Law & Society REVIEW

On Shared Suffering: Judicial Intimacy in the Rural Northland

Michele Statz, PhD

Rural state and tribal court judges in the upper US Midwest offer an embodied alternative to prevailing understandings of "access to justice." Owing to the high density of social acquaintanceship, coupled with the rise in unrepresented litigants and the impossibility of most proposed state access to justice initiatives, what ultimately makes a rural courtroom accessible to parties without counsel is *the judge*. I draw on over four years of ethnographic fieldwork and an interdisciplinary theoretical framework to illuminate the lived consequences and global implications of judges' responses, which can be read as grassroots-level creativity, as resistance, or simply as "getting by."

"Of the people in court today, I know every single one of them… I had two calls at home last night about 'your case tomorrow.'" The judge shook his head and looked around his chambers. "On my very first day on the bench, a guy in the back of the courtroom stood up, shouted my first name, and said, 'How the fuck are ya?'"

My jaw dropped. "No."

He nodded, laughing.

It had been a three-hour drive north, through long stretches of national forest and into the county seat. It was a northern paper-mill town that smelled like it, tiny houses lining the shady streets and the mill spouting steam up ahead. Between 2013 and 2017, the average per capita income here was $23,000, with 25%

My heartfelt thanks to the editors, anonymous reviewers, and Larry Nesper for their insightful and enthusiastic feedback on this manuscript. This article also benefitted greatly from collegial and expert engagement at the 2020 Law & Humanities Junior Scholars Workshop and the University of Minnesota Law School's Faculty Works in Progress forum. I am grateful for these stimulating conversations. Special thanks to Riaz Tejani and Robin West for discussing the paper and offering such compelling and even moving critiques. My thanks as well to Jon Bredeson for his indispensable research assistance. And finally, I am humbled by the profound generosity of the judges whose work I detail here. To be so *welcomed* by very different—and very busy—individuals is something I could never anticipate. I hope this manuscript helps shed light on their important commitments. This research is supported by the National Science Foundation's Law and Sciences Program (award #1729117).

Please direct all correspondence to Michele Statz, University of Minnesota Medical School, Duluth, MN; e-mail: mstatz@d.umn.edu.

Law & Society Review, Volume 55, Number 1 (2021): 5–37

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

of persons living at or below the federal poverty line.[1] These numbers are not unusual in the region where I do research, namely a swath of rural Northeastern Minnesota and Northern Wisconsin identified locally as "the Northland."

I had been invited to speak with the judge by Ron, a legal aid attorney whom I had already interviewed. He drove regularly to this community to meet with clients and accompany them in court—a four-hour round trip in good weather. Ron was warm and energetic and steadily dipped chewing tobacco. We had to drive separately that day because he was towing a boat and would be staying for the weekend's fishing opener. Though admittedly taken with these unexpected qualities—*This was a legal aid attorney*?—I soon found Ron's idiosyncrasies familiar. His intensely keen legal mind and the deep respect he extended to indigent clients, colleagues, and later, when appointed to the bench, litigants, likewise began to feel common.

We walked into the courtroom together. It was well-lit and quiet, and behind the bar, the bench was lined with knotty pine. We listened as Judge Avory finished up a motion hearing. He was broad-shouldered, with wire-framed glasses and a gray crew cut. He chewed gum. "Off the record," he said, "this guy you petitioned? Right now he's working on my roof!" Everyone laughed.

Later, Ron, Judge Avory, and I sat around an unsteady wooden kitchen table in his chambers. On the paneled walls around us hung paintings of deer and largemouth bass, photos of the judge's family, and a woodblock print by a local Native artist over the door. Beside one of the windows were two Minnesota license plates with plain white backgrounds and blue font, each sequence of numbers beginning with a W. I asked about them.

"Oh, the whiskey plates?" replied the judge, using their colloquial title. "They're license plates to indicate someone's had a conviction for DWI." From there, and with visible impatience, he mentioned fourth amendment rights and racial profiling. "You walk into a Lutheran church around here and it's all gray heads, right?" He described a courthouse in a neighboring judicial district, one where a quarter of the population is Native American. "In that court, it's all black heads." Ron nodded quickly in agreement. "There's a veneer of propriety around here, but otherwise high racism… And judges *still* view the rule of law as applied to all people equally." His eyes widened and he shook his head. "But locals view it as the rich govern. You know, might makes right."

