

Job demands and job resources and well-being of judges in South Africa



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Orientation: Research has been conducted regarding job demands, job resources and well-being of individuals in a variety of jobs. However, no studies have focused on the work experiences of judges in an African context.

Research purpose: This study aimed to explore job demands and job resources, and the effects thereof, on the well-being of judges in South Africa.

Motivation for the study: Some stressors and demands that judges face are universal. However, the situation in each country, division and type of court differs, and thus the factors affecting judges' well-being also vary.

Research approach/design and method: The research employed an exploratory study design. South African judges ($n = 25$) from various courts of different jurisdictions participated in this qualitative study. Semi-structured interviews were used to gather data. Conformability was established by using the ATLAS.ti 8 software program.

Main findings: The results showed that job resources such as autonomy, positive relationships with senior judges and opportunities for training and development, contributed to judges' flourishing. Despite job demands such as work pressure and time constraints, emotional demands and hassles experienced at work, judges generally chose to use the available opportunities for well-being to reach their goals, to feel good and to function well at work. Some judges, however, noted that their heavy workload and limited time contributed to their stress and burnout.

Practical/managerial implications: Interventions should be employed to alleviate the job demands of judges whilst increasing their job resources at the same time. This will boost their flourishing.

Contribution/value-addition: This study adds to scientific knowledge regarding the job demands, job resources and flourishing of judges in the South African context.

Keywords: judges; job demands; job resources; flourishing; burnout.

Introduction

The quality of individuals' work life and their well-being is influenced by their perceived and actual job demands and job resources. In keeping with the conservation of resources (COR) theory (Hobfoll, 2002), job demands are negatively appraised physical, psychological, social or organisational facets of work that necessitate continued physical or psychological effort. Such efforts are related to specific physiological and psychological costs (Schaufeli & Taris, 2014). Job resources are important physical, social or organisational facets of work that are functional in attaining work objectives, decreasing job demands or motivating personal development and advancement (Schaufeli & Taris, 2014).

Consistent with Keyes' 'mental health continuum', mental well-being at work varies along a continuum from flourishing to languishing, with moderately mentally healthy individuals falling in between. Rothmann (2013) adapted Keyes' (2002) multidimensional model of flourishing in life to create a model of flourishing at work. Flourishing at work is a multidimensional construct comprising emotional well-being (EWB), psychological well-being (PWB) and social well-being (SWB) in work contexts. Flourishing at work refers to an employee's desirable well-being state, achieved via positive experiences and the effective management of factors related to the work (Rautenbach, 2015). Flourishers experience high levels of EWB, PWB and SWB because, when flourishing, employees experience a sense that things are going well in their work life and that they are functioning well. Moreover, flourishing employees thrive and acquire new skills and

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knowledge, whilst they are happy, engaged, enthusiastic and successful (Bono, Davies, & Rasch, 2012). Contrary to this, languishing is associated with emptiness and apathy as a result of negative work experiences (Demerouti, Bakker, & Gevers, 2015; Rothmann, 2014). Languishing individuals thus experience low levels of EWB, PWB and SWB.

Although research has been conducted regarding job demands, job resources and well-being of individuals in a variety of jobs, no studies have focused on the work experiences of judges in an African context. Some stressors and demands that judges face are universal. However, the situation in each country, division and type of court differs, and thus the factors affecting judges' well-being also vary. In some countries, for example, judges have significant concerns about their safety, both in and out of court, as violence and threats against judges have been on the rise, creating a sense of vulnerability and anxiety (Chamberlain & Miller, 2009). This study explored job demands and resources of judges in South Africa and the effects thereof on their well-being.

Judges' job demands and job resources

The job demands-resources (JD-R) model (Demerouti, Bakker, Nachreiner, & Schaufeli, 2001) can be utilised to study the effects of job demands and job resources on the well-being of judges. This model describes two main processes. The first is the erosion process; job demands (e.g. heavy workload and emotional demands) cause burnout (emotional exhaustion and cynicism), which subsequently results in adverse organisational outcomes, such as an intention to leave (Schaufeli & Bakker, 2004). The second is the motivational process; job resources (e.g. positive co-worker relationships) result in work engagement and well-being (Bakker, Schaufeli, Leiter, & Taris, 2008; Barkhuizen, Rothmann, & Van de Vijver, 2014; Schaufeli & Bakker, 2004).

When resources are available at work, individuals tend to become more engaged in their work, which, in turn, increases their level of flourishing. Schaufeli and Taris (2014) posit that job resources play both an extrinsic and an intrinsic motivational role. Work environments, where many resources are available, cultivate workers' willingness to devote their skills and energy to the task at hand, to achieve work goals (extrinsic motivational role). According to Deci and Ryan's (1985) self-determination theory (SDT), the intrinsic motivational role of job resources is that they fulfil fundamental human needs for autonomy, relatedness and competence. Job resources promote a fulfilling, positive work-related state of mind (i.e. work engagement), either through reaching work goals or satisfying basic needs (Schaufeli & Taris, 2014). Deteriorated or exhausted resources and an inability to meet job demands result in decreased motivation (Bakker, Demerouti, De Boer, & Schaufeli, 2003), exhaustion and languishing (Rothmann, Van Zyl, & Rautenbach, 2019).

According to the COR theory (Hobfoll, 1998), people strive to obtain, keep and safeguard what they value. It suggests that resource depletion is psychologically harmful and results in decreased levels of well-being, whilst the obtainability of resources promotes mental health (Hobfoll, 2002). By assisting employees to acquire resources that contribute to engagement and resilience and by eliminating obstacles that result in resource depletion, organisations can prevent unnecessary stress and improve employee well-being and efficiency (Hobfoll, Halbesleben, Neveu, & Westman, 2018).

