schütte (n 41) 20.

66 Messick and Schütte (n 41) 22.

67 Catherine Mann, *Corruption in Justice and Security* (U4 Expert Answer, Chr Michelsen Institute 2011).

68 Human Rights Council 2014; as explained in the SR's report, the term 'justice operators' is used to refer to judges, prosecutors and lawyers. Cf A/HRC/26/32 www.ohchr.org/EN/Issues/Judiciary/Pages/Annual.aspx.

69 ICJ 2009.

Other sources that have identified or compiled relevant standards include the following:

- The UN Basic Principles;
 - Basic Principles on the Independence of the Judiciary;⁷⁰
 - The principles aim to assist judiciaries in establishing the regulatory, institutional and operational mechanisms and capacities to uphold judicial independence and impartiality and to strengthen integrity, accountability and transparency.
 - Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary;⁷¹
 - The principles call on states to ensure that the judiciary has a sufficient workforce and resources to carry out its role effectively.
 - Basic Principles on the Role of Lawyers;⁷²
 - The aim of the principles is to assist states in their task of promoting the proper role of lawyers and their independence without undue interference, essential in the fight against crime.
 - Guidelines on the Role of Prosecutors;⁷³
 - The guidelines aim to assist states in their review or development of rules for the prosecution service, in accordance with international standards and norms.
 - Draft Universal Declaration on the Independence of Justice (the Singhvi Declaration);⁷⁴
 - States have been invited to take into account the principles set forth in Dr L V Singhvi’s draft declaration in implementing the United Nations Basic Principles on the Independence of the Judiciary, which were approved in 1985.
 - 13th United Nations Crime Congress⁷⁵ ‘Doha Declaration’ on Crime Prevention and Criminal Justice;⁷⁶
 - This recently (April 2015) adopted declaration calls on all Member States ‘to make every effort to prevent and counter corruption, and to implement measures aimed at enhancing transparency in public administration and promoting the integrity and accountability of our criminal justice systems, in accordance with the United Nations Convention against Corruption’.

70 General Assembly Resolution 40/146, Basic Principles on the Independence of the Judiciary (13 December 1985).

71 Adopted by the Economic and Social Council in Resolution 1989/60 and endorsed by the General Assembly in Resolution 44/162 of 15 December 1989.

72 Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba 27 August to 7 September 1990.

73 UNODC, The Status and Role of Prosecutors, A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide (2014).

74 Draft Universal Declaration on the Independence of Justice (E/CNA/Sub 2/1988/20/ Add 1 and Add IICorr 1).

75 Thirteenth UN Congress on Crime Prevention and Criminal Justice, Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation (Doha, 12–19 April 2015).

76 The Declaration can be found online www.unodc.org/congress/index.html.

- OECD Principles for Managing Ethics in the Public Service, the UNODC Guide on Strengthening Judicial Integrity and Capacity to support their implementation and the UNODC Assessment Toolkit on the Independence, Impartiality and Integrity of the Judiciary;
 - The OECD Principles for Managing Ethics in the Public Service, issued in 1998, provide guidance to policy makers to review their integrity management systems: instruments, processes and actors. The principles support the implementation of international legal instruments developed within the framework of the OECD, as well as other organisations, such as the UN, Organisation of American States, EU and Council of Europe.⁷⁷
 - The purpose of the UNODC Assessment Toolkit on the Independence, Impartiality and Integrity of the Judiciary, published in 2006, is to guide the assessment of the judiciary, with a focus on integrity, independence and impartiality and their impact on access to justice.⁷⁸
 - The purpose of the UNODC Guide on Strengthening Judicial Integrity and Capacity, published in 2011, is to support and inform those who are tasked with reforming and strengthening the judicial systems of their countries, as well as development partners, international organisations and other providers of technical assistance who provide support to this process.⁷⁹
- Bangalore Principles of Judicial Conduct;⁸⁰
 - A code for judges that has been adopted by a number of national judiciaries and has been endorsed by three UN bodies: the Commission on Human Rights, Commission on Crime Prevention and Criminal Justice, and the Economic and Social Council.
- ECOSOC Resolution on Strengthening the Basic Principles of Judicial Conduct;
 - Resolution 2006/23 endorses the Bangalore Principles and provides guidance to states and the UNODC to support their implementation.⁸¹
 - Resolution 2007/22 also endorses the dissemination and implementation of the Bangalore Principles.⁸²
- CCPCJ 17/2 on Strengthening the rule of law through improved integrity and capacity of prosecution services;⁸³
 - The resolution focuses on the promotion of integrity in prosecution services.

77 www.oecd.org/gov/ethics/oecdprinciplesformanagingethicsinthepublicservice.htm.

78 www.unodc.org/documents/justice-and-prison-reform/cjat_eng/2_Independence_Impartiality_Integrity_of_Judiciary.pdf.

79 www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709_ebook.pdf.

80 The Bangalore Draft Code of Judicial Conduct 2001 adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, 25-26 November 2002.

81 ECOSOC 2006/23: Strengthening Basic Principles of Judicial Conduct.

82 ECOSOC 2007/22: Strengthening Basic Principles of Judicial Conduct.

83 Commission on Crime Prevention and Criminal Justice, *Strengthening the rule of law through improved integrity and capacity of prosecution services* (Resolution 17/2).

- Council of Europe Recommendation on the Independence, Efficiency and Role of Judges;⁸⁴
- European Charter on the Statute of Judges⁸⁵, which addresses:
 - selection, recruitment and training;
 - appointment and irremovability;
 - career development;
 - liability;
 - remuneration and social welfare; and
 - termination of office.
- Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors;⁸⁶
- The Commonwealth (Latimer House) Principles on the Three Branches of Government.⁸⁷

It becomes clear from this brief overview that the challenge is not so much the absence of relevant and elaborate principles but rather the implementation and enforcement thereof. With a view towards enhancing judicial integrity, it is thus important to: (1) raise the awareness of legal professionals of their rights and responsibilities; and (2) attach significant value to this in the training for judges, lawyers and administrative staff.