[1] To protect the anonymity of participants, many of whom may be easily identifiable in "one judge courthouses," I utilize pseudonyms and likewise do not identify counties, towns, or sovereign nations by name in this manuscript.

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

It was clear by now that to Judge Avory, "locals" referred to anyone low income, no matter their race, ethnicity, legal status, or membership in a nearby Native nation. These were individuals as vulnerable to the oppression and displacements of global capitalism as to local intolerance and discrimination—and to the failures of "urbanormative" state policies, or those policies developed by people and institutions in urban areas with urban populations in mind (*see* Fulkerson and Thomas 2019). As the light dimmed outside the windows, he rubbed the bridge of his nose below his glasses. "Exerting rights against those who have more money than them? Somebody here is going to be much more reluctant to do that. Think about the advantage of a person pouring high money into a private attorney—and then this guy comes in trying to represent himself, and *Jesus*."

Skyrocketing numbers of pro se litigants are an urgent issue in the rural courts where I do research, whether state or tribal. This is not news, of course. As others have already demonstrated, a profound shift occurred in state courts across the US: In the 1970s, nearly every litigant who brought or defended a matter in state court was represented by counsel; today, states report that anywhere from 70% to 98% of cases involve at least one unrepresented litigant (Steinberg 2014: 743). In US rural communities, approximately 10 million Americans have incomes below 125% of the federal poverty line, and three-quarters of these face at least one civil legal problem in a year. Significantly, however, only 14% of rural residents—a rate less than half the national average—receive adequate assistance for civil legal problems (Legal Service Corporation 2017; *see also* Pruitt et al. 2018; Sandefur 2014). Rural criminal defendants don't necessarily fare better—especially in a state like Wisconsin, where abysmally low state pay rates for court-appointed attorneys coupled with a shortage of rural attorneys result in individuals having to wait as many as four months before receiving a public defender (Coutou 2018; WI county data on file with author). And in rural tribal courts, many of which cannot afford to provide public defenders to tribal litigants, individuals are nearly always pro se (Fletcher 2015; Nesper 2015).

Judge Avory described this context. Outside the window, it was now dark. "What does that mean for your judging?" I asked.

"In a rural area, you have to be more active. Because we don't have anything else." He mentioned the absence of independent investigators to check out instances of neglect, and the impacts of not having family-based services. "And I'm trying to deal with these guys! They don't have lawyers, and they're clueless. So cutting to the quick, we're problem-solving courts. It's activist. It's outside the box. This is not just rural Minnesota, I suppose, but it

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

works a hell of a lot better here… I'm trying to stick with the law, but sometimes you've got to get creative."

And what does this mean for you?

I didn't ask that. I wouldn't realize how important the question was until months later. By then, I would know that the combination of a high density of social acquaintanceship characteristic of rural communities, the prevalence of unrepresented litigants, and the impossibility of state access to justice initiatives means that *what makes a rural courtroom accessible is the judge*. And the consequences of this are fairly devastating. I didn't ask it then, but the segue proved natural nevertheless: "You become jaded," continued the judge. "I saw a little kid I used to coach in hockey once. He was in the middle of a really shitty custody battle. I jammed a paperclip in my hand to keep from crying." He paused and considered. "I need privacy a lot. I cringe when I go to Home Depot; I'll look over the cars before I go in to see if I recognize any of them. I keep my head straight down, eyes on the floor."