Limited studies, such as that of Hagen and Bogaerts (2014), have examined the extent to which job demands and job resources influence the well-being of judges. Considering the various demands faced by judges, it is evident that '[j]udicial officers, by virtue of their position within a stress-prone legal profession and the nature of judicial work, are uniquely placed in the crossfire of risk factors for stress' (Schrever, 2015, p. 32). Stress can harm judges' feelings and functioning, resulting in languishing, as they can, for example, feel anxious, have no interest in their work or find it challenging to make decisions (Miller, Flores, & Pitcher, 2010). When judges languish, they are likely to become victims of burnout when job demands increase without any corresponding upsurge in job resources (Demerouti & Bakker, 2011; Hobfoll, 2002).

Job resources mitigate individuals' job demands and its associated physiological and psychological costs. Job resources, therefore, can potentially encourage individuals' personal development and learning and help them to attain their objectives (Demerouti & Bakker, 2011; Schaufeli & Bakker, 2004). Studies in other countries found that judges' job resources include, amongst others, autonomy and positive co-worker relations (Ludewig & Lallave, 2013; Norris, Commons, Miller, Adams, & Gutheil, 2011).

Well-being

Employees' location on the well-being continuum (from flourishing to languishing) is affected by their scores on three dimensions of well-being, that is, EWB, PWB and SWB (Rothmann et al., 2019). Emotional well-being (also known as hedonic well-being) refers to positive feelings when employees are satisfied with their jobs, and they experience positive feelings at work. Psychological well-being and SWB (also known as eudaimonic well-being), on the other hand, refer to individuals' endeavour to function optimally and their appraisal of their functioning in the workplace. Psychological well-being, as an element of workplace flourishing, comprises six elements: autonomy, competence, relatedness, meaningfulness, engagement and learning (Rothmann, 2013). Individuals with positive psychological functioning accept themselves, function autonomously, are competent and maintain positive relations with others (Kong & Ho, 2016). They are also engaged in their work, that is, they are physically involved, cognitively alert and emotionally attached (Kahn & Heaphy, 2014; Schaufeli, 2014). They participate in activities aimed at reaching their goals, and they try to find

meaning in their work environment (Cameron, Dutton, & Quinn, 2003). In a work setting, individuals are most likely to experience psychological meaningfulness when they feel that they are valuable and beneficial to others (Kahn, 1990; May, Gilson & Harter, 2004), which will, in turn, contribute to their optimal functioning. Learning is another vital aspect of PWB in work settings because it centres around individuals' development and progression (Rothmann, 2013). Based on Keyes' (2005) articulation of SWB in life, SWB at work involves five features: (1) social acceptance, which implies a positive attitude towards, and acknowledgement of, diversity in the organisation; (2) social actualisation (growth), which indicates that individuals have faith that colleagues, groups and organisations have the potential to develop; (3) social contribution, which refers to individuals' trust that their day-to-day activities are valuable to their work and others; (4) social coherence, which indicates that individuals experience their social lives and their work as meaningful and coherent; and (5) social integration, which shows that individuals experience a sense of relatedness and solace from their workplace. Social well-being, thus, relates to, amongst other things, organisational support, satisfying relations with co-workers and supervisors and positive communication (May et al., 2004; Rothmann, 2014).

Burnout

Given their unique pressures, their isolation, the misery they see and the profound decisions they make, judges can suffer from burnout (Lebovits, 2017). According to Maslach, Schaufeli and Leiter (2001), burnout manifests in the following three ways: (1) feelings of energy depletion or exhaustion, (2) increased mental distance from one's job or feelings of negativism or cynicism related to one's job and (3) reduced professional efficacy. Exhaustion, the stress component, occurs when individuals are tired and feel that the work exceeds their limits and that their emotional and physical resources are depleted (Schwarzer & Hallum, 2008). Depersonalisation, the interpersonal element, entails being cynical, irritable and negative towards others. Reduced personal accomplishment, the self-evaluation element, includes feelings of ineptness and a lack of efficiency and accomplishment at work (Maslach & Leiter, 2008). Individuals struggle to feel a sense of achievement at work when they are emotionally exhausted and feel indifferent or pessimistic towards others. In work environments where job demands are high, and job resources are low, the risk of burnout is very high (Demerouti et al., 2001; Xanthopoulou et al., 2007). However, as per the JD-R model, ample job resources can reduce the negative effects of job demands on burnout (Bakker & Demerouti, 2007; Xanthopoulou et al., 2007). This model, furthermore, assumes that job resources can especially influence work engagement when job demands are high (Bakker & Demerouti, 2007).

This study explored job demands and job resources, and the effects thereof, on the well-being of judges in South Africa.

TABLE 1: Characteristics of the study participants.

Item	Category	Qualitative (n = 25)	
		Frequency	%
Gender	Female	08	32.00
	Male	17	68.00
Age (years)	42–54	06	24.00
	55–64	06	24.00
	65–84	13	52.00
Status	Retired	04	16.00
	Sitting	16	64.00
	Acting	05	20.00
Race	African	03	12.00
	Mixed race	03	12.00
	Indian	02	08.00
	White	17	68.00
Experience on the bench (years)	0.02–5	08	32.00
	5.01–10	10	40.00
	10.01–15	01	04.00
	15.01–20	02	08.00
	20.01–25	04	16.00
Type of court	High court	17	68.00
	High court and electoral court	01	04.00
	High court and labour appeal court	01	04.00
	Labour court	04	16.00
	Supreme court of appeal (SCA)	02	08.00
Previous position	Academic and attorney	01	04.00
	Advocate	14	56.00
	Attorney	07	28.00
	Attorney and member of human rights commission	01	04.00
	Magistrate	02	08.00

Method

Participants

This qualitative research was carried out by using a combination of non-probability purposive and convenience sampling of participating judges. The judges were recruited from various courts of different jurisdictions in South Africa. An important consideration was to obtain a sample of judges from different gender, race, experience on the bench and age groups. Twenty-five acting, presently sitting and retired judges participated in this study (see Table 1).

Data gathering

A self-developed biographical questionnaire was administered to obtain demographic information pertaining to *inter alia* age, gender, ethnicity, marital status, years on the bench and prior experience.

