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Connecting with the Courts: Online Access to State Judicial Systems

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ABSTRACT

Access to the legal system is critical in any democracy. In this article, we extend past research by exploring a new and twenty-first century dimension of access—namely, access to a state's court system through its judiciary website. Using data from all fifty state judiciary websites, we find that online access is associated with the complexity and efficiency of the court system and, to a lesser extent, state-level Internet penetration and the size of the legal community, while partisan control generally has a modest or null effect. This suggests that practical or administrative considerations are more influential than political considerations when establishing online access to state courts.

KEYWORDS

State courts; judiciary; websites; online access

The phrase “equal justice under law” has ancient roots yet perhaps is best known for being engraved on the front of the United States Supreme Court building and many other courthouses across the country. The phrase carries a specific meaning regarding the importance of guaranteeing legal rights and fair treatment to all citizens in a democracy. It is also strongly connected to the Equal Protection Clause of the Fourteenth Amendment and the movement that has shaped the United States for much of the past one hundred years. Embedded within that phrase is the ideal that in order for the law to provide equal justice to all citizens in a democracy, *access* to the law and the legal system must be equal and sufficient as well. Open access is a fundamental principle of our legal system, and courts should aspire to be as transparent and informative as possible to ensure their legitimacy.

Yet some have argued that U.S. courts have fallen short of this ideal (Rhode 2004). Legal scholars have spent considerable time and energy documenting barriers to the legal system. Much of the literature surrounding “access to justice” has centered on race and economic considerations, the right to an attorney, as well as representation provided by interest groups. We aim to extend and to integrate previous lines of inquiry by incorporating a new dimension of access to the courts—a twenty-first-century dimension—namely, access to a state's court system through its judiciary website.

Average citizens are now more likely to access courts online than through the phone or in person (Smith 2010). This stems from the fact that the Internet, as it has been shown to revolutionize other aspects of our daily lives (e.g., Sunstein 2001; Schmidt and Cohen 2013), has the potential to provide citizens with unparalleled access to their government. Government agencies, including the courts, can now offer extensive information about their activities—information that citizens seem to value (Smith 2010, 14). In this article, we establish the degree to which state courts provide access and information online. We are particularly interested in the existence, functionality, and accessibility of online mechanisms aimed at providing citizens with information and engagement opportunities (e.g., information

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about court cases, procedures, and locations as well as opportunities to comment, interact, or participate). We then analyze the factors associated with differing levels of online access across the fifty states. Here we focus on the relative importance of political and practical motivations—namely, the role played by partisanship and administrative capacity.

Our content analysis and search of all fifty state judiciary websites reveals considerable variance in terms of access, which is explained by the complexity and efficiency of the court system and, to a lesser extent, state-level Internet penetration and the size of the legal community. Unlike past work on the question of “access to justice,” we find that partisan political control of state institutions has only an occasional effect.

Our research offers a new take on what it means to have access to our legal system. Namely, we argue that connecting to one’s state court system via the Internet is a crucial link for citizens in the twenty-first century. While most scholars would generally agree that our legal system has evolved and improved considerably in terms of its ability to provide citizens with “better” access to the courts, we argue that the next frontier of access to court systems—the dimension that should now merit considerable scrutiny—will be of the digital variety. The universal adoption of state court websites provides an ideal venue for investigating citizen access, and it allows us to show that even though court systems perform similar legal and political functions in each of the fifty states, their websites vary widely on a number of key dimensions, such as their organization, membership, and institutional structure. This speaks to the longstanding presumption that state governments often act as “laboratories of democracy.” It thus provides a new sense of what states are doing to engage citizens with the legal process.

Access to Courts

Access to the courts has been examined from a number of important dimensions. While it is impossible to cover all avenues, it is helpful to highlight some of the key aspects of these different dimensions. Perhaps the most prominent lens through which access to the courts has been studied has been race. For example, Tushnet (2005) details the litigation strategy of the NAACP and its Legal Defense Fund as it challenged the segregated educational system from 1925 until the Supreme Court’s decision in *Brown v. Board of Education* (1954). Klarman (2004) also addresses the historical era from 1900–1950 and provides important insights about the litigation strategy of accessing the courts and how it solidified a civil rights consciousness. These studies, and others that focus on accessing the courts after having been denied access to the other government institutions, are closely linked to party disadvantage theory. This theory posits that groups litigate (i.e., pursue justice in the courts) because they lack access to more traditional political forums, such as Congress and the executive branch—the elected branches (see Brodie 2002 for a review). Furthermore, the importance of access to the courts is highlighted by studies in public opinion that show evidence that blacks and whites discern and inhabit separate realities when viewing the criminal justice system (Peffley and Hurwitz 2010).

The economically disadvantaged have also been a particular focus. Galanter (1974) first provided a framework for helping us understand why the “haves” maintain an advantage, part of which stems from their ability to obtain more and repeated access to the legal system and also their focus on “playing for the rules” of the game rather than for short-term, expedient resolutions to the dispute at hand, as infrequent court users might. This theory has often been discussed under the name “party capability theory.” In addition, Lawrence (1990) notes that throughout much of our history, few of the poor had access to the courts for redress of grievances and shaping legal policy. Lawrence goes on to note that much of that changed in the 1960s when the Supreme Court began to devote substantial attention to poverty issues as well as the creation of the Legal Services Program. In fact, in articulating why the link between court access and justice is crucial, Lawrence (1990) argues that increasing access to the courts (for the poor) will change judicial agendas and also legal doctrines and policies that come from the courts, ultimately increasing access to justice.

