

# Consequences of judging in transitional justice courts

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Research has found that participation in transitional justice (TJ) is associated with increased social capital and decreased well-being. This article extends this scholarship by examining how TJ mechanisms affect the social capital and well-being of the people who *implement* them via interviews with 135 Rwandan *gacaca* court judges. In terms of well-being, judges discuss pride and confidence yet also highlight stress and trauma. In terms of social capital, many judges are now mediators and local leaders, though numerous judges have also experienced grudges from the families of those they sentenced. These negative consequences were particularly prominent among judges with more authority.

**Key Words:** transitional justice, judgeship, social capital, well-being, Rwanda, genocide

## INTRODUCTION

In the aftermath of mass violence, governments and organizations often institute transitional justice (TJ) mechanisms to aid societies as they come to terms with a violent past. Since 1950, hundreds of truth commissions, court systems and other TJ mechanisms have been created to respond to widespread human rights violations and violence (Dancy *et al.* 2019). Although much research has identified the consequences of general participation in these TJ mechanisms, scholars have yet to assess how involvement impacts the judges, mediators and others who play a core role in their implementation. This article begins to fill this gap by analysing the consequences<sup>1</sup>—or the positive and negative outcomes—of *implementing* a TJ mechanism.

Specifically, we employ a case study of the *gacaca* courts in Rwanda, where approximately 250,000 community members were elected as judges known as *inyangamugayo*. We analyse interviews with 135 *inyangamugayo* who served at two levels of the *gacaca* court system: a lower level addressing property crimes and an upper level addressing crimes against people. As with

1 This aligns with scholarship examining consequences of participation in social movements and volunteer organizations (e.g. McAdam 1989; Wilson and Musick 1999).

many TJ mechanisms, these individuals often witnessed and/or were directly affected by the crimes tried by the courts, and their work unfolded within their communities (Shaw *et al.* 2010).

We begin by outlining literature on TJ generally and Rwanda's *gacaca* in particular. Then, we review existing scholarship on the impacts of participation in TJ processes. Because TJ literature has yet to address the consequences of serving as a judge or similar implementer, we also draw from scholarship examining other court contexts and assess how this work may inform expectations about work as an *inyangamugayo*.

After detailing our in-depth interviews with 135 randomly selected *inyangamugayo*, we present results. Although literature on general participation in TJ processes highlights positive impacts on social capital and negative impacts on well-being, we find that *inyangamugayo* experienced positive and negative impacts on both social capital and well-being. Among the positive consequences, many judges discussed pride and lasting impacts on their self-concepts, and many are now community leaders. Negative consequences also abound, however, and these are partially tied to court responsibilities. *Inyangamugayo* in upper-level courts, who meted out long prison sentences for extreme violence, experienced disturbing thoughts and dreams that diminished their well-being and grudges that disrupted their social capital. Judges in lower-level property courts also reported negative consequences, though less commonly and severely.

As we detail below, prior research suggests that the *inyangamugayo* stood to gain connections and political clout (Chakravarty 2015). We confirm but extend this hypothesis by also illustrating the often-simultaneous negative consequences that judges experienced. Beyond *gacaca*, this study is among the first to emphasize such consequences for people who implement TJ mechanisms. In an era in which researchers and practitioners urge that judges, mediators and other TJ implementers come from impacted communities (Nyseth Brehm and Golden 2017), our findings directly document the consequences of service in one's own community.

## TJ IN RWANDA AND BEYOND

The term TJ initially referred to legal strategies that international and national actors employed to aid transitions to democracy (Kritz 1995). In the ensuing decades, however, this concept was extended to include numerous mechanisms used to reconcile violent or repressive pasts (Tietel 2002). Courts have increasingly held individuals accountable for human rights violations (Sikkink 2011; see also Roht-Arriaza 2005), and truth commissions and other non-judicial TJ mechanisms have likewise proliferated (Minow 1998; Hayner 2010).

Teitel (2003) identified three phases of TJ, marked by (1) the Nuremberg Tribunal and other post-World War II trials, (2) the United Nations-created tribunals following violence in Rwanda and the former Yugoslavia and (3) the creation of the International Criminal Court in 2002. Some researchers argue that the implementation of more localized TJ endeavours now represents a fourth phase (Sharp 2013). Although conceptions of 'local' mechanisms vary widely (Shaw *et al.* 2010), researchers and practitioners increasingly emphasize that TJ mechanisms should unfold in places where the abuses occurred and that those who were personally affected by the violence or abuses must be involved (Lundy and McGovern 2008). For instance, community elders carried out Uganda's *mato oput* ceremonies following Lord's Resistance Army violence, and village residents likewise conducted Sierra Leone's reconciliation ceremonies (Wasonga 2009; Cilliers *et al.* 2016).

Rwanda's *gacaca* courts constitute another localized mechanism that sought to respond to the country's harmful past. During the 1994 genocide, hundreds of thousands of civilians engaged in violence (Straus 2004). After initially trying cases in the overburdened national court system, the government adapted a pre-colonial dispute resolution mechanism—the *gacaca* courts—to try the majority of suspected participants. These post-genocide courts operated at the cell

(akin to township) and sector (akin to county) levels of geographic administration. Cases were tried in the geographic region where the crimes occurred, and the number of courts was determined by the local caseload (Ingelaere 2016). Cell courts had jurisdiction over property crimes (Category 3 crimes), and sector courts tried crimes against people (Category 1 and 2 crimes, with the former including orchestrating violence and the latter including murder).<sup>2</sup> Category 3 crimes were typically met with fines, while those found guilty of Category 1 and 2 crimes served prison and/or community service camp sentences of up to 30 years or life (Clark 2010).