Semi-structured interviews were used to gather data. The number of interviews conducted depended on how long it took to reach the saturation level of information. For a qualitative research to be considered trustworthy, it has to be transferable, confirmable, dependable and credible (Tracy, 2013). Care was taken not to ask any leading questions. The intention was to obtain a representative sample of judges from various courts of different jurisdictions concerning gender, race, experience on the bench and age to prevent sampling bias and to ensure transferability. Confirmability was established by using the ATLAS.ti 8 software program,

which indicates the steps taken when analysing the interview data. This ensured that the findings of the research accurately represent the participants' responses. Dependability was ensured by using an inquiry audit.

Research procedure

Individual judges were contacted telephonically or via email, inviting them to participate in this research endeavour. The details of the study were explained to them, and judges were given the opportunity to request further information regarding aspects of the study they needed to be clarified.

The first author made appointments with the individual judges who had agreed to be interviewed at a time and place of their convenience. The semi-structured interviews were conducted at several locations convenient for the judges, such as their chambers or their places of residence. The interviews – which covered topics such as their work pressure, emotional demands, hassles, transformation, their relationships with colleagues and superiors, remuneration and their well-being – lasted for 1–2 h and were audio-recorded. Data collection took place from June 2017 to November 2018.

Data analysis

The audio-recorded interviews were transcribed and thematically analysed. The ATLAS.ti 8 program for qualitative data analysis was used to extract quotations and to code relevant constructs. Themes emerged from the data through this iterative process (Tracy, 2013). Content analysis was used to identify and summarise the message content. This was a process of examining data from different viewpoints to identify solutions in the text that would help to comprehend and decipher the raw data. The first author tried to find similarities and variations in the text that corroborated or disconfirmed the theory (Nieuwenhuis, 2007) through an inductive and iterative process.

Ethical consideration

Ethical approval to conduct this study was obtained from the Ethics Committee of the North-West University in May 2017 (ethics approval number: NWU-HS 2017-0062). Over and above the ethics committee's approval, the first author contacted the judges president (JPs) of the respective divisions of the high court to obtain their permission or to enquire whether they had any objections to the research. No formal approval letters were received, but some JPs endorsed the research by either encouraging judges in their divisions to participate or by personally participating themselves.

It was also pointed out that their participation would be entirely voluntary and that they would be free to decline to participate. The confidentiality of the research project was furthermore noted. Once they had decided to participate in the research project, appointments were made with the individual judges at a time and place convenient to them.

Independent, written, informed consent was received from all the participants in this study. Interviews were conducted in either English or Afrikaans, audio-recorded and transcribed.

Results

Table 2 shows the qualitative results of the different themes.

Job demands

The job demands discussed in this study are work pressure and time constraints, emotional demands, annoyances, or the so-called hassles, experienced by judges, and transformation. Work pressure refers to the feeling of being unable to manage the work, for example, because of work overload or too little time in which to finish it, which can lead to stress (Gaillard, 2003). Concerning emotional demands, judges must deal with emotions, usually negative, in court. For example, offenders may be hostile, whilst victims may be angry, scared or distraught. Judges not only have to work in this adverse environment, but they are occasionally also exposed to traumatic experiences of others, which subject them to the risk of vicarious or secondary trauma (Schrever, 2015).

Because of miserly budgets, defective systems or even corruption, many judicial officers face hassles in their work environment that inevitably add more stress to their already challenging work. Transformation in the judiciary plays a significant role in increasing job demands for judges.

The workload of South African judges has increased post-1994, as access to justice has become available to more people, even to the indigent who do not have legal representation. In this study, it was clear that, because of their enormous caseloads, judges were often expected to work exceedingly long and sometimes irregular hours, especially when presiding over a complicated matter or when preparing a judgment. This often resulted in blurred borders between work and free time. One judge remarked that there may be a [family] Sunday lunch that she cannot attend, as she has to be ready for an appeal on Monday. Judges thus have to have very understanding friends and family.

Most judges found that listening to murder, rape and robbery cases is emotionally taxing. One judge explained:

'You see victim after victim coming to account for what had happened, and I spend half my time on the bench trying not to burst out in tears. It is very emotionally draining.' (4JM; Sitting male judge; 66 years old)

He found dealing with family matters very emotional as well:

'The fights over children are insoluble. There is never a right answer for that, and the expectations on judges in those matters are unrealistic. I find that enormously challenging to

TABLE 2: Qualitative results.