For some, the right to an attorney is a key in providing access to courts (and justice) for the poor and racial groups. This was made clear with *Gideon v. Wainwright* (1963), where the Supreme Court granted the right to counsel for indigent defendants in state felony cases. Lewis (1964) argued that the

right to counsel was key because it was the right that made possible further access and understanding of so many other rights. As some have argued, the groups most in need of legal assistance and representation “have the least access to political leverage that could secure it” (Rhode 2004, 4). In fact, Rhode (2004) argues that part of the issue is that those in the state legislature who control the purse strings, which influences the right of an indigent’s access to a lawyer, have expressed a carefree attitude about providing access to an attorney for those who cannot afford one.

These elements are part of a support structure for legal mobilization that can play a role in increasing access to the courts.¹ Of course, much of political science’s early attention around access to government focused on interest groups and the pluralist view (e.g., Truman 1951; Dahl 1961), and interest groups’ role in democracy more generally. The common concern was perhaps most famously stated by Schattschneider, on whether interests provided equal access to government or if “the heavenly chorus sings with a strong upper-class accent” (1960, 34–35). Other scholars have since examined the access that interest groups have to the United States Supreme Court. Caldeira and Wright (1990) found that the Supreme Court is remarkably accessible to a diverse array of organized interests. In this same vein, Collins (2008) notes that interest groups nowadays have a great deal of access to the Supreme Court, which is typically defined in terms of its ability to file a “friend of the court” brief, with almost no constraints on their ability to successfully file these briefs with the Court. Importantly, Collins (2008) finds that an array of groups has access and provides representation to the Court, fitting the pluralist notion of representation. This research highlights the fact that U.S. courts may be more responsive to the calls of organized interests than individual citizens, even though those organized interests may represent the disadvantaged, which still raises the question of whether there is bias or unequal access to the courts overall.

Another prominent approach to studying access to courts has primarily emphasized the political in its explanations. For example, elected officials are known to propose bills, from time to time, that are intended to curb the judiciary’s power. While many of these bills fail to escape committee, they nonetheless indicate the displeasure of political actors by their intention to strip the jurisdiction of the courts that would greatly limit the judiciary’s ability to resolve certain societal disputes (e.g., Handberg and Hill 1979; Buchman 2003; Clark 2011; Leonard 2016). In addition, Staszak (2010) notes that in the politics of judicial retrenchment, actors seeking to constrict access to the courts came from both inside and outside the judiciary. Furthermore, at various times, “retrenchers” have attempted to restrict access to the courts by “defunding” various aspects of them and have also been somewhat successful at developing law that provides more deference to the “political” branches. Considering the politics of court access, this suggests that those in charge of providing judicial information may face multiple pressures.

The academic focus on “access to justice” encompasses a concern with access to basic legal information and proceedings. Access to justice is certainly inhibited when citizens find it difficult to learn about the court system or to uncover basic information about court activities. Thus, while past work on access to courts has focused on several important dimensions, a critical and new forum for engaging and accessing the courts has emerged—state judiciary websites. These websites have the potential to provide important information to all sorts of interested citizens—that is, open up the entire court system for everyone—but little is known about the degree to which they actually do or the factors associated with differing levels of online access.

One concern is that partisan political forces will determine the amount of online access to the state court system. Indeed, past efforts to open or restrict access to justice and the legal system have had partisan links (e.g., Klarman 2004; Lawrence 1990). Partisan forces may similarly influence, direct, or pressure those who create or approve website designs and content to provide differing levels of access, which could play an important role in determining the degree of online access available across the states.

¹ We should note that there is a debate on whether and how support structures play a role in bringing about increased and sustained attention to individual rights. For this debate, which examines both the U.S. Supreme Court and several other countries, see research by Epp (1998), Urribarri, Schorpp, Randazzo, and Songer (2011a, 2011b), and Epp (2011). We remain agnostic about the mechanism through which support structures work, though, importantly, we note that both sides remain open to the possibility that support structures indirectly influence attention to rights.

Another concern is that the information court websites provide might be skewed toward a certain class of individuals, possibly lawyers or those with a lot of legal or technical knowledge. As Alexis de Tocqueville (see Mayer 1969) observed long ago, lawyers form the highest political class in American society, and that it is not the rich who comprise the aristocracy, but the judges and lawyers. Lawyers are special, according to de Tocqueville, because of the information they possess, which provides them with a degree of superiority. In fact, as Rhode notes, “the system has been designed by and for lawyers, and too little effort has been made to ensure that it is fair or even comprehensible to the average claimant” (Rhode 2004, 5). This suggests that with many judges and lawyers having influence over court administration, and by extension the control of content on the state’s website, much of the focus may be on elite aspects of the judiciary, rather than information aimed at the average “person on the street.” And so it raises the concern with respect to the sorts of information and interactive opportunities that are being offered on state judiciary websites and whether they are providing equal access to the courts with which the “average” citizen is likely to come into contact.