The national government decided that local community members would preside over the *gacaca* courts as judges, or *inyangamugayo*, which means ‘trustworthy person’ or ‘person of integrity’. No legal training was required. Rather, *inyangamugayo* had to be 21, could not be suspected of genocide participation or have criminal records and could not hold a government position (Organic Law 40/2000). Moreover, the work was to be done voluntarily.<sup>3</sup>

Communities elected over 250,000 people<sup>4</sup> to staff the courts in benches with varying numbers (commonly 7–9) and, while judges were able to refuse the position, research suggests that most did not (Honeyman *et al.* 2004). The government then trained the *inyangamugayo* in April and May of 2002.<sup>5</sup> To facilitate this training, government officials taught advanced law students and magistrates about the courts; in turn, these individuals taught the *inyangamugayo* about court function, witness traumatization and investigation, as there were typically no prosecuting or defence attorneys (see Bronéus 2008; Clark 2010; Waldorf 2010; Bornkamm 2012; Chakravarty 2015; Palmer 2015; Doughty 2016; Ingelaere 2016).

These courts were local in the sense that they were situated in the communities where the crimes occurred, and they were staffed by members of those same communities who had some agency over the process and its outcomes (Doughty 2016). However, the *gacaca* courts remained tightly tied to the government and thus mirrored many aspects of national courts. Specifically, the court’s operations were guided by national law, which set sentencing guidelines. Furthermore, many defendants were sent to nationally run prisons and related institutions, and the judges received support from local governments (Ingelaere 2016). These courts also supported the laws imposed by the post-genocide government (Chakravarty 2015). As such, the government dictated that *gacaca*’s goals included discovering the truth about what happened,<sup>6</sup> contributing to reconciliation, increasing trial speed, fighting a culture of impunity and demonstrating the ability of Rwandan people to solve Rwandan problems (Clark 2010).

### Impacts of TJ mechanisms

These goals mirror many of the goals of TJ mechanisms worldwide. TJ mechanisms often aim to impact country-level factors such as national peace and stability (Dancy *et al.* 2019). Many simultaneously have goals at the individual level. For instance, TJ mechanisms often seek to improve participants’ well-being, which we define as the presence of positive emotions, the absence of negative emotions and overall life satisfaction (Centers for Disease Control and Prevention 2019). Upon surveying truth and reconciliation commissions across Latin America, Popkin and Roht-Arriaza (1995:100) argue that a central goal of truth and reconciliation commissions is to foster a sense of redress in victims. Furthermore, trials can help people feel that their victim status is recognized (Sanders and Jones 2007). At the same time, TJ aims to increase social cohesion and mend social ties that were damaged during conflict

2 The courts did not respond to accusations against members of the Rwandan Patriotic Front or other violence tied to the 1994 civil war.

3 Some judges received tokens of appreciation (e.g. radios).

4 This number of implementers is higher than most other TJ cases.

5 More men were initially elected, though the proportion of women rose alongside accusations of genocide participation to-wards (mainly) men.

6 The government tied this to personal healing.

(Rimé *et al.* 1998; Beristain *et al.* 2000). Indeed, this is embedded in the name of a truth and reconciliation commission, and collective action rituals like trials have long been theorized as processes that reinforce societal bonds. As such, these mechanisms often attempt to rebuild social capital, or bonds of trust, social networks and broader moral obligations (Putnam 2000).

Accordingly, research examining individual-level consequences of TJ participation has overwhelmingly focussed on well-being and social capital. To be clear, all mechanisms do not explicitly aim to impact both well-being and social capital, nor do they aim to do so equally. Yet, given the prevalence of these goals—and that TJ mechanisms likely affect social capital and well-being regardless of stated aims—much scholarship emphasizes these two factors in the short term (i.e. during the TJ effort) and the long-term (i.e. after the TJ effort).

The general findings of this collective body of work are summarized in a 2016 *Science* article, aptly titled ‘Reconciling After Civil Conflict Increases Social Capital But Decreases Individual Well-Being’. Research on participants in Rwanda’s *gacaca* courts has yielded similar findings. For instance, Rimé *et al.* (2011) found that, while general participation in *gacaca* increased social capital,<sup>7</sup> it decreased well-being (see Brounéus 2008; 2010). They theorized that participation in a collective action ritual (e.g. *gacaca* trials) enhanced social capital but that hearing and reliving the harmful experiences resulted in trauma.

Our article contributes to this line of research by addressing a previously unstudied aspect. Specifically, researchers have yet to assess how TJ mechanisms affect implementers of the process, such as judges and mediators. This omission is significant given the fourth phase of TJ, which calls for greater involvement of affected communities. Like other participants, implementers might harbour negative emotions that the TJ process reactivates, and they may build social capital through participation (Rimé *et al.* 2011; Cilliers *et al.* 2016). Yet, TJ implementers likely experience unique consequences and hence other impacts on their well-being and social capital.

This article directly examines the consequences of serving as a TJ implementer by analysing Rwanda’s *inyangamugayo*, who were responsible for presiding over trials and reaching collective decisions regarding case outcomes and sentencing. These duties differ substantially from those of general participants, yet no studies (to our knowledge) have focussed on the consequences of serving as a judge in the *gacaca* courts (or of implementing a TJ mechanism in another local setting).<sup>8</sup> We thus draw upon literature regarding performance of similar roles and duties in other contexts.

Specifically, the *inyangamugayo* bear some similarities with judges and jurors in national court systems worldwide. As previously explained, *gacaca* courts were instituted by the Rwandan government and hence were a national system that had localized trials, much like courts in other settings. Accordingly, like judges and jurors, the *inyangamugayo* played pivotal roles in a court system designed and implemented by the state. Furthermore, Rwanda’s *inyangamugayo* were judges in the sense that they presided over trials and made meaningful sentencing decisions. They were also similar to jurors because the *inyangamugayo* were lay people who served in their own communities, performed their roles as a volunteer service and decided guilt. As such, we turn towards closely related literature on well-being and social capital among judges and jurors in other contexts to generate expectations about the consequences of implementing a TJ mechanism.

<sup>7</sup> Burnet (2008) suggests that *gacaca* caused land disputes and arguments regarding false accusations, while Waldorf (2010) argues that *gacaca* hardened ethnic divides. Such rifts were not included in this measure.