Construct	Mentioned by
Job demands	
• Work pressure and time constraints	19 respondents – 5 acting judges; 7 sitting female judges; 5 sitting male judges; 2 retired judges
• Emotional demands	11 respondents – 2 acting judges; 4 sitting female judges; 3 sitting male judges; 2 retired judges
• Hassles	
▪ Safety concerns	5 respondents – 2 sitting female judges; 2 sitting male judges; 1 retired judge
▪ Incompetent contractors	10 respondents – 2 acting judges; 2 sitting female judges; 6 sitting male judges
▪ Budgetary constraints	16 respondents – 4 acting judges; 4 sitting female judges; 7 sitting male judges; 1 retired judge
▪ Long procurement process	2 respondents – 1 sitting female judge; 1 sitting male judge
▪ Red tape	3 respondents – 1 sitting female judge; 1 sitting male judge; 1 retired judge
▪ Ignorance of female judges' needs and requirements	2 respondents – 2 sitting female judges
▪ Incompetent supporting structures	7 respondents – 2 sitting female judges; 3 sitting male judges; 2 retired judges
• Transformation of the judiciary	
▪ Necessary, but should be based on merit	14 respondents – 5 acting judges; 2 sitting female judges; 4 sitting male judges; 4 retired judges
▪ Inadequate gender transformation	3 respondents – 3 sitting female judges
▪ Wrong approach followed	2 respondents – 1 sitting female judge; 1 sitting male judge
▪ Inadequate attitudinal transformation	3 respondents – 1 acting judge; 1 sitting female judge; 1 sitting male judge
Job resources	
• Supervisor (senior judge) support	17 respondents – 2 acting judges; 6 sitting female judges; 6 sitting male judges; 3 retired judges
• Job characteristics	
▪ Autonomy	21 respondents – 4 acting judges; 6 sitting female judges; 7 sitting male judges; 4 retired judges
• Remuneration (salary and benefits)	
▪ Adequate/good	14 respondents – 2 acting judges; 2 sitting female judges; 6 sitting male judges; 4 retired judges
▪ Inadequate	6 respondents – 4 sitting female judges; 2 sitting male judges
▪ Annual increases	All 25 judges noted that increases ought to be at least inflation related.
Flourishing	
• Feeling energised and resilient	19 respondents – 5 acting judges; 5 sitting female judges; 7 sitting male judges; 2 retired judges
• Meaningful work	22 respondents – 5 acting judges; 6 sitting female judges; 7 sitting male judges; 4 retired judges
• Aspects of work – concentrate fully, time flies	16 respondents – 4 acting judges; 3 sitting female judges; 5 sitting male judges; 4 retired judges
• Opportunities to excel	12 respondents – 2 acting judges; 4 sitting female judges; 4 sitting male judges; 2 retired judges
• Limited/lack of feedback (negative)	18 respondents – 4 acting judges; 3 sitting female judges; 7 sitting male judges; 4 retired judges
Negative outcomes	
Burnout, PTSD, anxiety, secondary trauma, flashbacks, feelings of despair, and being overwhelmed	6 respondents – 4 sitting female judges; 2 sitting male judges

PTSD, Post-traumatic stress disorder.

remain on an equilibrium when I'm dealing with that. Those are the sources of emotional pressure.' (4JM; Sitting male judge; 66 years old)

Another judge reported that he still woke up at night feeling stressed about a case over which he had presided, involving a small child who had been severely assaulted. Amongst other terrible things that had been done to her, various organs had been removed from her body whilst she had still been alive. When the judge asked the accused how he had known that the child was dead, he said:

'... the heart stopped beating in my hand. It is not something you easily forget.' (2JM; Sitting male judge; 66 years old)

Another judge noted:

'I'm just fortunate ... but, who knows, some extremely complicated case may debilitate me, or I may get some matter where I can't cope. I am certainly vulnerable, and it will be the luck of the draw whether it comes along or not, [when] that edifice of self-confidence is cracked.' (4JM; Sitting male judge; 66 years old)

Some high court judges noted that their work was very isolating and lonely. One remarked:

'It's a very lonely life. Remember, you're one man. You come here, and you sit on your own; when you go to court, you're on

your own; when you come back from court, you're on your own; you don't mix with people. People, when you become a judge, suddenly stop calling you [name of judge], they call you "Judge".' (2JM; Sitting male judge; 66 years old)

Making life-changing decisions under tremendous time pressure is extremely stressful, which results in anxiety.

Moreover, being solely responsible for one's judgments, which can have significant consequences for individuals or a community, is emotionally demanding. Judges are mindful that the criminal justice system is not in a position to effectively respond to the plight of victims narrating the innermost things that have happened to them and the effect that these have had on them. Not being able to express emotions, such as empathy, disgust or anger, adds to a judge's emotional burden.

In South Africa, in addition to the standard stressfulness associated with their work, other factors play a negative role in the well-being of judges, such as hassles experienced and transformation (Albertyn, 2014; Mhango, 2014).

Judges expect that they will be provided with the 'tools of their trade' to perform their duties. However, high court

judges in all the divisions complained about a variety of things that prevented their functioning optimally. The following main themes emerged:

- *Incompetent contractors:* Court buildings, especially the public toilets and corridors, were not cleaned properly by the Department of Public Works:

‘... it does not look like a place that dispenses justice.’ (21JM; Sitting male judge; 61 years old)

In the Gauteng and KwaZulu-Natal divisions, lifts that were not working were a perpetual problem, even though vast amounts of money had been spent on repairs.

- *Budgetary constraints:* Faulty air conditioners were a considerable problem, especially in Mbombela and some of the old courts at the Bloemfontein High Court, where temperatures could rise to more than 40 °C. Judges found it very unpleasant working in a court full of people, dressed in their robes. In winter, however, it could be very cold. Judge 7JM noted that it was inhumane to expect a witness to be examined in those conditions and that it infringed on people’s right to a fair trial. Judge 9JF reported that her health had been negatively affected by the poor ventilation, the dust and the mess the pigeons made at the high court in Durban. Photocopy machines frequently did not work correctly, and sometimes there was no toilet paper or stationery, resulting in judges having to buy their own.
- *Exceedingly long procurement process:* Because of the lengthy procurement process, maintaining the buildings and purchasing consumables were delayed. Judge 18JM had waited for more than a year for the installation of more bookshelves in his chambers. Eventually, he decided to buy second-hand shelves, as a lack of storage was starting to have a negative effect on his productivity.
- *Red tape:* One judge described the bureaucracy as probably the principal infuriating thing. Examples of red tape included judges not being allowed to use certain printers or to change the settings on the computers that the state provided. They have to call for somebody to come and undo it as if they cannot be trusted to use the equipment.
- *Ignorance of female judges’ needs and requirements:* Some female judges (8JF, 9JF and 10JF) complained about the quality and ergonomics of the furniture. Desks and chairs, especially the old ones, were not designed for females, which was probably a legacy from the old regime. Some female judges used cushions to sit on or to support their backs when sitting in bulky, bearish chairs, and they used additional reading or writing stands.
- *Incompetent supporting structures:* In the Gauteng division, some judges opined that the administration was poor and that there was no work culture amongst many of the support staff who had been appointed simply for affirmative action purposes. Several judges (1AJM, 1JF, 2AJM, 4JM, 15JF and 18JM) also complained about incompetent, dishonest and/or abusive counsel. The quality of work was often poor, and the judges could

not always rely on submissions being made. A judge reported:

‘The advocates nowadays are unprepared when coming to court, the papers aren’t properly drawn, they ask for the weirdest orders to be made and you have to be careful and think of the consequences. The buck stops with the judge.’ (2AJM; Acting male judge; 61 years old)

- *Violence directed at judges and their families has become a growing phenomenon:* According to Chief Justice Mogoeng Mogoeng, the country’s lawmakers are the most vulnerable members of society because of the work they do – determining the fate of others:

The risk of being harmed lies primarily with judicial officers. Even matters involving tenders and other contracts worth millions of Rands which hurt and can harm the business prospects and entities of people, it is judges who make the final call. (Mokati, 2017)

Some judges feel very vulnerable, as noted by Judge 2JM:

‘... they say I’m safe. How do you know? The only way you know is when the shot is fired and kills you.’ (2JM; Sitting male judge; 66 years old)

During the apartheid era in South Africa, white males dominated the judiciary. The necessity to establish a judiciary that was more representative of the people of the country was, thus, indisputable. In his inaugural lecture on 06 October 2004, Justice Mpati proposed that a balance should be struck between race and gender representation. However, competence and integrity should also be reflected when appointing suitable judges (Mpati, 2004). Transformation of the judiciary affects the values, attitudes, skills and well-being of judges.

Participating judges were in favour of transformation, with the proviso that the necessary level of skills accompanies the appointment. A diverse bench will enable judges to view issues from different angles. It will change their world view, their preconceived notions and their perspective of what it means to be a South African. One of the judges was, however, of the opinion that too much focus was placed on the outward aspects of transformation:

‘So we focused on race and gender, almost on the assumption that if we do the race and gender and get that right, then the change we want will happen. There is a dangerous assumption that the numbers will fix up the values. I think there must be a focus on the values, and I don’t think we’ve done enough on that.’ (21JM; Sitting male judge; 61 years old)

Some judges believed that transformation was happening too fast and that a few judges had been appointed for the wrong reasons, such as their race, gender or political connections. Capable, skilful and experienced white counsel were overlooked merely because of their race. One judge noted:

‘I’m afraid that affirmative action, which is a constitutional imperative for the appointment of the judiciary, has the result of very senior white counsel, Silks [*senior advocates*] of many years standing, not being invited to serve on the bench.’ (3JM; Sitting male judge; 70 years old)

Experience and skills are, however, not the only criteria to be a competent judge. One judge opined that, when considering candidates, the Judicial Service Commission (JSC) ought to appoint those who were committed and willing to work hard, even though they might lack some experience. However, judges from all races reported that, if undeserving candidates with no or minimal experience were appointed, it placed a burden on the judges who could do the work. Appointing judges who cannot perform the job effectively could result in poorly reasoned decisions that, in turn, can harm the litigants and the reputation of the judiciary.

Contrary to the above opinion that transformation was happening too fast, with the appointment of less suitable candidates, some judges were of the view that the transformation of the bench was still inadequate because black people had been denied opportunities during the apartheid era. Although they may well inherently be intellectually on par with their colleagues, they may not be as eloquent. Consequently, when newly appointed judges with limited exposure and experience or those who are not particularly articulate have to confront well-educated, skilled jurists, it has a limiting effect on transformation. One judge proposed that regardless of their race, all judges had to be willing to transform themselves:

'... the problem is [*that*] people are not humble enough to accept that they may require some assistance. So, if you're not humble, you're not receptive. And if you're not receptive, you can't change.' (4AJM; Acting male judge; 48 years old)

Some judges should assist colleagues, especially those who may not be able to perform at a certain level because of education of inferior quality in the past. Conversely, those who need help must accept assistance from their colleagues and upskill themselves.

Several judges believed that being an advocate or a magistrate was an excellent foundation to prepare a person for the work of a judge. In their opinion, academics, business people and even some attorneys lacked the necessary experience. One judge said:

'... in terms of *my* experience of law and coming to the bench after 40 years' experience in practice, I approach the role very differently than someone younger, who has been in practice for eight or nine years and has been recognised because of political and social connections.' (4JM; Sitting male judge; 66 years old)

One retired judge (1RJM) proposed that previously disadvantaged attorneys who do not have the opportunities to build up a practice as an advocate ought to be assisted. This should be done financially, as well as through mentorship programmes. People with potential and bright legal minds will then gain the necessary experience to cope with the stressors specific to the work of a judge. Those judges who had been attorneys before being elevated to the bench did not agree with the perception that advocates made better judges.

They said, *inter alia*, that they were equally equipped to do the work, as they had gained enough experience working in the legal fraternity, and that they were hard-working.

Some female judges commented that more women had to be elevated to the bench and that they, furthermore, had to be afforded the opportunity to advance to more senior positions, such as that of deputy judge president (DJP). Interestingly, one black female judge (8JF) noted that, in her opinion, in the process of transforming the bench, 'white women have been short-changed' and that attention had to be given to the elevation of more white women.

Job resources

In this study, job resources researched include job characteristics, remuneration and annual increases, training and development opportunities, and supportive co-worker and supervisor relationships.

Job characteristics

Job characteristics lead to higher levels of well-being if they permit individuals, for example, to take responsibility for their work, to be engaged in different tasks with fluctuating levels of difficulty and to be involved in the job in its entirety. Studies have confirmed that the intrinsic nature of the job (e.g. autonomy, skill variety and task significance) is positively associated with the well-being of people in their working roles (Bakker et al., 2008; Hackman & Oldham, 1975; Schaufeli & Bakker, 2004; Shantz, Alfes, Truss, & Soane, 2013). *Autonomy* refers to the extent to which the individual has choice and independence to plan the work and to control the procedures involved. Autonomy and job control have positive effects on the well-being of individuals (Wheatley, 2017), for example, they take greater personal responsibility for their achievements and failures at work. *Task identity* is the extent to which a job involves doing a complete (from beginning to end) identifiable piece of work with a visible outcome. *Task significance* is the extent to which the work influences other people's lives, either within the organisation or in the external environment. Task significance can significantly increase job performance, dedication and helping behaviour (Grant, 2008). Individuals consider their work as meaningful if it substantially improves the psychological or physical well-being of others.