Organisations such as the UNODC, World Bank, WJP and TI, among others, have undertaken considerable work and provided extensive technical assistance towards achieving the objectives set out in these international principles and recommendations. Yet, significant problems remain.

Acknowledging the prevailing gaps regarding the assessment of risks and the implementation of remedies, various initiatives have been undertaken: (1) to gain more systematic knowledge of the risks characteristic to the sector; and (2) to develop measurement tools to inform policies and regulations. Of most relevance with regard to this report are TI's Global Corruption Report 2007, which focused on corruption in the justice sector,⁸⁸ the ICJ guide on judicial independence⁸⁹ and the ENCJ project on accountability and independence.⁹⁰

The TI Global Corruption Report 2007 focused particularly on two sets of problems: (1) political interference to pressure judges for rulings in favour of political or economic interests, including in corruption cases; and (2) petty bribery involving court personnel.⁹¹ It provides a thorough analysis of how judicial independence and judicial accountability can be bolstered to tackle corruption in judicial systems. While the report's contribution towards raising awareness of corruption in the sector

84 CM/Rec (2010) 12 on *Judges; independence, efficiency and responsibilities* www.coe.int/t/dghl/standardsetting/cdcj/CDCJ%20Recommendations/CMRec%282010%2912E_%20judges.pdf.

85 Issued in 1998 www.coe.int/t/dghl/monitoring/greco/evaluations/round4/European-Charter-on-Statute-of-Judges_EN.pdf.

86 Issued in 1999 www.iap-association.org/getattachment/34e49dfe-d5db-4598-91da-16183bb12418/Standards_English.aspx.

87 Published in 2009 www.cmja.org/downloads/latimerhouse/commprinthreearms.pdf.

88 TI (n 26).

89 ICJ 2009.

90 ENCJ (n 28).

91 TI (n 26).

cannot be overemphasised, it is first and foremost centred on the role of judges and the judicial system defined in a narrow sense, disregarding risks linked to other professions in the sector.

The ICJ guide takes a human rights perspective and provides an overview of relevant global and regional standards on the independence of the judicial system. It analyses legal frameworks in different countries, as well as concrete examples drawn from international practice. In addition, it

outlines the role to be played by an independent legal profession and an impartial and objective prosecuting authority.⁹²

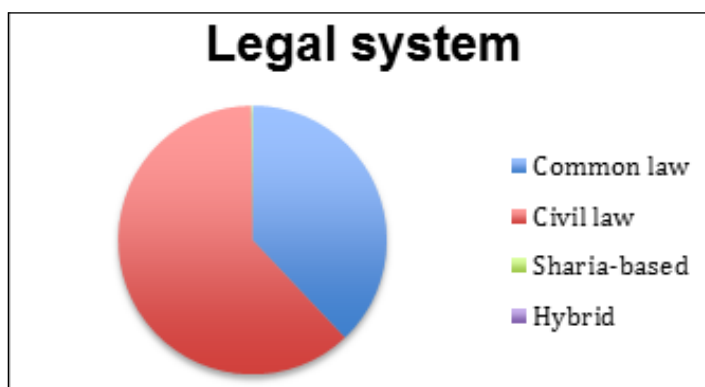
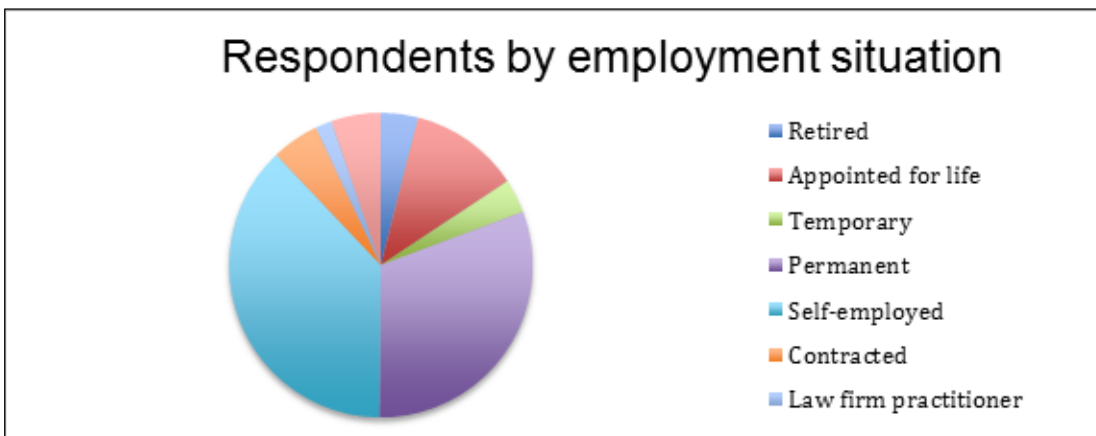
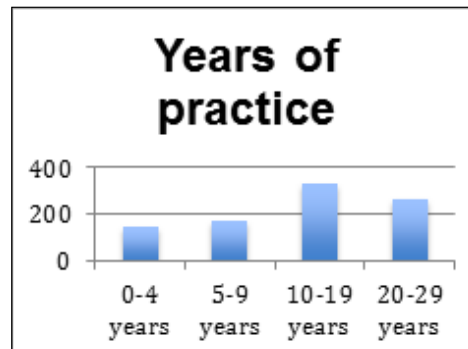
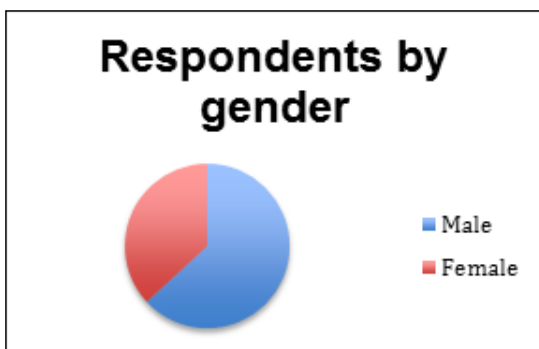
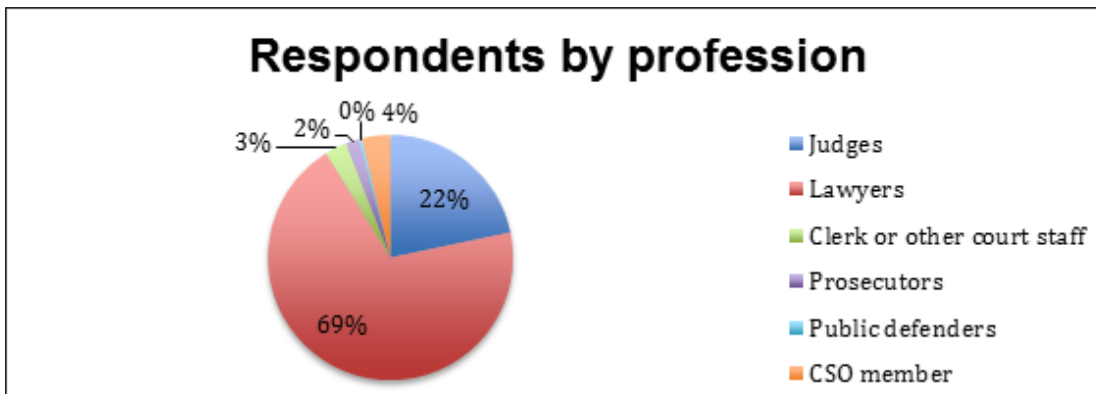
Finally, in 2013, the ENCJ started a comprehensive project aimed at developing indicators for the independence and accountability of the justice systems of the EU. A second objective was to present an ENCJ vision on the independence and accountability of the judiciary. As part of the project, the ENCJ undertook a survey among European judges on the perception of their own independence and a pilot survey among lay judges in Denmark, Norway and Sweden on their independence. Based on the surveys, the ENCJ compiled an overview of the risks threatening the independence of the judiciary and developed indicators for the objective and subjective accountability and independence for the judiciary as a whole and for judges, respectively.⁹³