Twenty-first Century Style Access to Courts—The Internet

Government agencies at all levels have turned to the Internet to provide access to information and services, and citizens have responded. Fully 82 percent of Internet users (representing 61 percent of all American adults) looked for information or completed a transaction on a government website in 2009 (Smith 2010, 2), which is up from the 77 percent of Internet users (or 97 million Americans) who had, at some point, visited a government website before 2004 (Horrigan 2004, v). Most visitors are looking for basic information, including information specific to state government (34 percent), and, in some cases, those searching state websites are looking for information about criminal records (62 percent) and reports (32 percent) (Smith 2010, 14 and Horrigan et al. 2015, 44–46). Thus there is a clear demand for state judicial information online. And although it took some time, Internet users now actually prefer to contact government agencies online rather than on the phone or in person (Smith 2010, 8), and the vast majority report high levels of efficiency and satisfaction with their interactions—“the upshot is that Internet users say that e-gov improves their relationship with government” (Horrigan 2004, 1; also see Smith 2010, 8 and 15–16).

Studies of the “political Internet” have uncovered a great deal about many aspects of representative democracy in the United States and beyond (e.g., Foot and Schneider 2006; Hindman 2009). In fact, web-based representations often provide an ideal measure of political behavior. In the context of elections, for example, candidate websites provide “an unmediated, holistic, and representative portrait of campaigns,” which is critical for understanding how candidates communicate with voters (Druckman, Kifer, and Parkin 2009, 343). State court websites provide a similarly direct, complete, and representative portrait of how state court systems disseminate information and attempt to connect with citizens. In other words, they represent the best-known measure of the connection between state court systems and their citizens.

Online access to the courts is crucial because it can enhance the legitimacy of the court system. Court websites can promote transparency as well as legal norms within the state and can also be used as a mechanism to address the representativeness of the judiciary. For example, a common concern of representation scholars is descriptive representation (Pitkin 1967; Mansbridge 1999), which is the idea that representatives in government should share the same demographic characteristics (e.g., race, gender) in roughly the same proportion as those in the mass public. Research has shown that among the elected branches of government, descriptive representation has been on the increase over the years (e.g., Gross 2011). With respect to the judiciary, questions of descriptive representation can be addressed easily on the website by including a picture and descriptions of the judges or administrators who are in charge of the court system.

Unfortunately, there are almost no studies that assess the content of judiciary websites. One exception is by Velicogna and Ng (2006), who look at the Italian courts’ websites as well as the Dutch and New York State Unified Court System. Interestingly, those three websites were chosen because they provided a “wide range of court website experiences” (Velicogna and Ng 2006, 376). Velicogna and Ng

perform a qualitative examination and exploration of the three websites based on a framework of four core elements: organization, access to information, content, and users. They find that the Dutch and New York websites contain elements of all four components, but the Italian website did not, thus resulting in lower legitimacy. While it is not clear how legitimacy was assessed, the study offers an interesting glimpse of an important aspect of how citizens interact with their court systems. Thus we believe there is much more work to be done documenting the different dimensions of access to the courts, especially electronically, to see if it can be explained by systematic aspects that have been raised above.

Our theory of online access to state court systems begins with the premise that there will be considerable variation across the fifty states in terms of the content and features offered online. This is likely due, in large part, to the fact that states tend to allocate specific resources to judicial website administration (National Center for State Courts 2013), allowing state employees to retain significant control over the design and maintenance of their sites.² While site administrators may contract out parts of the process occasionally or follow recommended “best practices” (e.g., Burton 2009; Bessey, Nuzum, and Byers 2005; Gusso 2008), most are likely to create sites that respond to their state’s individual circumstances rather than posting generic “cookie-cutter” sites. As such, we expect to find that state-level bureaucratic control results in variation across the fifty state judiciary websites.

The question then becomes: Who or what influences the decisions made by website administrators? In other words, why do some site administrators provide more access to justice and the legal system than others? Building on past work, we explore the potential influence of political, administrative, and demand effects.

Politics—or political ideology and partisanship more directly—may play a role in influencing access to court websites. Past research certainly suggests that politics have had a strong influence on providing access to courts in other contexts, and in the examples cited above, restricting access has been pursued by conservative movements, while liberals have tried to expand access. The same dynamic may be at play with state judiciary websites. Political actors, such as party officials, advocacy group leaders, or elected lawmakers, could certainly try to directly or indirectly influence the bureaucratic decisions behind the creation and function of state judiciary websites. Just as these political actors try to influence bureaucratic decisions in other contexts (e.g., Hecl 1977), they could push for differing levels of access to be provided online based on their ideological position. This influence could take many forms, from informal conversations to official correspondence with the site administrator or even proposed legislation or regulatory action. The influence may even be amorphous, coming from the state’s predominant ideology or partisanship, which could nudge site administrators in a particular direction either for or against increased access. The idea is that site administrators, working in a political environment, may feel the influence of political actors or cultures when designing state judiciary websites. As such, there could be as much political influence affecting online access to justice as there has been on broader questions of access to justice. To see if this is the case, we test the hypothesis that *states controlled by the Republican Party will provide less online access to the courts than those states in which the Democratic Party controls the main institutions of government.*

However, at the same time, we note that court websites might be an exception or somewhat insulated from politics because state judiciaries are run primarily by bureaucrats who are further removed from the day-to-day pull of partisan politics. Political actors may find it difficult to transfer their partisan preferences directly to bureaucrats, who can be difficult to “control” and who are often motivated by other considerations (e.g., Gruber 1987; McCubbins, Noll, and Weingast 1987). This may be particularly true at the state level where political actors have fewer resources (e.g., time, money, staff) to influence bureaucratic decisions. Under this scenario, we would expect administrative capacity to trump partisan ideology. Unlike politicians who have partisan intentions, bureaucrats would be driven