Judges have the autonomy to decide each case on its merits without fear or favour. Furthermore, they can decide independently on certain facets of their work, for example, the way they want to manage their court. The only rules that govern them are the rules of the law, but they cannot be dictated to in terms of how to interpret the rules of court, the law or the issues before them. It is a fundamental requirement of a judge to act independently, and judges value their autonomy. As one judge noted:

'I am quite conscious of my autonomy and having it is crucial to me. Provided that I can do that throughout my career, that would be a condition for flourishing.' (4JM; Sitting male judge; 66 years old)

Judges' autonomy is, however, limited in that they cannot decide over some aspects, such as the number and type of cases over which they are going to preside or how long a case may run in court.

Remuneration (salary and benefits) and annual increases

For this study, remuneration is regarded as a job resource as has been confirmed from various factor analyses on the (JD-R) scale (Rothmann, Strydom, & Mostert, 2006). Remuneration is not only perceived as money received for services provided, but also perceived as an indicator of a person's advancement. Remuneration is the collective financial and non-financial rewards paid to employees in exchange for their services (Mondy & Noe, 2005). Rewards significantly influence employees' attitudes and opinions of work (Milkovich, Newman, & Gerhart, 2011). Employees perceive adequate and fair remuneration as an important process to SBW, as it enables them to afford the luxuries of the social environment (Robitschek & Keyes, 2009). Remuneration is, therefore, a critical tool that organisations use to affect the well-being of employees (Gagné & Forest, 2008). Higher-earning employees, such as judges, perceive incentives as an indication of appreciation of their efforts and as indicators of their competence and value in their work environment (Rothmann, 2014).

South African judges' compensation is in accordance with the terms of section 2(1)(a) of the *Judges' Remuneration and Conditions of Employment Act, 2001* (Act No. 47 of 2001). Some judges were satisfied with their salary and benefits, whilst others were of the view that their remuneration was insufficient when considering their workload and the emotional stress under which they work, as well as when comparing their salaries to, for instance, those of politicians. Judges who had previously worked as, for example, magistrates and attorneys at small practices were generally satisfied with their remuneration, as it was much higher than their former earnings. However, judges who had previously been attorneys in large law firms or advocates, especially Silks [senior advocates], reported that their income had decreased significantly.

Judges who were generally satisfied with their salary and benefits, but not their increases, made the following arguments:

- Compared with most other occupations in the country and compared with judges in other countries, South African judges received a good salary. In this regard, one judge noted:

'In a country where only, something like 10% of the population earns more than R6000.00 per month, judges' salary now is about R150 000.00 per month, it's a magnificently wonderful salary. ... My enquiries suggested our bench is probably one of the best-paid benches in the world. I think allowing for the purchasing power of parity we earn more than English judges.' (4JM; Sitting male judge; 66 years old)

- They had taken the position to serve their country and its people; for them, it was a calling.
- In terms of *Act No. 47 of 2001*, judges are entitled to a salary for life after retirement until a month after they die, which is an incredibly generous pension. Retired judges, therefore, continued to receive their salary at exactly the same rate as sitting judges. On their death, their surviving spouses continue to receive their full salary until they die.
- The sabbaticals to which they are entitled every 4 years, as well as their substantial leave allocation, were indicated as further significant benefits.
- A 'salient benefit' of being a judge, for which money could not compensate, is their:

'... standing in society ... it just put you in a different place.' (12JF; Sitting female judge; 45 years old)

Contrary to the above, those judges who were not satisfied with their remuneration presented these arguments:

- As judges are not allowed to engage in other working activities, their salary had to at least keep up with inflation.
- To attract the best talent from the bar and sidebar, the discrepancy in income could not be too big; otherwise, there would be no incentive for them to come to the bench:

'... as they see it as financial suicide.' (6AJM; Acting male judge; 45 years old).

A more comparable income would probably also result in more black advocates considering elevation to the bench, which would bolster transformation.

- Although the lifelong pension is an excellent benefit, some judges argued that they could die shortly after retirement. As a Silk [senior advocate], for example, they could have earned a much higher salary, which would have enabled them to provide financially for their children's education after their death. Now, however, they were earning less, and once they die, their children would not have the benefit of their pension, as it only applies to spouses.

Most judges objected against their annual increases. South African judges did not receive a pay increase in 2016. In 2017 and 2018, they received a lower-than-inflation increase, resulting in them earning less in real terms. An aggravating factor is that the state fiscal year begins on 01 April, and the rise for the year (beginning April) is only gazetted a year afterwards, in the last month of that financial year. For example, if there had been a 4% increase with effect from April 2017, it would only have been made effective on 31 March 2018. Although it is backdated, judges lost out on the forfeited interest of their income:

'... that's a little bit of a financial scandal.' (4JM; Sitting male judge; 66 years old)

Not receiving a salary increase has a further significant negative impact. Judges receive a gratuity after 15 years of

service as a judge, which is double their salary, tax-free. Then they get another pay-out when they have 20 years' service, which is also a double salary minus the gratuity that they received after their initial 15 years'. Therefore, if there were no salary increases between a judge's 15 years and his or her 20 years' service, he or she would receive no gratuity after 20 years' service. Moreover, the gratuity is only calculated up to 20 years' service. There was, thus, no motivation to continue working longer (4RJM).