92 ICJ 2009.

93 ENCJ (n 28).

Annex 2: Characterisation of the survey sample

The sample can further be characterised as follows:



Annex 3: Triangulation of data

Comparison of assessments based on survey data, WJP’s Rule of Law Index (2015) and TI’s Global Corruption Barometer (2013)

Argentina

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 93% think that corruption is a problem in Argentina <p>Judicial corruption:</p> <ul style="list-style-type: none"> 41% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 15% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 67% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 26% Lawyers 18% Prosecutors 26% Public defenders 4% Court personnel 15% 	<p>General perception:</p> <ul style="list-style-type: none"> 86% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 65% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 6% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 75% think government action is ineffective 	<p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on judicial corruption 23% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 20% <p>Political interference:</p> <ul style="list-style-type: none"> 84% think that there is government influence on judges in deciding cases <p>Perceived corruption in criminal cases:</p> <ul style="list-style-type: none"> Request for bribe by judges/magistrates 13% Request for bribe by court personnel 12%

Australia

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 1% think that corruption is a problem in Australia <p>Judicial corruption:</p> <ul style="list-style-type: none"> 1% report corruption in the judiciary <p>Bribery in the judiciary:</p> <p>No data from survey available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 2% report incidence of undue political interference in deciding cases 	<p>General perception:</p> <ul style="list-style-type: none"> 53% state corruption is a problem <p>Judicial corruption:</p> <ul style="list-style-type: none"> 28% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 5% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 52% judge the government to be ineffective in fighting corruption <p>Perceived act of corruption initiated by judicial officers:</p> <p>No data from GCB available</p>	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on judicial corruption 23% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 20% <p>Political interference:</p> <ul style="list-style-type: none"> 23% think that there is government influence on judges in deciding cases Likelihood to request bribe in the judiciary <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Initiated by judges/magistrates 13% Initiated by court personnel 12%

Austria

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 5% think that corruption is a problem in Austria <p>Judicial corruption:</p> <ul style="list-style-type: none"> 5% report corruption in the judiciary <p>Bribery in the judiciary</p> <p>No data from survey available</p> <p>Political interference</p> <ul style="list-style-type: none"> 19% report incidence of undue political interference in deciding cases 	<p>No data from GCB available</p>	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 5% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 2% <p>Political interference:</p> <ul style="list-style-type: none"> 24% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Request for bribe by judges/magistrates 6% Corruption initiated by court personnel 6%

Belgium

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 16% think that corruption is a problem in Belgium <p>Judicial corruption:</p> <ul style="list-style-type: none"> 2% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 2% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 14% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 2% Lawyers 1% Prosecutors 1% Public defenders – no data available Court personnel 1% 	<p>General perception:</p> <ul style="list-style-type: none"> 66% state corruption is a problem <p>Judicial corruption:</p> <ul style="list-style-type: none"> 43% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 6% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 49% judge government ineffective in fighting corruption <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 51% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 15% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 4% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 31% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/ magistrates 10% Corruption initiated by court personnel 9%

Brazil

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 89% think that corruption is a problem in Brazil <p>Judicial corruption:</p> <ul style="list-style-type: none"> 27% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 28% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 61% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 23% Lawyers 6% Prosecutors 17% Public defenders 17% Court personnel 22% 	<p>General perception:</p> <ul style="list-style-type: none"> 88% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 50% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <p>No data from GCB available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 56% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 46% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption</p> <ul style="list-style-type: none"> Not going to court based on corruption 24% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 36% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 77% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Request for bribe by judges/magistrates 9% Corruption initiated by court personnel 27%

Canada

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 4% think that corruption is a problem in Canada <p>Judicial corruption:</p> <p>No data from survey available</p>	<p>General perception:</p> <ul style="list-style-type: none"> 54% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 25% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 3% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 55% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 38% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 3% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 9% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 26% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 5% Corruption initiated by court personnel 5%