<sup>8</sup> Scholars have analysed elections (Gasibirege 2002), how the *inyangamugayo* viewed their tasks (Honeyman *et al.* 2004), how they created authority (Doughty 2016) and how they managed their roles (Chakravarty 2015; Doughty 2016; Ingelaere 2016).

### Well-being and social capital among judges and jurors

Research on the consequences of serving as a judge and/or a juror is vast, and we cannot summarize it all here. However, we draw upon core studies and findings to generate expectations regarding serving as a judge in a TJ setting. We recognize that every context is different such that theory from one setting does not automatically transfer to another. Indeed, it is a grave mistake to make uncritical assumptions of universality across geo-political contexts (Aas 2012) or to assume 'homogenous knowledge domains' across social space (Connell 2014). We likewise acknowledge that much extant research on judges and jurors has been conducted in the Global North under non-TJ conditions, which highlights the importance of new theory and research outside these contexts. Nevertheless, several aspects of serving as a judge in Rwanda seem to mirror aspects of serving as a judge or juror worldwide. These include trauma from hearing difficult narratives, stress from high-stakes duties and pride from performing those same duties. Across these contexts, court decisionmakers may gain or lose social capital and face rewards or retaliation for rendering high-stakes decisions.

Indeed, serving as *inyangamugayo* may have negative consequences for well-being beyond the reactivation of negative emotions that other participants experience. In fact, research on the consequences of judgeship mainly focusses on negative health outcomes of job-related stress, such as the short-term effects of sleep disturbances, irritability and anxiety, as well as long-term depression and isolation (Jaffe *et al.* 2003; Flores *et al.* 2009). Jury service can also cause negative health consequences, including depression, anxiety, fear, loneliness, isolation and nightmares, during and after trials (Antonio 2005; 2008; Miller 2008; Lonergan *et al.* 2016). Such stress stems from the weight of wielding decision-making authority (Eells and Showalter 1994) and heavy workloads (Rogers *et al.* 1991; Chamberlain and Miller 2008). Judges and jurors often suffer from secondary exposure to trauma as well,<sup>9</sup> particularly among those who have personally suffered trauma (Jaffe *et al.* 2003; Flores *et al.* 2009; Lonergan *et al.* 2016). This research thus suggests that the well-being of the *inyangamugayo* may suffer given the large case-loads, the weight of decisions regarding genocide and the hardship of hearing traumatic stories. Furthermore, since sector courts had higher-stakes decisions (prison sentences as opposed to fines) involving violence against people, these impacts may be magnified for sector-level judges.

Yet, studies of judges and jurors also indicate that they derive positive emotions and satisfaction from their work, suggesting potentially positive consequences for the *inyangamugayo*. Specifically, jurors often report pride in their work (National Center for the State Courts 2002; Lonergan *et al.* 2016), both immediately after the trial and months later (Gastil *et al.* 2010). Judges likewise express satisfaction regarding their work (Roach *et al.* 2014), especially in problem-solving courts and courts with a more therapeutic than punitive focus, such as drug or family courts (Chase and Hora 2009). Although the *gacaca* courts were largely punitive (Ingelaere 2016), they were also introduced as a means for improving the well-being of participants and communities in a TJ setting. In this regard, literature on the experiences of other judges who exercise punitive state authority within systems with broader social goals may help to inform the *inyangamugayo*'s experiences.

Judges and jurors likewise experience diverse impacts on social capital, again pointing toward possible consequences for the *inyangamugayo*. Apart from their exceptionally high ranking on international occupational prestige scales (Treiman 1977), judges also accrue social capital and career opportunities from their position of authority. Jury service can likewise increase the likelihood of subsequent participation in civic life (Gastil *et al.* 2008), which can, in turn, forge networks (Putnam 2000). For instance, Gastil *et al.* (2010) surveyed 1,030 jurors before, during and several months after jury duty and found that jury participation is associated with an in-

9 Females typically exhibit more symptoms (Antonio 2008; Flores *et al.* 2009; Jaffe *et al.* 2003).



crease in community group participation. With respect to *gacaca*, Chakravarty (2015) hypothesized that *inyangamugayo* would benefit from enhanced social capital after the courts closed, suggesting the relevance of this scholarship as well.

Finally, regarding negative impacts on social capital, judges often fear violence or retaliation because of unfavourable decisions (Chamberlain and Miller 2008; Flores *et al.* 2009), as do jurors (National Center for the State Courts 2002; Robertson *et al.* 2009). Flores *et al.* (2009) found that some judges even vary their schedules to avoid violence, which may impact their ties to others. Jurors in high-profile cases have also feared for their safety. For instance, in the infamous Casey Anthony trial in the United States, the judge waited three months to release the jurors' names to forestall harassment and fear (Speegle 2013). Although the *inyangamugayo* were not always in such high-profile settings, they were known to their communities, and their decisions often meaningfully impacted neighbours' lives.

In sum, existing literature on TJ mechanisms suggests that they can reduce well-being and increase social capital for participants and implementers alike. Given the *inyangamugayo*'s particular roles and prior literature, however, we also expect important differences for those who wield decision-making authority over case outcomes in TJ settings. Specifically, implementers may experience unique negative impacts on well-being and positive impacts on social capital tied to their specific roles. There may also be positive impacts on well-being and negative impacts on social capital in line with literature on judges and jurors elsewhere. We thus expect to find both short-term (during the mechanism's implementation) and long-term (persisting after the mechanism's conclusion), positive and negative, consequences of serving as an *inyangamugayo*. Further, we anticipate that consequences may vary based on the level of service, given that sector-level judges wielded more authority and were exposed to trials related to interpersonal violence.

## METHODS

We interviewed 135 former *inyangamugayo* in June of 2015 and in May/June of 2016. Participants were selected through a stratified random sampling procedure in four sectors with similar caseloads: Gikondo, Gahanga, Masaka and Mwirire. These sectors were chosen due to their comparatively urban (Gikondo), mixed (Gahanga and Masaka) and rural (Mwirire) compositions and their proximity to Kigali as a centralized location, and we explain them in more detail later in this section.