Acting judges receive the same salary as permanent judges but do not enjoy the privilege of a good pension scheme. If they come from the ranks of advocates, they continue to have expenses relating to their practices; for example, they still have to pay their group fees, their rent and their secretaries' salaries. Considering these expenses, the salary is no longer competitive, and serving as an acting judge is not lucrative, unless a person has the desire to become a permanent judge. The advantage of being an acting judge, however, is that when an acting judge is appointed permanently, the period he or she has acted will count towards his or her time served. One acting judge who had the ambition to be elevated to the bench, expressed the view that being an acting judge was a career – a means to advance in his profession to be permanently elevated to the bench. There were, however, no guarantees that one would become a judge:

'Everything I have done in my career to become a judge might end up with me 1 day at the Judicial Committee with [name of radical politician] asking me a question and he perceives it to be negative or racist and then they say no, "you can't be a judge", and that's the end of it.' (2AJM; Acting male judge; 61 years old)

Training and development

Training and development are formal pursuits of a workplace to assist employees in gaining the necessary skills and experience for their present or future work (Mondy & Noe, 2005). Owing to training, employees gain confidence *vis-à-vis* their abilities, as they gain the necessary knowledge and abilities to perform their work competently. Employees are more likely to remain in their workplace when provided with training and development opportunities (Rowden & Conine, 2005), probably because they regard training as their employer's dedication to the workforce (Storey & Sisson, 1993). Having sufficient training and development opportunities is vital to employee flourishing.

Judicial education is imperative to establish a judiciary that comprehends and is committed to constitutional values and that appreciates the complex social and historical context within which it must function. Most judges who participated in the study were of the view that they must continue learning and developing themselves to enhance their competence and to gain more self-confidence. There are plenty of opportunities to learn, as noted by the following judge:

'... we have weekly training meetings that we arrange with ourselves ... I think everyone is developing. The job is of such a nature, structured in such a way as to provide continuous legal

education. Then we have SAJEI [*South African Judicial Education Institute*] and we have winter schools and summer schools.' (1JF; Sitting female judge; 67 years old)

Superior relations

A perceived lack of, or unsupportive, relationships with colleagues and superiors can be a potential source of stress, whilst good relationships can contribute to individuals' flourishing. Employees who opine that their supervisors are supportive experience a sense of workplace flourishing (Seligman, 2011). When individuals feel that they are accepted by their colleagues, they experience a sense that they are in the right place, and it has a significant effect on their meaningfulness at work (Steger & Dik, 2009). Through interaction with supervisors, peers and subordinates, individuals' need for relatedness, that is, the need to feel associated, to be part of a group, to love and cherish, and to be loved and valued, can be satisfied (Van den Broeck, Vanteenkiste, De Witte, Soenens, & Lens, 2010).

Most judges were in agreement that there was a sense of mutual respect between the senior judges and them. The DJPs and the JPs of the various divisions were approachable, personable and accommodating despite their heavy workloads. They were supportive of autonomy, and they willingly provided training opportunities. Judges' psychological needs for autonomy, competence and relatedness were, therefore, fulfilled:

'I've had a lot of interaction with the senior judges, with the JP and the DJPs ... Each of them has a very different personality, some are more forthcoming than others. ... they've come to me to ask me to do things ... and I've raised concerns that I have ... which they responded positively towards. So, the relationship there is excellent.' (4JM; Sitting male judge; 66 years old)

There was, however, a lack of feedback regarding performance or work objectives at an individual level, as expressed by one judge:

'We hardly receive feedback; the only time we receive feedback is if a matter is taken on appeal or if it is commented on by an academic.' (11JF; Sitting female judge; 51 years old)

Discussion

This study aimed to explore job demands and job resources, and the effect thereof, on the well-being of judges in South Africa. From the study it was evident that consistent with the JD-R model, despite their job demands such as work overload, there are sufficient resources to enable judges to obtain their goals if they choose to do so.

Judges have the autonomy to work within agreed parameters, which contributes towards their flourishing. Judges reported that with the development of their skills and knowledge through attending regularly available training programmes of their choice, doing research or gaining experience on the bench over time, their competence was enhanced, and they gained more self-confidence.

All judges reported that despite working long hours and often in isolation, having to make their decisions on their own, there was generally a good collegial relationship amongst them, and they respected one another. Some judges even became friends whilst others decided to stay on the periphery, preferring an amicable work relationship. Most judges reported that, when asked, they were willing to assist or to give advice on legal topics to their colleagues. Through interacting with one another, opportunities are created for judges to learn from one another.

Most judges agreed that there was a sense of mutual respect between them and their colleagues. Despite a lack of feedback regarding their performance, the DJPs and the JPs of the different divisions were reportedly generally cordial, accommodating and open to communication, and they encouraged judges to act independently in the management of their courts and to develop new skills. These results are consistent with the findings of Deci and Ryan (2008) that supportive climates enhance autonomous motivation. Colleague acceptance and support have a large positive impact on the meaning they experience in their work and life (Steger & Dik, 2010). Employees' performance improves when they are included in the social activities of their group, as the identity they have with their work, their colleagues and the workplace tends to be stronger (May et al., 2004). Such fulfilling relations with colleagues may result in flourishing, as it creates a sense of belonging and solidarity.

Judges' psychological needs for autonomy, competence and relatedness as per the SDT of Deci and Ryan (1985, 2011) were, therefore, fulfilled. Supportive supervision (characterised by autonomy, competence and relatedness support) is essential for promoting well-being (Rothmann, Diedericks, & Swart, 2013). Meaningful relationships with supervisors, which are portrayed by trust, support and non-exploitation, promote individuals' sense of appreciation and respect (Kahn, 1990). According to Kahn and Heaphy (2014), when individuals' preferred identities are confirmed by having rewarded, and sought-after relationships, their meaningfulness of work is enhanced. This is in accordance with the findings of Catalino and Fredrickson (2011) that positive interactions with others, especially supervisors, create positive emotions.

Judges reported that they experienced intrinsic enjoyment and satisfaction from social interactions encountered in their workplace. They perceived a sense of relatedness, comfort and support from their fellow puisne judges and senior judges, and they felt that they were adding value to the judiciary and that their work had a significant effect on others. Some judges reported that they found hassles, such as incompetent contractors and supporting structures, red tape and budgetary constraints, frustrating, as these added to their work pressure and negatively affected their autonomy.