1. A Rural/Global Sociolegal Intervention in "Access to Justice"

This article approaches the phenomena described above through the perspective of subaltern cosmopolitan legality (Santos and Rodríguez-Garavito 2005). Though not an obvious choice, my goal in engaging the experiences of state and tribal court judges in Northern Minnesota and Wisconsin via subaltern cosmopolitan legality is to (1) upend prevailing moral narratives about the upper Midwest as stoic and inevitably white (Davey 2014); (2) offer a sustained, sociolegal response to a topic—namely, the Access to Justice or "A2J" movement in the US and global South—that has received far more though arguably less empirical attention from law scholars than from other disciplines (Goldsmith and Vermeule 2002); (3) intervene in multidisciplinary scholarship on law and mobility, labor and resistance, gender and sexuality, and racial, ethnic, and class identities that situates rurality as a peripheral "there" rather than as a coconstitutive object of inquiry (Garroutte 2003; Henry 2007; Naples 2007; Schmalzbauer 2009); and (4) illuminate how rural sociospatiality impacts sociolegal processes *in a new way*—namely, by contextualizing the experiences of rural judges as rightly "global." I also hope to offer judges compelling perspectives on their own work by framing it via unexpected and comparative insights. Because these individuals have expressed remarkable

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

commitment to my research and its outcomes, in what follows I take time to explicate theoretical concepts that may be unfamiliar or unwieldy to a wider audience. This, I hope, will render the article appropriately rigorous and accessible to individuals with different kinds of expertise.

As the growing body of law scholarship on access to justice in the US and global South has demonstrated, the sociospatial contours of rurality uniquely influence law and rural residents' relationship to it. Most prominently, these include a combination of spatial isolation, under-resourced infrastructure, and poverty. This leaves individuals too far from urban areas to access reduced-fee legal services, either in person or remotely through technology (Baxter and Yoon 2014; Gwaka et al. 2018). It also contributes to "advice deserts," or local social services networks that are too widely dispersed to be utilized (Newman 2016), and a dearth of public transportation and bad roads owing to poorly funded local governments (Cross and Leering 2011). Other structural factors include a decreased supply of rural legal services owing to retiring local practitioners (Cooperstein 2014), perceptions of rural practice among new JDs as not lucrative and too isolated (Runge and Vachon 2014), and insufficient or absent attention to rural and/or tribal practice in law school training (Mundy 2012). There is also the documented urbanormativity (Fulkerson and Thomas 2013) of state and federal policymakers whose assessments, priorities, and resource allocations fail to recognize rural sociospatial vulnerability (Bredeson and Statz 2019; Pruitt 2006; Statz 2018).

Alone, these realities create a clear access to justice crisis in rural regions. Yet in the US and elsewhere, this crisis is *further* compounded by the fact that many of the services ancillary to legal issues are restricted or wholly absent in rural regions. These include drug treatment facilities, employment opportunities, shelters for survivors of intimate partner violence, childcare, public benefits, health and human services, and immigration assistance. Other rural social realities, among them a lack of anonymity and gendered or moral discourses around work, fairness, and self-sufficiency (Pruitt 2008) may also inhibit individuals from using the legal system or reporting crimes (American Bar Association 2004). These phenomena likewise contribute to apathy or even resistance to government services more generally (Cramer 2016; Sherman 2009). For community members, legal scholars, and practitioners alike, what Hilary Wandler (2015: 236) describes as "persistent injustice" across rural communities remains critically felt—and at times, impossible to address.

Of course, this persistent injustice is a truly global phenomenon, with many of its same spatial and structural contours and

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

urgent, reverberating consequences documented in rural Latin America (Brinks 2019), East and South Asia (Galanter and Krishnan 2004; Kumar 2007), sub-Saharan Africa (Weeks 2017), and Western Europe (Newman 2016; Piñeiro 2012). Despite this compelling and inequitable "rural lawscape" (Pruitt 2014), critical, interdisciplinary, and sustained sociolegal attention to the rural access to justice crisis remains markedly limited in the US. Indeed, few North American sociolegal scholars have empirically engaged rurality and law generally (Ellickson 1991; Engle 1984; Greenhouse 1986), let alone situated it in relation to or against global economic and sociolegal processes. To meaningfully address this "rural neglect" (Moody 1999) without the constraints of an overtly disciplinary/professional approach or, correspondingly, a presumption of a generalized "rurality" (Halfacree 1993), this manuscript enlists unexpected epistemologies and foregrounds the lived expertise of diverse rural judges themselves.