² A number of state judiciary websites make it clear that their website design and development is done “in house” by state employees. For example, states such as Georgia and South Dakota currently list their website developers by name, New York and Montana allow users to “Contact the Web Team” directly, and other states such as Arizona, Nevada, and Oregon provide details about their “Information Technology” offices.

by their motivation to produce high-quality service, and this level of service would be determined by their administrative capacity—that is, their ability to manage complex court systems with limited managerial resources. Here we would expect the level of online access to justice to be the result of the site administrator’s ability and professional loyalty to achieving the primary goal of “e-government,” which is to use the Internet to efficiently deliver resources and services to citizens (see, e.g., Fenwick, John, and Stimac 2009; Meier 2012). This would reflect a highly professionalized and capable bureaucracy in which administrative and service-delivery objectives are paramount. As such, we would expect that *states with better administrative capacity will offer more online access to the courts than states with lower levels of administrative capacity.*

While political pressures and judicial administration may be associated with online access to the courts, it may also be the case the state court websites are influenced by competing demand effects. It could be that they are designed specifically with the end user in mind. That is, indicators of the electronic or digital environment, such as the degree of Internet connectivity in a state, could be associated with various levels of electronic access. The idea being that site administrators would calibrate their site’s content and features to match the technological sophistication or demand of their state. This could be the result of direct requests by citizens or simply website administrators responding to the perceived needs of individual users. Thus we might expect that *states with a higher percentage of wired households will provide more online access and information than states with lower levels of Internet penetration.*

There may also be a demand effect from the state’s legal community in that, as mentioned above, systems that are “designed by and for lawyers” (Rhode 2004, 5) may be less likely to provide legal information and access that could be useful for average citizens. For example, states with relatively large legal communities (i.e., many lawyers per capita) might favor technical information (e.g., briefs, attorney registration) at the expense of features that provide wider access to justice and enhanced interaction with the court system, such as “how to” sections and information about legal programs. As with citizen demand effects, this, too, may occur as site administrators react to either the expressed or perceived preferences of the legal community. For example, the Bar Association could make informal suggestions or formal requests, or features could be prioritized in anticipation of specific needs. This leads to the hypothesis that *states with a higher proportion of lawyers will provide less online access to legal information and interactive features than those states in which lawyers make up less of the population.*

Based on the above discussion, we propose a test of the degree to which online access to the courts is influenced by political, administrative, and demand effects. Are partisan politics just as influential online as they are offline, or are there other considerations that may help explain access to state court websites, such as judicial administrative capacity and demand effects based on state-level demographics and the size of the legal community?

Methodology

We use data from an extensive content analysis and timed search procedure of all fifty state judiciary websites to explore the extent and determinants of online information dissemination and communication between state court systems and their citizens. After verifying the address of each site, a small group of research assistants were trained to code sites using a pretested coding scheme that measured more than two hundred variables. The coding scheme focused on features found on the site overall, including technical features (e.g., search options, foreign language availability) and communication opportunities (e.g., phone numbers, addresses, e-mails, chat options), as well as features found in the separate lower court and upper court portions of the site. These lower and upper court features focused on access to key pieces of legal information (e.g., calendar of cases, final dispositions and opinions) and basic information about the courts (e.g., location, name of chief justice, how the system works).

Two research assistants coded each of the fifty sites between September 2013 and March 2014. The intercoder reliability is quite high (Cronbach’s alphas range from .726 to .901), which gives us confidence in the coders and the coding scheme they used (see Neuendorf 2002). Given the high level of agreement between coders, we rely exclusively on the first coder’s data in all of the tests that follow.

We supplement the coding data with timed searches that provide additional information on the *accessibility* of court website features. Here we are interested not only in the provision of certain features but also the time it takes to find these features—that is, the ease of accessibility. Between April and September 2014, two additional research assistants scoured each of the 50 sites for 22 items that focused on information (e.g., how to file for a divorce), interactive features (e.g., how to call someone in the justice system), and access to lower and upper court details (e.g., Supreme Court rulings, decisions, or opinions). The assistants recorded, in seconds, how long it took to find each item on the list, starting from the homepage. If they could not find a particular feature after five minutes, they simply recorded it as 300 seconds before returning to the homepage to search for the next feature. This five-minute limit reflects an estimate of the maximum amount of time that normal individuals would spend looking for legal information online. Although average search duration measures are quite controversial (e.g., Charski 2014), complex studies by Coleman (2015) and Lui, White, and Dumais (2010) suggest that most people give up their website searches after about four minutes (also see Nielsen 2011). This timed search with a five-minute limit is particularly useful because, unlike our measures above, it calibrates for accessibility and the futility of existing features that cannot be found within a more than reasonable search time. In other words, it controls for the fact that some features or information may be technically “available” but realistically “inaccessible.” The intercoder reliability for the timed searches is also reasonably high (Cronbach’s alphas from .690 to .950), so we use the first coder’s data in our tests below.

Our analysis focuses on eleven dependent variables, all of which directly relate to court access. The first three dependent variables tap into the provision of information; the next three measure interactive opportunities with the state court website; two more measure access to lower and upper courts, respectively; and the final three provide information on how long it takes to find certain features. Under the category of “Information Accessibility,” for shorthand purposes, we name our three dependent variables: (1) “Learn”; (2) “Info”; and (3) “Programs.” We explain each of these in turn.