The diminishing and depletion of resources and an inability to cope with job demands result in exhaustion and ultimately in disengagement (Kahn, 1990). When individuals feel that

their job demands surpass the resources available to them, they sense that they no longer have control over their work because of a lack of competence (May et al., 2004; Schaufeli & Bakker, 2004).

Because of the relentless high volumes of work, with which they had to cope in the limited time at their disposal, judges did not always have time to work through their emotions, especially after having presided over emotionally taxing cases. Some judges reported that the emotional demands placed on them, particularly when presiding over criminal and family matters, made them emotionally vulnerable and caused them to suffer from burnout. They, *inter alia*, feel fatigued and irritable; they experience negative feelings towards their work and demonstrate impoverished relationships, such as lack of empathy and temper outbursts; and they lack a sense of achievement. Employees who do not have enough resources because of cognitive, emotional or physical overload will feel unable to cope (May et al., 2004; Schaufeli & Bakker, 2004). Employees will then feel that they have not conquered their environment, and as a result, they will not flourish. The findings of this study correlate with those of Barkhuizen et al. (2014) that work overload is associated with burnout.

Fifty per cent of female judges who participated in this qualitative study reported feelings of secondary stress and burnout, compared with only 11.76% of male judges. These findings are consistent with the results obtained by Lustig et al. (2008). Female judges are either more susceptible to burnout or are more candid about reporting stress and burnout. If females are indeed more vulnerable to burnout, whether it is because of their age, experience, family commitments, their psychological makeup or because they traditionally worked in family courts, measures that are customised to the needs of female judges should be included in intervention efforts. On the other hand, if these differences are because of self-report bias, male judges should be encouraged to acknowledge their experiences of stress and burnout and to seek help without fear of stigmatisation.

It was evident that judges' views were divided about the adequacy of remuneration (salary and benefits) and increases. These different feelings related primarily to judges' different occupational backgrounds. Although some judges were not satisfied with their remuneration, most regarded it as sufficient. However, judges felt disgruntled about their annual increases that had not been at least inflation-related over several years. As the salary and benefits of judges are regulated by law and protected by the Constitution (*Constitution of the Republic of South Africa No. 200 of 1993*), they cannot arbitrarily be tampered with. Some judges thus viewed this encroachment on their benefits as being unconstitutional. This is an infringement of the separation of powers – a means by which the executive can exert some power and control over the judiciary. Judges' independence could thus be compromised because they are not adequately remunerated. Judges were also discontented that their lifelong salary did not extend to their dependent children, once they die.

All judges acknowledged the necessity of transformation, as individuals from different backgrounds and with different experiences had a variety of perspectives and sentiments. Such diversity inspires well-reasoned, value-based judgements through increasing judicial debate and deliberation amongst judges (Albertyn, 2014). However, acquisition of better skills, irrespective of the race or gender of candidates, is a prerequisite. There should be more transparency and communication concerning how to achieve transformation.

In summary, although judges do not have a perfect work environment because of, amongst others, work pressure and time constraints, emotional demands and hassles, this study indicated that, by and large, they flourished, as revealed by the results. There were, however, judges who suffered from stress and burnout because of especially emotional demands.

Recommendations for practice

The following recommendations will probably alleviate the job demands of judges whilst increasing their job resources at the same time, which in turn will boost their flourishing. Firstly, the President, in consultation with the Minister of Justice, should appoint more judges in those divisions where judges struggle to cope with their crushing workloads. Secondly, to improve the cleanliness and maintenance of court buildings, the scope of court managers' authority should be extended to include managing the work and giving instructions to the personnel of the Department of Public Works. Thirdly, when appointing support staff, consideration should be given to their experience and capabilities, and they should be sufficiently trained to support judges to work faster and to be more productive.

Fourthly, although all judges agreed that transformation was imperative, some judges found it virtually impossible to discuss this sensitive topic. There was a limited conversation between people who were supportive of transformation, but who had different views about how one had to strategise and achieve it. It is recommended that the JPs and DJPs of the various divisions should encourage more rational discussion in this regard. Fifthly, cognisance should be given to the feelings of distress and burnout that judges, especially female judges, experience. A professional and considered stress management programme could be implemented. Sixthly, to be more sensitive regarding cultural differences, social context training should be included in the training of new judges. Penultimately, greater security should be implemented at courts and judges' residences. Lastly, judges' salary increases and benefits should be reviewed. Their annual increases should keep pace with inflation. The fact that not all judges with children are married should be recognised. After their deaths, financial provision should be made via their pension for their children until such time that they have completed their studies and enter the labour market.

Limitations of the study and suggestions for future research

Attempts were made to be as inclusive as possible regarding participants' gender, racial distribution, age, the period they had been serving as a judge and the different courts in which they worked. Although judges from six of the nine provinces of South Africa participated in the study, the norm group remained small, and the results may thus be viewed as not being representative of all judges. Although this study was reasonably representative in terms of the types of courts and jurisdictions in South Africa, the sample size should be increased in future research. Such research could also focus on the development of intervention strategies to assist those judges who experience significant levels of stress, and who ultimately suffer from burnout, because of the demands of their work.

Conclusion

Overall, whilst some responses contained indications of stress, for most respondents, the demands of being a judge were balanced by substantial sources of contentment. It was evident from the results of this study concerning judges that they are generally satisfied with their work. Moreover, all three essential needs as per Deci and Ryan's (1985, 2011) SDT, that is, the needs for autonomy, competence and relatedness, were met to a large extent. Judges have ample opportunities for training and development and, by and large, they have positive relationships with their puisne and senior judges. Nevertheless, the stressors experienced by judges should be addressed, and the findings of this study may provide a rationale for interventions aimed at enabling judges to cope better with the inevitable demands they face in the execution of their duties.

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Authors' contributions

All authors contributed equally to this work.

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