Chile

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 5% think that corruption is a problem in Chile <p>Judicial corruption:</p> <ul style="list-style-type: none"> 10% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> No data from survey available <p>Political interference:</p> <ul style="list-style-type: none"> 20% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 20% Lawyers % Prosecutors 15% Public defenders 10% Court personnel – no data available 	<p>General perception:</p> <ul style="list-style-type: none"> 76% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 67% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 6% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 63% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 58% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 9% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 27% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 70% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 13% Corruption initiated by court personnel 12%

Costa Rica

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 43% think that corruption is a problem in Costa Rica <p>Judicial corruption:</p> <ul style="list-style-type: none"> 21% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 16% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 40% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 100% Lawyers 7% Prosecutors 100% Public defenders 50% Court personnel 100% 	<p>No data from GCB available</p>	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 16% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 42% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 49% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 13% Corruption initiated by court personnel 12%

Denmark

Survey data	Global Corruption Barometer	Rule of Law Index
No data from GCB available	<p>General perception:</p> <ul style="list-style-type: none"> 12% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 5% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 1% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 28% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 11% of respondents feel that civil servants/ public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption % <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 3% <p>Political interference:</p> <ul style="list-style-type: none"> 11% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <p>No data from RoLI available</p>

England

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 2% think that corruption is a problem in England <p>Judicial corruption:</p> <p>No data from survey available</p> <p>Bribery in the judiciary:</p> <p>No data from survey available</p> <p>Political interference:</p> <p>No data from survey available</p> <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 1% Lawyers 2% Prosecutors 1% Public defenders 1% Court personnel 1% 	<p>General perception:</p> <ul style="list-style-type: none"> 61% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 24% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 21% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 62% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 45% of respondents feel that civil servants/ public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 3% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 7% <p>Political interference:</p> <ul style="list-style-type: none"> 29% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 4% Corruption initiated by court personnel 4%

Finland

Survey data	Global Corruption Barometer	Rule of Law Index
No data from survey available	<p>General perception:</p> <ul style="list-style-type: none"> 26% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 9% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <p>No data from GCB available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 36% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 25% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 3% <p>Bribery in the judiciary:</p> <p>No data from RoLI available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 21% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <p>No data from RoLI available</p>

France

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 69% think that corruption is a problem in France <p>Judicial corruption:</p> <p>No data from survey available</p> <p>Bribery in the judiciary:</p> <p>No data from survey available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 31% report incidence of undue political interference in deciding cases 	<p>General perception:</p> <ul style="list-style-type: none"> 74% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 34% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <p>No data from GCB available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 50% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 48% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Perceived corruption in civil cases:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 9% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 16% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 43% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges/magistrates – no data from RoLI available Corruption initiated by court personnel 2%

Germany

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 2% think that corruption is a problem in Germany <p>Judicial corruption:</p> <p>No data from survey available</p> <p>Bribery in the judiciary:</p> <p>No data from survey available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 2% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges – no data available Lawyers – no data available Prosecutors 2% Public defenders – no data available Court personnel – no data available 	<p>General perception:</p> <ul style="list-style-type: none"> 65% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 20% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <p>No data from GCB available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 51% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 49% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 2% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 1% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 29% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 4% Corruption initiated by court personnel 2%

India

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 73% think that corruption is a problem in India <p>Judicial corruption:</p> <ul style="list-style-type: none"> 33% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 40% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 40% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 7% Lawyers – no data available Prosecutors 7% Public defenders – no data available Court personnel 7% 	<p>General perception:</p> <ul style="list-style-type: none"> 80% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 45% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 36% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 68% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 65% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from GCB available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 56% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 43% <p>Political interference:</p> <ul style="list-style-type: none"> 41% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 38% Corruption initiated by court personnel 78%

Italy

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 71% think that corruption is a problem in Italy <p>Judicial corruption:</p> <p>No data from survey available</p> <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 21% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 64% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 14% Lawyers – no data available Prosecutors 14% Public defenders – no data available Court personnel 7% 	<p>General perception:</p> <ul style="list-style-type: none"> 87% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 47% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 12% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 61% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 61% of respondents feel that civil servants/ public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 11% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 19% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 58% think that there is government influence <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 9% Corruption initiated by court personnel 10%

Mexico

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 82% think that corruption is a problem in Mexico <p>Judicial corruption:</p> <ul style="list-style-type: none"> 64% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 82% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 73% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 19% Lawyers 10% Prosecutors 36% Public defenders 19% Court personnel 10% 	<p>General perception:</p> <ul style="list-style-type: none"> 94% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 80% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 55% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 73% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 87% of respondents feel that civil servants/ public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 70% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 70% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 91% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 31% Corruption initiated by court personnel 75%

New Zealand

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 35% think that corruption is a problem in New Zealand <p>Judicial corruption:</p> <ul style="list-style-type: none"> 40% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 30% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 35% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 30% Lawyers 25% Prosecutors 30% Public defenders 15% Court personnel 25% 	<p>General perception:</p> <ul style="list-style-type: none"> 47% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 20% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 3% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 44% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 25% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 6% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 24% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 4% think that there is government influence on judges in deciding cases. <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 8% Corruption initiated by court personnel 8%

Nigeria

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 79% think that corruption is a problem in Nigeria <p>Judicial corruption:</p> <ul style="list-style-type: none"> 48% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 50% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 67% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 19% Lawyers 6% Prosecutors 17% Public defenders 6% Court personnel 15% 	<p>General perception:</p> <ul style="list-style-type: none"> 94% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 66% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 24% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 75% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 69% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 55% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 60% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 68% think that there is government influence on judges in deciding cases. <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 28% Corruption initiated by court personnel 68%

Philippines

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 70% think that corruption is a problem in the Philippines <p>Judicial corruption:</p> <ul style="list-style-type: none"> 38% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 40% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 33% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 23% Lawyers 23% Prosecutors 25% Public defenders 13% Court personnel 21% 	<p>General perception:</p> <ul style="list-style-type: none"> 83% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 56% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 10% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 28% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 64% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 80% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 70% think that judicial officers do not move cases unless they are paid bribe <p>Political interference:</p> <ul style="list-style-type: none"> 26% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 49% Corruption initiated by court personnel 68%