The “Learn” variable counts the kind of practical legal information that is made available to visitors on nineteen different aspects, including “how to sue someone” and “how to pay a traffic ticket.” The “Info” variable records the number of places on the website that provide information on thirteen general legal categories ranging from “small claims court” and “marriage and divorce” to “housing” and “criminal law.” Finally, the “Programs” variable measures the provision of information on criminal justice, tribal, educational, and other specialized programs.

Under the “Interactivity” category, we examine three dependent variables: (1) “Access”; (2) “Special Groups”; and (3) “Social.” We label them “interactivity” because they all involve some aspect of helping or encouraging citizens to engage and interact with the legal system that goes beyond an educative function. The first measure is “Access,” and it counts the number of contact points available on the site for citizens, including phone numbers, help lines, fax numbers, street addresses, mail addresses, e-mail addresses, and names of officials to contact. The “Special Groups” measure looks at the number of links to independent groups that help those in need or provide special services for select members of the public (e.g., the poor, immigrants, women in need, children in need) as well as the availability of legal information in foreign languages. The “Social” variable is a count of links to the state judiciary’s social networking websites, including Facebook, Twitter, YouTube, Flickr, Digg, and others. Examining the degree to which information is disseminated via social media is relevant because of the growing segment of the population that communicates via social media. Furthermore, inclusion of these social media sites indicates the state’s willingness to distribute legal information through other online channels. States frequently provide updates and additional details, in both written and visual form, on these sites, which represent an extended platform for connecting with users and providing timely information. It is these new mechanisms that, we think, can help capture access to courts in the twenty-first century.

The next two dependent variables—(1) “Lower Courts” and (2) “Courts of Last Resort”—are composed of measures that assess the amount of information and interactivity that make each respective court accessible. Each variable taps the extent to which visitors can gain specific pieces of information

Table 1. Descriptive statistics.

Category	Variable	Mean	Standard Deviation	Minimum	Maximum
Information Accessibility	<i>Learn</i>	6.44	4.71	0	16
	<i>Info</i>	7.60	3.02	2	12
	<i>Programs</i>	1.98	1.48	0	5
Interactivity	<i>Access</i>	3.12	1.73	0	6
	<i>Special Groups</i>	1.86	1.88	0	7
	<i>Social</i>	0.88	1.22	0	4
Court Access	<i>Lower Courts</i>	4.16	1.52	1	7
	<i>Courts of Last Resort</i>	3.56	1.26	1	5
Timed Searches	<i>Information</i>	72.92	36.74	13	154
	<i>Interactive Features</i>	97.28	57.50	11	228
	<i>Court Access</i>	58.38	30.39	10	124

from each level. For example, “Lower Courts” measures the availability of lower court information on judges, jurisdictional issues, addresses, and appeals, while “Courts of Last Resort” includes various measures of access to information on the upper court legal process and the provision of oral arguments and opinions.

The final three dependent variables are based on our timed searches. They are important because they capture the difference between mere availability and actual accessibility. As such, they represent a tangible cost to citizens, with the possibility that a citizen might “quit” searching if it takes too much time (see, e.g., Lui, White, and Dumais 2010). These three variables measure the relative ease (in time) of finding (1) “Information,” (2) “Interactive Features,” and (3) “Court Access.” As alluded to above, the “Information” variable measures the time it takes to find basic pieces of information, such as how the court system works, how to serve on a jury, and where to find legal forms; “Interactive Features” measures the accessibility of communication options, such as phone numbers, e-mail addresses, and contact information; while the “Court Access” variable taps into the ease with which citizens can locate information on the lower and upper courts, such as the name of the Chief Justice, background information on Supreme Court justices, oral arguments and decisions, as well as the cases currently on a court’s docket.

Table 1 presents descriptive statistics for all eleven dependent variables. We also include Figure 1 to provide a geographic representation of the “Information” dependent variable across the states. We find that there is no strong regional trend for this or any of our other dependent variables. For ease of interpretation, and because the dependent variables are continuous, we estimate ordinary least squares regressions in all the tests that follow.³

The key independent variables of interest are “Partisan Control,” “Court Administration,” “Internet Access,” and “Legal Community.”⁴ “Partisan Control” ranges from zero to three, where a state is given one point for each branch of government (i.e., the governorship, the House, and the Senate) controlled by the Republican Party in 2013. This not only captures the control parties have over state government and thus bureaucracy, but also indirectly taps into citizens’ ideological and partisan leanings by way to their vote choices.⁵

³ Because many of the variables are count variables, we also estimated negative binomial and Poisson regressions, and the results yield the same conclusions as those reported below. We also performed diagnostic checks for multicollinearity, heteroscedasticity, and observations with too much leverage (outliers) and none of them were an issue. In fact, on a few models where California and New York were shown to be borderline too influential, removing them actually strengthened the relevant parts of the analysis.

⁴ We also considered controlling for selection process. However, only once did any of our four measures (i.e., elected vs. non-elected judges; partisan elections vs. no partisan elections; nonpartisan elections vs. no nonpartisan elections; retention elections vs. no retention elections) correlate with any of our dependent variables above .2 (nonpartisan elections and “access” correlated at .24), and none of the four measures reached statistical significance in any of our results.