There is no national registry of *inyangamugayo* and, as such, no statistical data on the total population of judges. We therefore used a list of *gacaca* court trials obtained through the National Commission for the Fight Against Genocide (CNLG) to randomly select 20 trials from each of the four sectors. We then identified all judges who presided over these trials, which were held in a mix of cell, sector and appeals courts. As previously explained, courts at the sector level tried crimes against people, such as killing. Appeals courts were likewise at the sector level, while cell courts tried property crimes.

After randomly selecting the trials and using the Kigali *gacaca* court archives to obtain lists of their presiding judges, we obtained their phone numbers and asked them to participate. If phone numbers were unavailable, we travelled to their homes. Three *inyangamugayo* declined, while several others had moved or passed away, resulting in 135 interviews.

Interviews were conducted in English and Kinyarwanda. The first author conducted interviews in 2015 and 2016, while the third author conducted interviews in 2015 and the fourth author did so in 2016. The same translators assisted throughout. We obtained sponsorship from CNLG, as all research must have local sponsorship. Translators assisted English-speaking interviewers to conduct the interviews in the respondent's chosen language (almost always

Kinyarwanda). One member of the research team conducted interviews alone, as Kinyarwanda is his native language. Upon assessment, there were no patterned differences in results by interviewer.

Interviews typically took place within or outside of respondents' homes and lasted between one and two hours. Each interview followed a semi-structured interview guide that was translated and backtranslated in Kinyarwanda and English. Questions focussed on participants' lives, their elections, their duties, court procedures and outcomes and how their service has impacted them. As this article addresses consequences of their service, it relies heavily upon the *inyangamugayo's* own reflections. Notably, it does not include data from a non-participant comparison group, although the authors also interviewed *gacaca* court defendants and witnesses, and the findings presented here are unique to judges. Though it cannot be said with absolute certainty that the judges' perceptions reflect objective reality, qualitative interviews on people's perceptions provide important first-hand data for understanding lived experiences.

Of the 135 interviewees, 80 were men and 55 were women, and their ages ranged from 33 to 86 with an average age of 50, as illustrated in Table 1. Most had attended school, with 53 completing some primary and 31 finishing primary school as their highest levels of education. Others (13) did not attend school or completed additional school.

Although discussing ethnicity can be highly sensitive and at times criminalized,<sup>10</sup> the participants' stories of the genocide enabled us to identify their ethnic identities. For instance, many explained that they were among the targeted group, while others directly noted that they were Hutu or Tutsi in 1994. Overall, 67 of the judges we interviewed were Tutsi, and 64 were Hutu. Four were born in other countries, including Burundi, Uganda and the Democratic Republic of the Congo. Seventy-one judges served at the cell level, 64 at a sector court and 12 on a court of appeals, with some serving in multiple roles throughout their tenure and many serving as court officers (e.g. president, vice president and secretary).<sup>11</sup> All had been elected in community elections at the inception of *gacaca*, and most served the entire time that the courts were operational.<sup>12</sup>

Given Rwanda's context, scholars may be understandably concerned about participants' candour in discussing government-created courts (Mgbako 2005; Purdeková 2011; Straus and Waldorf 2011; Thomson 2013). Yet, we found that most participants readily shared criticisms of *gacaca* or expressed negative outcomes of their participation. Nevertheless, their generally positive appraisals of *gacaca* may have been influenced by the reluctance to criticize government initiatives. In this sense, certain negative consequences may have been magnified or minimized, but we cannot verify their reports with certainty.

To help address potential participant concerns about reprisals and privacy, we stressed that the results would be confidential and that no personally identifying information would be included in publications. As such, all names are pseudonyms. We also placed sensitive questions about the negative effects of the courts later in our interviews and sought to establish rapport in informal conversations before beginning the interviews.

After transcription, the first author read transcripts and created a coding scheme based on inductive themes (Charmaz 2014). Though we were aware of literature about well-being and social capital, coding was not restricted to these types of consequences but rather emerged through data analysis. The most pertinent questions from the interview guide were the following: 'How did serving as a judge impact your life?'; 'How do you think your participation influ-

10 Laws passed in 2008 and 2013 tied ethnic categories to genocide ideology.

11 Presidents and vice presidents convened court and assisted with its organization. Secretaries kept detailed minutes.

12 Some left their position before their courts closed. A few attributed their departure to family and work considerations, though two stepped down after corruption allegations. Furthermore, while the government sometimes appointed judges later in the process, none of the participants were appointed in this manner.

**Table 1.** Participants ( $N = 135$ )

Average age	50
Age range	33–86
Tutsi	67 (49.6%)
Hutu	64 (47.4%)
Other ethnicity	4 (3.0%)
Sector	
Gikondo	29 (21.5%)
Gahanga	32 (23.7%)
Masaka	34 (25.2%)
Mwurire	40 (29.6%)
Men	80 (59.3%)
Women	55 (40.7%)
Formal employment	19 (14.1%)
Highest education	
None	13 (9.6%)
Some primary	53 (39.3%)
Finished primary	31 (23.0%)
Secondary	17 (12.6%)
Vocational	11 (8.1%)
Post-secondary	4 (3.0%)
Court level	
Cell	71 (5.3%)
Sector	64 (47.4%)
Appeals	12 (8.9%)
Officer position	
President	32 (23.7%)
Vice president	13 (9.6%)
Secretary	31 (23.0%)

As some judges served at multiple court levels, these numbers do not sum to 100 per cent. Formal employment is contrasted with subsistence farming, and six respondents did not disclose their education.

enced what your family and neighbours think of you?'; 'Were your relationships impacted by your position?'; 'Have you had any negative effects from participating?' and 'Have there been any positive effects of your participation?' These questions elicited detailed comments on numerous facets of well-being (broadly conceived as the presence of positive emotions, the absence of negative emotions and overall satisfaction with life) and social capital (broadly understood as tied to bonds of trust, social networks and broader moral obligations). Our interviews also attended closely to how several salient dimensions of identity—gender, class and ethnicity—intersect with consequences, though we recognize that no single study can explicate how all aspects of social location impact the consequences of implementing TJ mechanisms.