Poland

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 22% think that corruption is a problem in Poland <p>Judicial corruption:</p> <ul style="list-style-type: none"> 7% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 7% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 19% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges % Lawyers % Prosecutors % Public defenders % Court personnel % 	<p>No data from GCB available</p>	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 10% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 6% <p>Political interference:</p> <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 8% Corruption initiated by court personnel 19%

Portugal

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 38% think that corruption is a problem in Portugal <p>Judicial corruption:</p> <p>No data from survey available</p> <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> % report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 16% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <p>No data from survey available</p>	<p>General perception:</p> <ul style="list-style-type: none"> 90% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 66% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 2% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 76% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 46% of respondents feel that civil servants/ public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 1% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 13% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 56% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 6% Corruption initiated by court personnel 14%

Russia

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 66% think that corruption is a problem in Russia <p>Judicial corruption:</p> <ul style="list-style-type: none"> 36% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 34% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 54% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 42% Lawyers 22% Prosecutors 46% Public defenders 8% Court personnel 10% 	<p>General perception:</p> <ul style="list-style-type: none"> 93% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 84% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <p>No data from GCB available</p> <p>Political interference:</p> <ul style="list-style-type: none"> 77% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 92% of respondents feel that civil servants/ public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 62% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Bribes paid before cases are moved 54% <p>Political interference:</p> <ul style="list-style-type: none"> 66% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 38% Corruption initiated by court personnel 34%

South Korea

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 33% think that corruption is a problem in South Korea <p>Judicial corruption:</p> <ul style="list-style-type: none"> 25% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 17% report bribery incidence within the judiciary <p>Political interference</p> <ul style="list-style-type: none"> 38% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 5% Lawyers 5% Prosecutors 17% Public defenders – no data available Court personnel – no data available 	<p>No data from GCB available</p>	<p>No data from RoLI available</p>

Spain

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 60% think that corruption is a problem in Spain <p>Judicial corruption:</p> <ul style="list-style-type: none"> 19% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 6% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 50% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 11% Lawyers 3% Prosecutors 9% Public defenders – no data available Court personnel 7% 	<p>General perception:</p> <ul style="list-style-type: none"> 88% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 51% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 2% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 71% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 42% of respondents feel that civil servants/ public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 1% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 50% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 64% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 5% Corruption initiated by court personnel 8%

Sweden

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 8% report incidence of undue political interference in deciding 	No data from GCB available	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <p>No data from RoLI available</p> <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 21% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 21% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <p>No data from RoLI available</p>

Turkey

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 50% think that corruption is a problem in Turkey <p>Judicial corruption:</p> <ul style="list-style-type: none"> 50% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 25% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 83% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 58% Lawyers – no data available Prosecutors 58% Public defenders 25% Court personnel 33% 	<p>General perception:</p> <ul style="list-style-type: none"> 68% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 43% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> Civil servants/public officials 42% NGOs 34% Judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 43% believe the judiciary are subject to political interference 13% report having paid a bribe to the judiciary <p>Perceived act of corruption initiated by judicial officers:</p> <p>No data from GCB available</p>	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 37% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 56% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 66% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 11% Corruption initiated by court personnel 41%

Uganda

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 100% think that corruption is a problem in Uganda <p>Judicial corruption:</p> <ul style="list-style-type: none"> 73% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 87% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 60% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 33% Lawyers 33% Prosecutors 40% Public defenders 13% Court personnel 20% 	<p>General perception:</p> <ul style="list-style-type: none"> 87% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 79% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 58% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 62% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 73% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 56% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 67% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 81% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 50% Corruption initiated by court personnel 88%

Ukraine

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 67% think that corruption is a problem in Ukraine <p>Judicial corruption:</p> <ul style="list-style-type: none"> 44% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 44% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 47% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 21% Lawyers 13% Prosecutors 24% Public defenders 6% Court personnel 5% 	<p>General perception:</p> <ul style="list-style-type: none"> 88% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 87% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 21% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 80% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 82% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 83% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 80% think that judicial officers do not move cases unless they are paid bribes <p>Political interference:</p> <ul style="list-style-type: none"> 81% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 52% Corruption initiated by court personnel 33%

United States

Survey data	Global Corruption Barometer	Rule of Law Index
<p>General perception:</p> <ul style="list-style-type: none"> 6.38% think that corruption is a problem in the US <p>Judicial corruption:</p> <ul style="list-style-type: none"> 4.26% report corruption in the judiciary <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 2% report bribery incidence within the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 15% report incidence of undue political interference in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Judges 4% Lawyers % Prosecutors 4% Public defenders % Court personnel % 	<p>General perception:</p> <ul style="list-style-type: none"> 69% think that corruption is a problem in the public sector <p>Judicial corruption:</p> <ul style="list-style-type: none"> 42% of respondents feel that the judiciary is corrupt/extremely corrupt <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 15% report having paid a bribe to the judiciary <p>Political interference:</p> <ul style="list-style-type: none"> 59% think government action is ineffective <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> 55% of respondents feel that civil servants/public officials are corrupt 	<p>General perception:</p> <p>No data from RoLI available</p> <p>Judicial corruption:</p> <ul style="list-style-type: none"> Not going to court based on corruption 5% <p>Bribery in the judiciary:</p> <ul style="list-style-type: none"> 25% think that judicial officers do not move cases unless they are paid bribes: <p>Political interference:</p> <ul style="list-style-type: none"> 36% think that there is government influence on judges in deciding cases <p>Perceived act of corruption initiated by judicial officers:</p> <ul style="list-style-type: none"> Corruption initiated by judges/magistrates 4% Corruption initiated by court personnel 5%

Annex 4: Survey questionnaire

Thank you for agreeing to take part in this important survey, which forms part of the IBA JII. The survey is being conducted by the IBA and the ‘Basel Institute’.