⁵ More direct measures of citizen ideology and partisanship at the state level, based on research by Berry, Ringquist, Fording, and Hanson (1998) and Enns and Koch (2013), are highly correlated with our measure (.738 and .783) and return similar results in the regression models below. We opted for the measure of partisan control because of its simplicity, direct connection to government control, and its reflection of citizens’ political leanings.

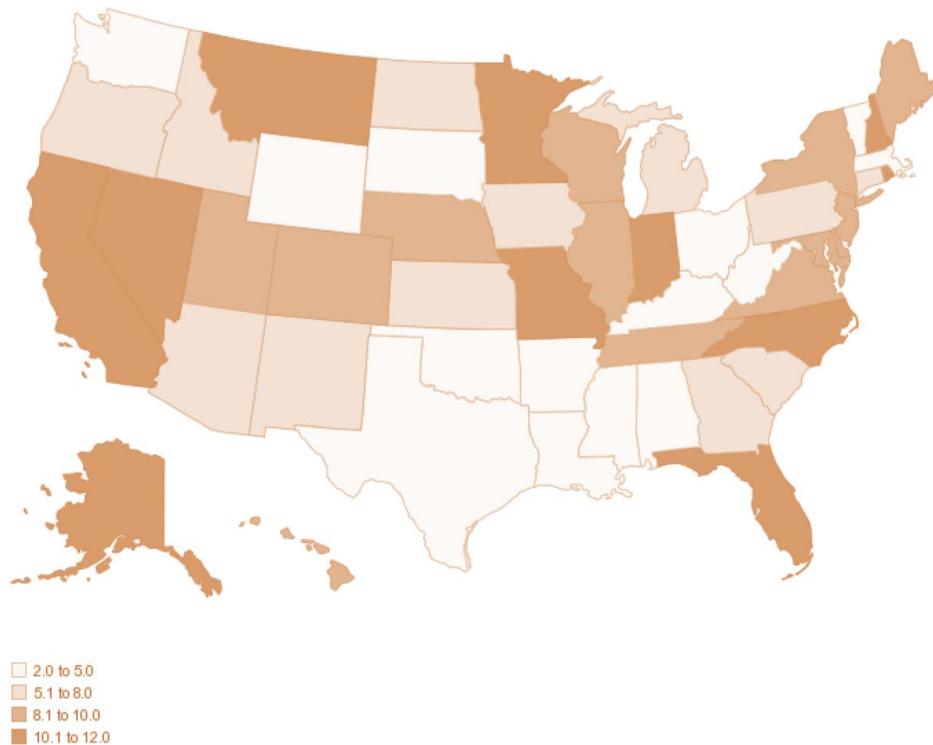


Figure 1. Distribution of Information Accessibility for “Learn” Dependent Variable *Note:* This is the dependent variable from the “Learn” model of Table 2. Darker shades indicate more accessible information to learn about the court.

“Court Administration” measures state court capacity and efficiency by dividing the number of intermediate courts plus the number of general courts in the state by the court administrator’s salary (NCSC.org) and multiplying it by 100. Ultimately, it is a ratio measure. It is designed to provide a measure of the organizational structure of the legal system that inherently captures the balance between both the devotion of resources to the courts system and the complexity and difficulty of managing a court system. The numerator is the total number of courts in a state, and the larger it is, the more courts there will be to oversee in the legal system. The denominator of the ratio is theorized to represent the amount of resources a state gives to the individual tasked with operating and administering the “third branch.”⁶ By operationalizing it as a ratio, it enables us to see when a state has a relative high or low degree of administrative capacity to oversee the judiciary.

High “Court Administration” scores represent highly organized and efficient court systems, as depicted by the presence of a large judiciary relative to the size of compensation it pays its chief court administrator to oversee its courts. It assumes that better-organized judiciaries do not need to pay higher salaries to administer over a smaller number of courts. In contrast, low “Court Administration” scores represent a system that is “top-heavy” in the sense that the court administrator is paid a high level of compensation relative to the number of courts that she is responsible for administering—that is, its administrative capacity is inefficient. We created this measure to test the idea that highly professionalized (i.e., efficient and capable) court systems will provide more online access to the courts than bureaucracies with less administrative capacity. The measure has a mean of .162 (the median is .122) and a standard deviation of .168, with a minimum of .0177 and a maximum of 1.01. To provide some

⁶ We opted for the court administrator’s salary, rather than the total judiciary budget, because it is straightforward in that it represents what each state would pay an individual to run the judiciary and that is the person ultimately in charge of overseeing the state website. We think that using a state’s judiciary budget might have the potential to be artificially inflated or deflated with nonhuman resources (e.g., building a new courthouse).

reference points for validity purposes, Michigan is the closest to the mean at .167, with Arkansas and Connecticut comprising the median, and Delaware and Wyoming have the two lowest scores, while Florida and California have the highest scores.