A team of three individuals coded all transcripts in NVivo. The first author met regularly with each coder and randomly assessed their work. A second team then coded all transcripts following the same process such that each transcript was coded twice.

These qualitative data yield important insights into the lived experiences of participants. Although these are valuable in their own right, we would not suggest that the findings we sub-



sequently discuss are generalizable to all *inyangamugayo*. As participants were selected through a stratified random sampling procedure<sup>13</sup>, they are likely generalizable to the *inyangamugayo* in Gikondo ( $n = 29$ ), Gahanga ( $n = 32$ ), Masaka ( $n = 34$ ) and Mwurire ( $n = 40$ ). Gikondo has 17,146 residents (Census 2012)<sup>14</sup>, and 100 per cent live in an urban area. Mwurire has a population of 21,829, and 100 per cent live in a rural area. Gahanga and Masaka are each larger sectors in terms of population (27,808 and 39,548 residents, respectively), with respective urban populations of 42 and 49 per cent. Thus, the sectors are urban, rural and mixed.<sup>15</sup>

Little data exist on the characteristics of those elected to serve as judges, so we cannot assess how the judges we interviewed compare to all those who were elected. Nonetheless, the ethnicity of the judges varied noticeably across the four sectors, with Gahanga and Mwurire exhibiting more parity across Hutu and Tutsi. Specifically, 24 of the 29 judges in Gikondo were Tutsi, and 24 of the 39 judges in Mwurire were Tutsi. Yet, 13 of the 31 judges in Gahanga were Tutsi, and 6 of the 35 judges in Masaka were Tutsi. Interviews suggested that these differences approximated the general population of the sectors, though official data on ethnicity are not available due to the move away from ethnic categorization in Rwanda.

## RESULTS: CONSEQUENCES OF JUDGING TJ

The judges identified numerous impacts on their well-being and social capital, which we briefly summarize before providing information on each. Regarding well-being the *inyangamugayo* reported stress stemming from their heavy workloads that was exacerbated by the toll of unpaid, intensive service. They likewise discussed secondary trauma<sup>16</sup> from regularly hearing stories of genocide, resulting in unease and nightmares. This was particularly prominent among sector and appeals judges who were repeatedly exposed to stories of extreme violence. Yet, there were also numerous reports of positive impacts on well-being, with *inyangamugayo* expressing feelings of pride and satisfaction regardless of the court level.

Regarding social capital, many stated that family or friends of people they had sentenced held grudges against them, speaking openly about their fears of retaliation. Much like negative consequences for well-being, this was most common for sector and appeals judges who regularly imposed sentences of imprisonment. Nonetheless, public visibility was a double-edged sword for *inyangamugayo*, who noted that their work led to informal and elected leadership positions—a benefit that was expressed by judges in both sector and cell courts. We detail these results in four sections: negative impacts on well-being, positive impacts on well-being, negative impacts on social capital and positive impacts on social capital.<sup>17</sup> We pay particular attention to how the type of court impacted consequences given that this was the most salient difference that surfaced. However, we also highlight any differences that emerged in terms of gender, ethnicity or social class.

### Negative impacts on well-being

In almost every conversation, the *inyangamugayo* emphasized the enormity of their task, as many of them worked unpaid at least one to two days per week, every week, for up to ten years.

13 We assigned each trial a number and used a random number generator to select a sample.

14 Data obtained from IPUMS International.

15 Countrywide, the average population of the 416 sectors is 26,134, and the average percentage of urban residents in a sector is 12 per cent. The sectors comprising our sample thus vary in population, though they are more urban than the average sector, with the exception of Mwurire.

16 No respondents used the term 'secondary trauma', but many used the term 'trauma' (*ihungabana*).

17 For transparency, we note the number of participants expressing particular sentiments, which are generally modest. Several interviews were cut short because respondents had other obligations. Furthermore, complaining is uncommon in Rwandan culture, meaning that respondents would be unlikely to bring up negative consequences unprompted.

Specifically, 126 of the 135 judges—across court levels—lamented the amount of time their duties took. As Gaspard, a cell court judge, explained, ‘I remember it was not an easy task. Sometimes we could work during the night using candles ... because the workload was very large and difficult’. Mariko, who served on cell, sector and appeals courts, similarly noted, ‘Trying cases was really heavy work...It was sacrificing most of your time’. Grace, who served on a cell court and appeals court, recalled that they ‘could work like two days a week. One day for writing summons and the second day for trying the cases. We could even have another day for meetings’. Laurent, a sector court judge, explained that some of these days were very long:

We would go to start the trials at 6:00 a.m. We had to ... put benches and chairs where people were going to sit, and we would go back at like 6:00 p.m., so it was an exhausting day. Even at home they would not wait for us because they never expected us back.

The judges consistently described this heavy workload as stressful. Gaspard summarized many of their sentiments when he stated, ‘We had stress because going from the morning to 7 p.m. was difficult’. Many *inyangamugayo* said that this stress was made worse by the loss of time they would have otherwise devoted elsewhere. Francine, a cell court judge, noted, ‘It was so difficult to merge these duties and the other obligations we had’. Ezira, who served at both the cell and sector levels, likewise explained, ‘It was a tiresome job. We could go early in the morning and come back in the evening. We could not work for our families’. Frodouard, who served at sector and appeals courts, recalled, ‘You could spend a week without working on your farm or at home, and it was very difficult’—an important consequence when 80 per cent of the population works in the agricultural sector (World Bank 2013).

Although judges in each level of court reported these issues, this burden was mitigated for the minority of *inyangamugayo* who were formally employed, as employers were expected to excuse employees who worked as judges.<sup>18</sup> Those without formal employment—the vast majority—simply had to make do with less time for gainful economic pursuits. While 63 judges discussed the economic strain tied to their position, half of the judges who were not formally employed felt economic strain compared to one-third of the formally employed judges.