The Basel Institute is an independent non-profit competence centre that works globally with the public and private sectors to counter corruption and other financial crimes and improve the quality of governance. Its areas of work cover asset recovery, public and corporate governance and collective action. Mark Pieth, who is the Professor of Criminal Law and Criminology at the University of Basel, Switzerland, is the head of the Foundation Board of the Basel Institute. From 1990 to the end of 2013, Pieth chaired the OECD Working Group on Bribery in International Business Transactions.

The IBA and Basel Institute acknowledge the efforts of members of the judiciary in fighting corruption and encouraging the independence and impartiality in judicial decision-making. The JII aims to contribute to these efforts by raising awareness of the causes and consequences of judicial corruption where it exists, promoting the highest standards of integrity among lawyers and judges, and considering how countries have worked effectively to eliminate judicial corruption.

This survey is the first part of the JII. In this first part, the JII aims to identify how corruption may occur within the judiciary in your country, by understanding the kinds of interactions between judges, lawyers and other professionals working in and with the judiciary who may be vulnerable to corruption. The outcome of the survey and the detailed literature review, and in-depth case studies by the IBA and Basel Institute will be used to develop a report on the manner in which judicial corruption arises.

The second part of the JII will involve the consideration and implementation of activities designed to combat judicial corruption. The nature of these activities will be determined by the findings set out in the report.

The questionnaire should take about 45 minutes to complete. All the answers you provide will be anonymous and will be kept in the strictest confidentiality. They are only accessible to those members of the IBA’s Legal Projects Team and Basel Institute who are directly involved in the JII and will be deleted upon completion of the project.

The survey is being disseminated globally; therefore, many of the concepts and categories included are treated in generic terms (eg, public functions, professional categories and socioeconomic status). You are kindly asked to provide your responses in accordance with the categories and criteria that are applicable in your country.

While this survey is focused on judicial corruption in your country, the JII also proposes to enquire into any experience you may have had with judicial corruption in other countries. If you have experienced judicial corruption in jurisdictions other than your own, would you be interested in taking part of a follow up study on this topic? (Yes/No)

If yes, please provide an email address:

For the purpose of this survey, please note the following definition of terms:

- judiciary is defined as ‘pertaining or relating to the courts of justice, to the judicial department of government, or to the administration of justice’;
- judicial corruption is defined as ‘all forms of inappropriate influence that may damage the impartiality of justice and may involve any actor within the justice system, including (but not limited to) judges, lawyers, administrative court support staff, parties and public servants’;
- bribery is defined as encompassing:
 - the promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; or
 - the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
- extortion is defined as an extension of the act of bribery and states that ‘the solicitation of bribes is the act of asking or enticing another to commit bribery, thus it becomes extortion when this demand is accompanied by threats that endanger the personal integrity or the life of the actors involved’;
- political influence is defined as the manipulation of policies, institutions and rules of procedure including, but not exclusively, in the allocation of resources and financing by political decision-makers, who abuse their position to sustain their power, status and wealth;
- misuse of funds is defined as an act by a person who holds office in an institution, organisation or company and who dishonestly and illegally appropriates, uses or traffics public funds, public property or public assets, directly or indirectly for personal enrichment – or the enrichment of others – or other activities;
- commercial disputes means disputes of a commercial or business nature involving businesses or individuals; and
- civil status disputes means disputes relevant to an individual’s personal status, such as divorce, custody or other family law disputes.

Generic questions to categorise respondents:

- What country are you from?
- What is your gender? (Female/Male)
- In which age group are you? (18–24/25–34/35–44/45–54/55–64/65 and above)

- What is your profession? (Choose one of the following answers)
 - Judge
 - Lawyer
 - Clerk or other court staff
 - Prosecutor
 - Public defender
 - Civil society organisation member
- What is your current employment situation? (Choose one of the following answers)
 - Retired
 - Appointed for life
 - Temporary
 - Permanent
 - Self-employed
 - Contracted
 - In-house/corporate counsel
 - Law firm practitioner
- What is your place of duty? (Choose one of the following answers)
 - Central level (eg, national)
 - Subnational level (eg, state, provincial or regional)
 - Other
 - What legal system do you work in? (Choose one of the following answers)
 - Common law
 - Civil law
 - Sharia based law
 - Hybrid
- For how many years have you been practicing? (Choose one of the following answers)
 - 0–4 years
 - 5–9 years
 - 10–19 years

- 20–29 years
- 30–39 years
- 40 years or more

1. How would you rate the overall level of corruption in your country?

Very high	High	Moderate	Low	Very low
5	4	3	2	1

2. How would you rate the level of corruption in the judiciary in your country at the following levels?

	Very high	High	Moderate	Low	Very low
	5	4	3	2	1
Overall					
Centralised (eg, federal)					
Subnational (eg, state)					

3. (i) Rate the incidence of the following types of corrupt conduct occurring in the judiciary in your jurisdiction, either directly or through an intermediary:

	Very high	High	Moderate	Low	Very low
	5	4	3	2	1
Bribery					
Political interference					
Extortion					
Misuse of funds					
Other					

3. (ii) If you ticked 'other' in question 3(i), please describe the type of corrupt conduct that has occurred.

In your experience, have you, or do you know of any other person who works within the judicial system who has encountered any form of judicial corruption, bribery, extortion, political influence or misuse of funds as defined above?