Next, we explore the role that technological availability may play in explaining the amount of access a state court provides on its website. Thus “Internet Access” is simply a state measure, based on U.S. Census Bureau data, of the percentage of households with broadband Internet access in 2013. Again, this measure taps into the idea that site administrators will be inclined to provide more features in states with greater technological development. Finally, we examine the potential demand effect that comes from the legal community with a measure of the number of lawyers per 10,000 residents in each state in 2013. This measure, which is widely reported on various websites (e.g., statedatalab.org), is calculated with numbers from the American Bar Association and the U.S. Census Bureau. Specifically, the total number of lawyers in each state is divided by the population estimate and then multiplied by 10,000.⁷

Results

Table 2 contains the regression results for the “Information Accessibility” measures of court access. There are several striking findings. First, we see that partisan control is not significant in any of the models. While we are hesitant to place too much emphasis on this, it does suggest that partisan control over government (reflecting as well the ideological and party leanings in a state) has little or no influence over the composition of court websites in terms of how much access to information they provide. The raw data show, for example, that a conservative state such as Kansas, in which Republicans controlled all branches of government in 2013, provides about as much “learning” information (7) as a liberal state such as Massachusetts (6), where Democrats controlled nearly all corners of state government.

Second, we see that “Court Administration” is significant in all models of access, and it is positively signed. This suggests that states with more efficient and better-organized judiciaries better promote access to court information on their websites. These two findings, when considered in conjunction, suggest that a certain level of “professionalization” has been established within state judicial bureaucracies.⁸ In addition, we also see that “Internet Access” is significant in two of the models, suggesting that states with more “wired” households are correlated with better access to information about the courts. This points to something of a demand effect in which state courts provide more online information when the population has a greater probability of visiting the site. Finally, we see that, just as with partisan control, the size of the legal community does not have a significant effect on information accessibility. It is somewhat surprising that, as the legal community grows, access to groups that might help and provide information to average citizen remains undiminished. Overall, however, we see strong consistency on several of the predictors of court access to information, especially court administrative capacity and Internet penetration.

Table 3 contains the results for the “Interactivity” measures of court access. Here, again, we see several interesting results. Although it does not affect the first measure of interactivity, Republican control does appear to be negatively associated with our “Special Groups” and “Social” media measures of court interaction. The negative sign suggests that states under Democratic control tend to reach out more to special groups that provide services for select members of the public. It also shows that Democratic-controlled states tend to use social media more often, which is consistent with studies of social media use in other political contexts, including

⁷ As a robustness check, we also controlled for whether the state was part of the South, defined either by the Census or as the eleven states that seceded from the Union during the Civil War, and the results were largely unaffected.

⁸ It is worth noting that the percentage of the state judiciary’s budget devoted to information technology expenses, when added or used to replace the court administration variable, is not a significant predictor in any of these or our other models. This further suggests that access is driven by overall administrative capacity rather than the money devoted to creating/maintaining websites, which is often controlled by partisans in the legislature.

Table 2. OLS regressions of information accessibility.

	(1) Learn	(2) Info	(3) Programs
Partisan Control	-0.018(0.508)	-0.059(0.320)	-0.159(0.172)
Court Administration	6.010*(2.327)	3.919*(1.822)	2.347*(0.987)
Internet Access	0.532*(0.111)	0.300*(0.059)	0.007(0.039)
Legal Community	-0.034(0.043)	-0.037(0.039)	-0.001(0.032)
Constant	-32.105*(8.526)	-13.753*(4.214)	1.391(2.739)
Observations	50	50	50

Robust standard errors in parentheses.

* $p < 0.05$, one-tailed.

campaigns and elections (Williams and Gulati 2013). Next, our court administration variable is once again significant across all the models, and in the same direction as the models in Table 2. This shows that efficient and professionalized state court systems are generally open to the possibility of site users connecting through emerging online technologies, whereas less organized and efficient systems appear content with a more limited set of older communication channels. Internet penetration is significant in only one out of the three models—“Special Groups” that help those in need have a positive relationship with Internet penetration. Finally, we see that the legal community has a negative effect on two of our three interactivity measures, indicating that states with more lawyers per capita provide less electronic access to the courts. While we do not want to make too much of this result, we note here that it is consistent with the suggestion that those within the legal community have not opened up online access to the courts, leaving primarily the traditional forms of access, which as previous research shows is not beneficial to average citizens or the “have nots” of the system (Rhode 2004).

Table 4 contains the results of our lower and supreme court measures of electronic access and information. Here, we see that “Partisan Control,” “Internet Access,” and “Legal Community” have no appreciable impact on the provision of information specific to these courts. However, “Court Administration” is, once again, significant and positively signed in both models. This shows that court capacity not only affects the provision of general information and interactive features but also strongly influences the amount of specific information available about lower and upper courts. The consistency of this variable across all models reinforces the idea that state judiciaries enjoy significant autonomy from the “political” branches of state government when it comes to presenting information and providing interactive features. In other words, decisions about content and connecting appear to be motivated more by practical than political concerns.

Our final table presents the results of our timed searches. Table 5 shows that “Partisan Control” has only a marginal impact ($p = .06$) on the time it takes to find certain pieces of information, while the size of the legal community is associated with longer search times for both “Information” and “Court Access.” On the other hand, “Court Administration” drives down the time associated with finding interactive features and information specific to the lower and upper courts, while “Internet Access” is

Table 3. OLS regressions of interactivity.

	(1) Access	(2) Special Groups	(3) Social
Partisan Control	-0.066(0.240)	-0.385*(0.217)	-0.493*(0.129)
Court Administration	2.296*(1.022)	3.522*(1.099)	2.309*(0.722)
Internet Access	-0.020(0.056)	0.071*(0.038)	-0.003(0.031)
Legal Community	-0.045(0.027)	-0.047*(0.021)	-0.024*(0.012)
Constant	5.838(3.865)	-1.617(2.902)	2.459(2.502)
Observations	50	50	50

Robust standard errors in parentheses.