The *inyangamugayo* also explained how their work was emotionally painful. Approximately one-third of the judges discussed the emotional pain they felt from hearing the testimonies. These sentiments were expressed fairly evenly across ethnicities and genders, though women and Tutsi judges more often shared that they felt traumatized.<sup>19</sup> Sector judges also discussed emotional pain twice as often as cell judges. Sector judges heard stories of physical violence much more regularly. Mariko recalled his sector court, explaining:

There were some sad stories ... Some people could kill others halfway, like they beat you, or they cut your head ... That person could live, and then after a certain time, after some hours, then if that person comes back and finds you still bleeding, they could finish you.

Francois, a sector court judge, lamented, ‘... the case of someone who took a baby boy and threw him on the wall. It could make me emotional’. Mathias, a cell- and sector-level judge, recalled his difficulty hearing a sector court defendant say, ‘We killed ... so and so’s family. We put the whole family in the house, and then we lit fire and burned them in the house’.

18 Most respondents confirmed that their employers understood, though one individual shared he lost his job due to absences tied to *gacaca*.

19 Men discussed trauma (*ihungabana*) less frequently, though this may stem from gendered differences in willingness to discuss trauma.

Some judges discussed how testimonies stayed with them. Mathias explained that, 'After going home, you could have nightmares because of the stories you are listening to...'. Jeanne, a sector court judge, likewise said that when she arrived home from court, 'Sometimes I feared to do anything ... because sometimes I felt as if I was not mentally comfortable'. Marcel, who also served on a sector court, explained, 'When I got home from *gacaca*, I sometimes feigned to eat because I felt no appetite'.

The experience could be particularly difficult for judges who directly experienced trauma during the genocide, consistent with literature on judges and jurors who have experienced prior trauma (Robertson *et al.* 2009; Lonergan *et al.* 2016). Papias, a sector court judge, recalled that the stories 'could take us back to 1994'. As Josephine, who served at the cell level, put it:

We had a bad experience because I told you that my family was killed. They would tell those stories... and I say that's how even my relatives were killed. That's how my family members were killed. Maybe he's the one who even killed my family.

Regardless of personal experiences, many believed the negative memories and their effects faded with time. Venansiya, who served on a sector court, shared that although the judges were 'almost traumatized because of trials', they 'stood that storm and it passed'. Twelve judges, however, described long-term effects and memories that still haunt them. For instance, Immaculee, a sector court judge, explained, 'I remember the trial of a woman raped that stays in my memory... I even dream about that trial when I sleep'.

### Positive impacts on well-being

In contrast to these negative impacts, most (102) *inyangamugayo* also reported positive consequences for their well-being that they directly linked to their service.<sup>20</sup> These judges mostly noted the pride and satisfaction they took from their roles. To our knowledge, such feelings have not yet been documented for non-judge participants in the TJ process, though they have been observed in prior research on judges and jurors in the Global North (National Center for the State Courts 2002; Lonergan *et al.* 2016).

During the trials, pride and confidence mainly stemmed from the *inyangamugayo*'s belief that their community members trusted them to serve. Rose, who served at both levels, said, 'I was happy because people proposed my name [to serve as a judge]. Actually, they trusted me...'. Laurent, a sector court judge, explained that serving as a judge 'evoked confidence in myself because people trusted me'. Reverien, who served at the cell level, similarly noted, '... being called *inyangamugayo* showed me that people trust me. It gave me confidence', mirroring the 44 other judges who explicitly discussed deriving confidence from the position. This sentiment was expressed fairly evenly across genders, ethnicities and socio-economic statuses, though cell court judges discussed confidence more often than sector court judges (45 versus 27 per cent).

This pride was felt long after the trials ended. Frodouard explained, 'I am still proud of having participated in giving justice to people and actually punishing those who committed the crimes'. Viateur, who likewise served at the cell level, similarly noted, 'I am proud for having taken part in reconciling Rwandans'. Liberatha, an appeals court judge, likewise said, 'I am proud I helped. I participated in building my country. I built my country'. Although such comments may paint an unrealistically rosy picture of post-genocide harmony, many judges clearly took pride and felt satisfaction in their role.

Numerous *inyangamugayo* also highlighted how the role continues to shape their self-concept—a sentiment expressed across levels. Appolinaire, a cell court judge, remarked,

20 This includes any mention of pride, confidence and a positive impact on their view of themselves.

'I am now a person who fights for justice.' Rafael, a sector court judge, added that serving as a judge taught him that people like him, 'who never went to school' really do matter and that he could 'help my country'. Judges likewise linked the moral responsibilities of the role to their self-concepts and, thus, their well-being. For many, the gravity of TJ endeavours and their particular role as *inyangamugayo*, or 'people of integrity', left a lasting impression. Ignace, a sector-level judge, explained, 'If the whole country is trusting you that you are *inyangamugayo*, that you are a person of integrity, that is something big to me.' When asked how serving as a judge impacted his life, Reverien likewise stated that 'judging actually showed me that I am a person of integrity'.

In sum, similar to others who participate in TJ proceedings, the *inyangamugayo* reported negative impacts on their well-being and tied these impacts to their roles. They noted large caseloads and exposure to stories of genocide every week for numerous years, especially for sector judges and those with personal memories of the genocide. These findings align with prior research suggesting that, like general participants, judges report negative impacts on their well-being. That said, much like jury and judge service in other countries, the *inyangamugayo* also expressed pride stemming from their roles that persists to this day. They likewise derived satisfaction from the perceived impacts of their work, which enhances the well-being of sector and cell judges alike.

## SOCIAL CAPITAL

### Negative impacts on social capital

Although wielding authority in TJ processes is a source of pride, it also creates interpersonal conflicts, which can diminish social capital. Most disturbingly, the *inyangamugayo* frequently faced grudges from fellow community members, with 46 judges (34 per cent) discussing grudges. These grudges characterized trials at both levels, though sector-level judges raised such issues more frequently (36 of the 46).