(Yes/No)

4. Rate the perceived incidence of corrupt conduct in your jurisdiction involving the legal profession with respect to bribing:

Do you have knowledge of actual incidents of this kind? (Please tick yes or no)

(i) Bribing of –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Prosecutors						
Public defenders						
Court personnel						

Regulatory authorities						
Investigators						
Commercial dispute litigants						
Civil status disputes litigants						
Defendants in criminal prosecutions						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of corrupt conduct in your jurisdiction involving the legal profession with respect to political interference:

Do you have knowledge of actual incidents of this kind? (Please tick yes or no)

(ii) Political interference aimed at –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/Mo
	5	4	3	2	1	
Judges						
Lawyers						
Prosecutors						
Public defenders						
Court personnel						
Regulatory authorities						
Investigators						
Commercial dispute litigants						
Civil status disputes litigants						
Defendants in criminal prosecutions						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of corrupt conduct in your jurisdiction involving the legal profession with respect to extortion:

Do you have knowledge of actual incidents of this kind? (Please tick yes or no)

(iii) Extortion targeting –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Prosecutors						
Public defenders						
Court personnel						
Regulatory authorities						
Investigators						
Commercial dispute litigants						

Civil status disputes litigants						
Defendants in criminal prosecutions						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of corrupt conduct in your jurisdiction involving the legal profession with respect to misuse of funds:

Do you have knowledge of actual incidents of this kind? (Please tick yes or no)

(iv) Misuse of funds by the following:

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Prosecutors						
Public defenders						
Court personnel						
Regulatory authorities						
Investigators						
Commercial dispute litigants						
Civil status disputes litigants						
Defendants in criminal prosecutions						
Expert witnesses						
Witnesses generally						

5. Rate the perceived incidence of judges initiating corrupt conduct, either directly or through an intermediary, with the following parties in your jurisdiction:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

(i) With –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Other judges						
Lawyers						
Prosecutors						
Public defenders						
Court personnel						
Regulatory authority representative						
Criminal defendants						
Commercial dispute litigants						
Civil status disputes litigants						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of lawyers initiating corrupt conduct, either directly or through an intermediary, with the following parties in your jurisdiction:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

(ii) With –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Other lawyers						
Prosecutors						
Public defenders						
Court personnel						
Regulatory authority representative						
Investigators						
Criminal defendants						
Commercial dispute litigants						
Civil status disputes litigants						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of prosecutors initiating corrupt conduct, either directly or through an intermediary, with the following parties in your jurisdiction:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

(iii) With –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Other prosecutors						
Public defenders						
Court personnel						
Regulatory authority representative						
Investigators						
Criminal defendants						
Commercial dispute litigants						
Civil status disputes litigants						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of public defenders initiating corrupt conduct, either directly or through an intermediary, with the following parties in your jurisdiction:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

(iv) With –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Prosecutors						
Other public defenders						
Court personnel						
Regulatory authority representative						
Investigators						
Criminal defendants						
Commercial dispute litigants						
Civil status disputes litigants						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of court personnel initiating corrupt conduct, either directly or through an intermediary, with the following parties in your jurisdiction:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

(v) With –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Prosecutors						
Public defenders						
Other court personnel						
Regulatory authority representative						
Investigators						
Criminal defendants						
Commercial dispute litigants						
Civil status disputes litigants						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of defendants in criminal prosecutions initiating corrupt conduct, either directly or through an intermediary, with the following parties in your jurisdiction:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

(vi) With –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Prosecutors						
Public defenders						
Court personnel						
Regulatory authority representative						
Investigators						
Other defendants						
Expert witnesses						
Witnesses generally						

Rate the perceived incidence of commercial dispute/civil status dispute litigants initiating corrupt conduct, either directly or through an intermediary, with the following parties in your jurisdiction:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

(vii) With –

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
	5	4	3	2	1	
Judges						
Lawyers						
Public defenders						
Court personnel						
Regulatory authority representative						
Other litigants						
Expert witnesses						
Witnesses generally						

6. (i) How frequently are intermediaries (external parties) involved in facilitating corrupt conduct in the judiciary in your jurisdiction?

Do you have knowledge of incidents of this kind? (Please tick yes or no)

Always	Frequently	Sporadically	Rarely	Never	Yes/No

(ii) Who are most commonly the intermediaries? (Please choose one)

- Agent

- Consultant
- Corporate vehicle
- Lawyer
- Family
- Associate
- Accountant
- Banker
- Financial adviser
- Other

7. In your view, what are the intended outcomes of corrupt conduct in the judiciary in your jurisdiction – with respect to bribing:

Do you have knowledge of incidents of this kind? (Please tick yes or no)

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
Select a preferred judge to determine a case/action						
Select a preferred prosecutor for a criminal case						
Select a preferred jury (if applicable)						
Attain a preferred outcome in criminal cases						
Attain a preferred outcome in commercial disputes						
Attain a preferred outcome in civil status disputes						
Initiate unwarranted proceedings against a third party						
Delay or accelerate judicial procedures						
Influence the availability/unavailability of witnesses						
Influence kind/severity of sanctions						
Influence the application/enforcement of sanctions						

In your view, what are the intended outcomes of corrupt conduct in the judiciary in your jurisdiction – with respect to political interference?

Do you have knowledge of incidents of this kind? (Please tick yes or no)

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
Select a preferred judge to determine a case/action						
Select a preferred prosecutor for a criminal case						

Select a preferred jury (if applicable)						
Attain a preferred outcome in criminal cases						
Attain a preferred outcome in commercial disputes						
Attain a preferred outcome in status civil disputes						
Initiate unwarranted proceedings against a third party						
Delay or accelerate judicial procedures						
Influence the availability/unavailability of witnesses						
Influence kind/severity of sanctions						
Influence the application/enforcement of sanctions						

In your view, what are the intended outcomes of corrupt conduct in the judiciary in your jurisdiction – with respect to extortion?

Do you have knowledge of incidents of this kind? (Please tick yes or no)

	Very common	Common	Sporadic	Uncommon	Very uncommon	Yes/No
Select a preferred judge to determine a case/action						
Select a preferred prosecutor for a criminal case						
Select a preferred jury (if applicable)						
Attain a preferred outcome in criminal cases						
Attain a preferred outcome in commercial disputes						
Attain a preferred outcome in civil status disputes						
Initiate unwarranted proceedings against a third party						
Delay or accelerate judicial procedures						
Influence the availability/unavailability of witnesses						
Influence kind/severity of sanctions						
Influence the application/enforcement of sanctions						

8. Please indicate which groups are most likely to resort to some form of corrupt conduct when dealing with the judiciary in your jurisdiction:

	Very likely 5	Likely 4	Sporadic 3	Unlikely 2	Very unlikely 1
Low-income citizens					
Middle-income citizens					
Wealthy citizens					

Current government officials					
Former government officials					
Current politicians					
Former politicians					
Small and medium-sized national enterprises					
Small and medium-sized international enterprises					
Large national corporations					
Large international corporations					
Non-government or social organisations/charities					
Professional/industry/trade associations					
Members of organised criminal networks					

Please indicate the most common form of corrupt conduct by groups when dealing with the judiciary.