* $p < 0.05$, one-tailed.

Table 4. OLS regressions of access to lower and supreme courts.

	(1) Lower Courts	(2) Courts of Last Resort
Partisan Control	0.051(0.177)	-0.046(0.176)
Court Administration	1.568*(0.872)	2.461*(0.798)
Internet Access	-0.005(0.039)	-0.026(0.035)
Legal Community	-0.031(0.022)	-0.009(0.018)
Constant	5.189*(2.745)	5.429*(2.711)
Observations	50	50

Robust standard errors in parentheses.

* $p < 0.05$, one-tailed.

associated with quicker searches for “Information” and “Court Access.” These results are consistent with our previous models in that “Court Administration” and “Internet Access” not only are associated with the provision of information and features but also tend to be associated with a greater ease of accessibility, while the opposite is true for the size of the legal community and, to a much lesser extent, partisan control. Thus greater administrative capacity makes certain features both more likely *and* easier to locate and use.

Discussion and Conclusion

We have highlighted the importance of citizens having access to their state court system, and that in the twenty-first century this access is increasingly likely to be electronic. While past research on access to the courts has emphasized the role of political, racial, and economic circumstances, it has become imperative to gauge the level of online access to the courts as court bureaucracies grow and the Internet continues to dominate and shape our daily lives. Indeed, we find that in today’s “Internet age” partisan politics appears to play a relatively small role in terms of explaining the amount of online access. Rather, other factors such as the state court’s administrative capacity and, to a lesser extent, demand effects appear to be consistent explanations.

We believe this study offers a number of benefits. It contributes to the literature on court accessibility in a new and important way and introduces a unique dataset of the fifty state court websites, containing over two hundred content variables and timed search information. While we analyzed only a fraction of the variables here, a great deal of potential awaits in assessing court websites on other dimensions. The study also shows that indicators of electronic access to courts do vary across the states, and that variation can be systematically explained by court administrative capacities and demand effects from citizens and the legal community. Moreover, with a few exceptions, we see that partisan political control or ideology does not appear to consistently correlate with our measures of electronic court access. This suggests that the judicial bureaucracy has some level of professionalization that is somewhat insulated from pure party politics. From a normative perspective, many will see this as a

Table 5. OLS regressions of timed searches.

	(1) Information	(2) Interactive Features	(3) Court Access
Partisan Control	7.178(4.455)	3.828(6.735)	-2.281(3.404)
Court Administration	-18.171(27.986)	-84.226*(27.762)	-74.305*(23.681)
Internet Access	-2.219*(1.316)	-2.700(2.097)	-2.449*(0.659)
Legal Community	0.901*(0.302)	0.697(0.598)	1.104*(0.374)
Constant	194.59*(100.43)	277.44*(157.73)	216.26*(48.12)
Observations	50	50	50

Robust standard errors in parentheses.

* $p < 0.05$, one-tailed.

“good” finding and will like the fact that party and ideological influences appear to be absent from this aspect of the administration of the judiciary. To that end, this finding has the potential to enhance the legitimacy of the court system.

While the preceding analysis was designed to understand the variation in access to legal systems through state court websites, it remains to be seen whether access to information on court websites is tied to meaningful policy outcomes. After all, if access to information is unequal across the states but can be explained by largely nonpartisan factors, then it might seem as if there is little reason for concern about the information inequality created by digital access. However, if access to information is associated with important policy indicators, then there is reason to take access to electronic information seriously. In analyses not shown here, we examined if the availability of information is related to three important outputs of a state’s legal policy: the punitiveness of a state (incarceration rates), the civil-legal climate (business perceptions of the states’ tort liability system), and a state’s commitment to legal aid (how much each state contributes to civil legal assistance relative to what it receives from the Legal Services Corporation). With those three indicators as dependent variables, we estimated three ordinary least squares regressions where our key independent variable is a factor score measure that combines all our information measures. We control for several other explanations (e.g., partisan control, court capacity, legal community, unemployment rate, and racial composition of the state). We found that access to information significantly predicted all three measures of legal policy outputs. Specifically, we find that, all else equal, increased online access is significantly associated with lower levels of incarceration, a more favorable opinion of the states’ tort liability system, and a greater commitment of state resources to civil legal assistance. These results suggest that online access to state court information is linked to important policy and practical outcomes—that is, it is related to broader, practical consequences.

To be sure, there are limitations to our study. First, we are examining only one aspect of access to courts, but it is a prominent one nonetheless. Moreover, as more people access their government online, the importance of court websites will only continue to grow. Second, out of necessity because of limited degrees of freedom, we take a very basic approach to our model specification and only include a handful of predictors. While we tried other explanatory variables, we are somewhat constrained by our fifty observations and by concerns of overfitting. Finally, we do not offer a standard of comparison for accessibility to government. For example, an area ripe for future work could compare access to the judiciary with access to the “ballot box” by coding the websites of the fifty secretaries of state webpages. Future work that investigates this should be able to better contrast overall levels of access to different branches of government, as well as how partisan factors are expected to influence access to voting but not electronic access to courts. Ultimately, only by continuing to examine twenty-first century mechanisms will we be able to shed more light on access to government as well as the role of the court system, relative to the other “political” branches of government.

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