As Tinah summarized, '... at sector courts, some people hated judges because they convicted their family members and friends. For us at the cell level, it was about property and the punishment was paying back what was looted'—a sanction with much lower-stakes. Sector court judge Jean Baptiste reported that while 'victims could think that we are good people, defendants could think that we are bad people'. Nathanael, also a sector court judge, explained that when a judge found someone guilty, that person would develop 'some kind of enmity against you', and Grace, who served at the court of appeals after a short stint at the cell level, noted that 'we have examples whereby people feared *inyangamugayo* as if we are strangers'.

Indeed, the *inyangamugayo* often presided over their neighbours' trials, which created tension and conflict. According to Odette, 'It was difficult trying a neighbour because a neighbour could hold a grudge against you'. Liberatha lamented that her neighbours saw her as 'the one who made them go to prison', again illustrating the weight of decisions tied to incarceration at the sector level. Asterie, a sector court judge, provided one of many examples:

There is a woman whose son I tried. That woman was my neighbour and she knew me, but anytime we met, she could face another side and start grinding her teeth... There are those families with people in prison that are not happy with us.

As this example illustrates, judges believed that relatives of those found guilty often harboured grudges. As Felicite, a sector court judge, explained, 'The relatives of the jailed people think that it is your contribution to imprison the relative. They did not accept that it is his fault or criminality... They think as if you are the one who caused the punishment'.

In other cases, friendships were disrupted. Mathias discussed sentencing a neighbour's husband. As he explained, 'The following day, that woman came to my home. She started telling me, "I thought you were a friend. You're convicting my husband 19 years in prison?"' Although defendants and their loved ones were most likely to hold grudges, some judges also reported grudges from victims and their loved ones, who demanded more severe punishments.

In Rwanda, neighbours play important social and economic roles, so a neighbour's grudge could create issues. For example, Ferdinand, who served at the cell and sector levels, explained, 'I went to my neighbour's home to ask him for some service because I had a cow... He refused to serve me because of that'. Bernadette, a sector-level and court of appeals judge, said that neighbours would damage her land by allowing their cows to graze on it. She tied these actions to ill will because she sent community members to prison, highlighting how disrupting social capital can reduce access to socio-economic resources (Bourdieu 2011 [1986]).

Judges also faced the possibility that grudges could lead to violence, with sector-level judges again articulating these sentiments most often. Fourteen expressed fearing for their lives, and several received violent threats, including death threats. Esperance, for instance, received repeated phone calls from a man who threatened to attack her because of her role in awarding his house to survivors. This man said, 'I was told you are among the judges who decided that my house be... used to compensate for the victims of genocide... And if you do not stop that, I will come and attack you'. Jean Bosco, a sector court judge, described threatening messages that were attached to a rock and thrown into his home—messages 'saying that you will be harmed or... killed because of participating in *gacaca* courts'. Although many such threats were not carried out, Bernadette and Belancilla each told us that people who resented their judicial decisions at sector courts slipped poison into their drinks.<sup>21</sup>

Concerns about violence impacted the judges' trust in and interactions with others, influencing both their social capital and their overall well-being. Some people shared that they stayed inside after sundown due to the threat of violence. As Bernadette explained, 'Wives used to say to me that this is the one who made our husbands die in jail. I have to close my door at 6'. Grace added, '*Inyangamugayo*, we are not free... we are not going to [use the] bus. We are not eating in social gatherings'. Liberatha explained that it reached the point that she wanted to leave her village, 'We had neighbours here, but those neighbours were put in prison when I was, of course, a judge. They thought I am the one who made sure that they go to prison...I even wanted to relocate from this place...'

The fear, ill will and grudges sometimes ebbed with time. While trials were still in session, Phenias—who served at cell and sector courts—received death threats from the families of defendants. But, today, he believes that, 'No one holds a grudge'. Similarly, Jean Baptiste explained that, 'Now it is a forgotten story'. Others believed things are slowly improving. According to Sara, a sector court judge, 'It was not easy for us. As the time goes on, things are becoming right'.

Some grudges persist, however, and judges continue to fear for their safety. After the incident with the rock, Jean Bosco said he must stay alert whenever he travels, and he tries not to be away from his home, especially at night. Immaculee, meanwhile, described constant fear for the safety of her only child due to a persistent conflict with family members of a man she helped imprison. Immaculee explained that her child 'has no security because of that family that has continued to keep a grudge against me'. She eventually moved her son to a different school, showing how interpersonal conflicts can have intergenerational effects. Both men and women discussed negative impacts on social capital, but women judges were more likely to also note negative impacts on their children, suggesting a possible gendered element.

21 Notably, some judges reported receiving government protection.



### Positive impacts on social capital

Despite these difficulties, many respondents believed that their position enhanced their social capital. These positive impacts came with time and persisted after *gacaca*'s conclusion, as they continued to garner respect for their service. Leonard, a sector court judge, shared, 'Today, more people are respecting me because of serving as a judge'. James, who served at the cell and sector levels as well as an appeals court, suggested, 'People trust me more than before due to my participation. Both neighbours and leaders have trust in me'. Josee, a cell court judge, similarly said, 'Most of the time people in the village see you as an opinion leader. People have trusted much in you'. Placide, a sector court judge, likewise noted that, now, people regularly seek his opinion:

... when they face problems, when they want to take their cases to any court, they come to me and ask some piece of advice. They say that if I take this case to the court, will I fail or win the trial?

Thirty others also discussed being well-respected and explicitly tied this to having been *inyangamugayo*.

Sometimes, judges suggested that this respect led to formal positions. Donatilla, a cell court judge, explained, 'Whenever they are proposing names for certain positions, they think about me because they know I am a person of integrity'. Dorothee likewise stated that, 'now, whenever they need someone in the cell to help in some leadership or doing something, they propose my name'. In fact, 14 interviewees were subsequently elected to serve as mediators<sup>22</sup> (*umwunzi*) in their community, and 13 currently serve as head of their village or in another local leadership position. None had held these positions before *gacaca*.