Do you have knowledge of actual incidents of this kind? (Please tick yes or no)

	Bribing	Political interference	Extortion	Misuse of funds	Yes/No
Low-income citizens					
Middle-income citizens					
Wealthy citizens					
Current government officials					
Former government officials					
Current politicians					
Former politicians					
Political leaders					
Small and medium-sized national enterprises					
Small and medium-sized international enterprises					
Large national corporations					
Large international corporations					
Non-government or social organisations/charities					
Professional/industry/trade associations					
Members of organised criminal networks					

10. Please indicate whether you think that in your country there is a widely held expectation that one or more of the following occurs: (several answers possible – please check any that apply)

The outcome of a criminal court proceeding can be bought by bribing a judge	
The outcome of a civil court proceeding can be bought by bribing a judge	
The outcome of an administrative court proceeding can be bought by bribing a judge	
Public defenders or court appointed lawyers request bribes as a condition to defend their clients effectively	
Important political figures are untouchable	
Wealthy individuals are untouchable	
Lawyers facilitate the cover up of their clients' criminal activities	
Prosecutors are not truly independent/respond to political requests	
Court clerks are used to facilitate corrupt conduct	
Judges misuse their position as a revolving door to enter politics	
The judicial process is used to intimidate/suppress political opposition	

11. At a general level, what would you perceive to be the most important kind of incentive for professionals in the judiciary to acquiesce into engaging in acts of corruption in your jurisdiction? (Please tick only one answer)

- (i) Material benefits – for oneself, for one or more family members or for the professional's community
- (ii) Rewards through better appointments
- (iii) Expectation of deference towards political authorities
- (iv) Fear of losing one's job
- (v) Lack of independent oversight
- (vi) The judiciary, or important parts of it, are too close to the government/politicians

12. Rate the prevalence of corruption for each stage of the judicial process:

	Very frequent 5	Frequent 4	Sporadic 3	Infrequent 2	Very infrequent 1
Overall proceeding					
Engaging a legal representative					
Filing an action					
Action allocation to a judge					
Case admission					
Availability of judge					
Prosecutor discretion					
Charging (in the criminal process)					
Court proceedings					

Witness availability					
Sentencing					
Filing an appeal					
Appeal process					
Enforcement of sanctions					

13 Rate the prevalence of corruption for different kinds of cases in the judicial process:

	Very frequent 5	Frequent 4	Sporadic 3	Infrequent 2	Very infrequent 1
Criminal cases					
General civil cases					
Commercial cases					
Administrative cases					
Labour law and social security cases					
Constitutional cases					
Financial and tax cases					
Environmental cases					
Property cases					
Family cases					
Enforcement procedure					
Bankruptcy cases					

14. Which of the following groups has the most influence over the judiciary in your jurisdiction?
(Please choose one of the following answers)

Low-income citizens
Middle-income citizens
Wealthy citizens
Current government officials
Former government officials
Current politicians
Former politicians
Small and medium national enterprises
Small and medium international enterprises
Large national corporations
Large international corporations
Non-government or social organisations
Professional/industry/trade associations
Members of organised criminal networks
Other (allow for open ended answers)
None of the above

15. Which of the two following statements do you find best represents the situation in your country?

- (i) The quality of the laws governing the judiciary reflects a clear commitment of the part of the political leadership to guarantee the independence and accountability of the judiciary.

- (ii) The quality of the laws governing the judiciary reflects an intention on the part of political leadership to constrain the independence and accountability of the judiciary in favour of particular interests.

16. In your opinion, what would be the most important factor underlying corruption risks in the judiciary in your jurisdiction? (Please choose three of the following answers)

- Desire of influential political figures to cover their own corrupt conduct
- Mutual interests of business groups and certain politicians or political leaders
- Mutual interests between members of organised criminal networks and certain politicians or political leaders
- Partisan agendas of key figures in the judiciary
- Absence of clear laws and regulations governing the judiciary
- Lack of awareness about own rights and entitlements
- Absence of external oversight, independent or otherwise
- Social acceptance of corruption
- Corruption is endemic across all institutions of the public sector
- Low salaries
- The status of the legal profession in your jurisdiction
- Lack of integrity education among the legal profession

17. Is there a bias in the appointment of judges based on one of the following:

- (i) race
- (ii) ideology
- (iii) religion
- (iv) other

Do any of the aforementioned biases influence the conduct of judges? (Yes/No)

18. How would you evaluate the role of civil society in exposing corruption in the judiciary?

Highly ineffective	Moderately ineffective	Inconsistent	Moderately effective	Highly effective
5	4	3	2	1

19. How would you characterise the role of the media in exposing corruption in the judiciary?

Highly ineffective	Moderately ineffective	Inconsistent	Moderately effective	Highly effective
5	4	3	2	1

20. Are there any legal prohibitions prevailing in your jurisdiction that make it difficult for a person to provide a public comment on judicial judgments? (Yes/No)

Finally, we would like to offer you the possibility of elaborating on specific aspects of the survey that you consider may be relevant to understanding corruption in the judiciary in your country but may be either missing in the survey or not sufficiently detailed. To this end, we offer the possibility of having a telephone conversation with one of the researchers involved in this project. If you are interested in this option or should you have any questions linked to the questionnaire, kindly contact Claudia Baez Camargo (claudia.baez-camargo@baselgovernance.org) and Rocio Paniagua (rocio.paniagua@int-bar.org).

Thank you for participating in this survey!

International Bar Association
4th Floor, 10 St Bride Street
London EC4A 4AD
United Kingdom
Tel: +44 (0)20 7842 0090
www.ibanet.org

Basel Institute on Governance
Steinenring 60 | 4051 Basel
Switzerland
Tel: +41 61 205 55 11
info@baselgovernance.org
www.baselgovernance.org