Most interviewees attributed these roles to their service as *inyangamugayo*. Liberatha explained, 'People saw me as a person of integrity. That is why they wanted to make sure that I continue and act as a mediator'. Martin, a sector court judge, likewise noted, 'After serving as a judge, I was elected as a leader of my village by people because of the trust they had in me'. Ladislas, who served on cell and sector courts, similarly said, 'I was afterwards elected a village chief. This is because of my participation in *gacaca*'. Epiphanie, a sector court judge, explained, '... the process in mediation is that each party selects one person from the mediators, and they select a third one. But people prefer selecting me because they trust me after *gacaca* courts'. Respondents thus believed that their service brought the respect of their communities and new opportunities<sup>23</sup> in elected positions. Nevertheless, these stories also highlight unintended interpersonal burdens, ranging from serious economic issues to damaged social capital and violent threats.

## DISCUSSION

Like other participants in TJ processes (Brounéus 2008; 2010; Rimé *et al.* 2011; Cilliers *et al.* 2016), judges in this study reported negative impacts on well-being (stress from high workloads, economic loss and trauma) and positive impacts on social capital (respect and further elected positions). The mechanisms for these consequences likely align with the mechanisms for non-judge participants—reactivating negative experiences and participating in a collective action ritual—yet also go beyond them due to the duties and authority of the *inyangamugayo*. Furthermore, unlike the literature on general participation in TJ, this study documents posi-

22 This position is unpaid but respected.

23 A few judges discussed material gains they believed stemmed from social capital.

tive consequences for well-being (pride and satisfaction) and negative consequences for social capital among judges (grudges and fear of violence). These outcomes are directly tied to the duties and authority that accompanied the role, and they highlight the importance of examining the impact of TJ mechanisms from multiple viewpoints.

The most alarming finding is the rate at which *inyangamugayo* reported grudges. Unlike many judges in other parts of the world, the *inyangamugayo* continue to live and work in extremely close proximity to those they sentenced—and almost every neighbour is personally affected by the genocide, *gacaca* and the specific work of the judges. This placed the *inyangamugayo* in an especially vulnerable position, suggesting that, while the *gacaca* courts were meant to reconstruct social capital, they also disrupted the social capital of implementers. These effects were particularly prominent for sector-level judges, likely due to their authority to sentence people to prison.

Dirks (1994) argues that although collective action rituals can be integrative, they ‘often occasion more conflict than consensus’ and can upend authority relations (p. 488). In this case, those who implement the mechanism may bear the brunt of this conflict. One judge offered a specific suggestion to address some of the interpersonal issues:

It might be better ... if the court from the neighbouring province [could] come and try people of this province... This is because the neighbours see you as the one who can support them. When you are fair in a trial, they see it as if you are not fair to that family and keep a grudge against you.<sup>24</sup>

Such suggestions speak to both the structural challenges and opportunities inherent in community-based lay judicial processes, particularly the recent ‘fourth wave’ emphasis on localized TJ. This finding should not diminish the importance of local implementation of TJ mechanisms but highlights the need for further consideration of their social ramifications—in this case, for implementers.

Beyond grudges, 39 of the judges suggested that moderate compensation would have mitigated the socio-economic impact of serving. Such compensation is surely contingent on the resources available but should nonetheless be considered. Counselling services may likewise aid judges in processing traumatic stories. In this case, the Rwandan government directly shaped some of the consequences with decisions regarding the number of courts (impacting caseloads), compensation (or lack thereof) and training.

When considering these findings, readers may be surprised that the judges’ ethnicities did not impact many consequences. The lack of meaningful differences by ethnic identity is likely tied to at least two processes. First, many Hutu judges rescued Tutsi during the genocide, meaning that they engaged in boundary crossing in terms of ethnically expected behaviour (Luft 2015), aligning them with Tutsi. Furthermore, Chakravarty (2015) suggests that community members may have seen all judges as arms of Rwanda’s Tutsi-led government, which would further blur ethnic boundaries between judges.

Additional research could build on this work by investigating how intersecting identities influence consequences. We have highlighted the most prominent ways that socio-economic status, ethnicity and gender shaped our findings. Yet, in-depth examinations of how these and other identities impacted judges are merited. Similarly, more refined measures of service and more rigorous measures of psychosocial well-being are needed to improve appraisals of the harms and benefits of service.

Furthermore, it is likely that respondents were comparatively better educated than judges in some parts of the country and that their communities were comparatively larger, as addressed in

24 Travelling courts did occasionally try tricky cases.

the Methods section. Results may thus be generalizable to other urban and mixed urban/rural areas. Note also that this article does not include a comparison group but rather seeks to draw general consequences of serving as a judge from their narratives. As noted, we also interviewed witnesses and defendants in a broader study, and the consequences reported here are unique. Nevertheless, consequences could be more rigorously examined with the use of comparison groups while localized TJ mechanisms are ongoing.

## CONCLUSION

The consequences of serving as a judge in a TJ court appear more complex than existing TJ literature on less intensive participation would suggest. This literature highlights negative effects on well-being and positive effects on social capital. Yet, we find negative and positive effects on both well-being and social capital, which aligns with and extends literature on judges and jurors in other contexts. Specifically, *inyangamugayo* experienced positive impacts at both the cell and sector court levels, but some negative impacts were especially prominent among sector court judges, likely due to their greater power and responsibility and their prolonged and repeated exposure to narratives of personal violence.

For TJ scholarship, this study has shown how the consequences of participation depend upon the role and position of actors. For scholarship on judges, the study responds directly to calls for investigation into the specific impacts of judicial service (Chamberlain and Miller 2008). Finally, for community courts more broadly, it suggests that members of the community may bear the burden of community justice. As such, community courts must carefully consider who comprises their staff and take steps to mitigate potential harm to them.

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