1.1 What Is "Subaltern"—And Is This It?

In its most simple if not contested version, the subaltern subject is the indigenous dispossessed of a colonial or postcolonial society. She/he/they is the "irretrievably heterogenous" (Spivak 1988: 26) who, at least for a time or in a particular setting, is neither dominant nor elite, and whose resistance or insurgency implicitly challenges assumed power hierarchies (Chakrabarty 2011; Chatterjee 2012). Do rural state and tribal court judges in Northern Minnesota and Wisconsin belong, "ideally speaking" (Guha 1982: 8), to the category of subaltern? In short, no.

It could be argued, of course, that tribal court judges who self-identify as Native might be "subaltern." Many contend with postcolonial distress, namely the transgenerational effects of the cultural suppression and historical oppression via the settler-controlled nation state (Kirmayer et al. 2014), and those who participate in this research consciously enact small and large acts of resistance against the state, area business interests, academic institutions, tribal leaders, and other elites. At the same time, and as I discuss below, I am not particularly interested in categorizing anyone so much as describing and making sense of certain practices and contexts. Moreover—and this is the real and perhaps contentious surprise of this research—the practices and contexts of rural state and tribal court judges in Northern Minnesota and Wisconsin are often not that dissimilar from one another. In other words, I could argue that the tribal court judges in this research really *are* subaltern, and in many ways so also are state court judges,

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

whether or not they self-identify as Native. Ultimately, this article is very mindfully not about such labels.

Subaltern Studies has historically offered necessary frameworks and critical methodologies by which to comparatively view *rural* unrest and power relations "from below." This contribution has helped extend the field's influence from South Asia to East Asia, sub-Saharan Africa, and beyond (Reddy 2018; Sŏ and Seo 2017)—even, perhaps, to Minnesota and Wisconsin. Subaltern Studies is also valuable in framing "local" not as a static culture or community but as "factionalized and complex wholes [that question] regional, national, and international power relations" (Mallon 1994: 1512). Within this scale of local, we find a turn in Subaltern Studies from or beyond texts to embodied and institutional practices; this may in fact be less a "turn" than a new project altogether (Chakrabarty 2011; Chatterjee 2012). Ultimately, it is its focus on a particular form of embodiment, what Joanne Sharp beautifully describes as "the quotidian embodied performances of 'getting by'" (2011: 274) that compels deeper engagement with an epistemology that may not be immediately thought of in relation to the upper Midwest of the US.

I reveal the ways in which rural justices emerge as *lived alternatives to dominant narratives*—even amid, or because of, their work within power-filled institutions and texts. This approach is a novel one, but arguably any sociolegal attention to state and tribal court judges—let alone that which foregrounds rurality—proves rare. For one, and as Colleen Shanahan notes, US scholarship on the federal-level judiciary is far more developed than research on state civil or administrative judges: "We write what we know and lots of us know federal courts and federal judges" (2018: 221; *see also* Wistrich et al. 2014; Yung 2013). There may also be the presumption by scholars that rural judges are *already known*, whether owing to much earlier scholarship on the "pioneer" or "frontier" judge (Banwell 1938; Teiser 1943) or to popular tropes for example, the "country judge" of *My Cousin Vinny* or Andy Hardy films. These latter depictions of judges are highly gendered, racialized and power-filled—so much so that the notion of a rural judge *suffering*, and suffering largely in the same way as her or his litigants, may be unthinkable.

Moving across and beyond the US, there is a small body of empirical, English-language scholarship that attends to the work of judges in rural areas or in contending with "rural problems" more generally (e.g., Brison 1999; Connors 1993; Fahnestock 1991; He and Ng 2017; Hin 2005; Kliebert et al. 2006; Pruitt and Vanegas 2015; Wallace and Pruitt 2012). Even less work explores the impacts of rurality on judges' professional experiences (Gang 2005; Gradwohl 1987; McKeon and

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

Rice 2009)—and interestingly, much of this is written by rural judges themselves. Relatively more scholarship treats tribal judges, but this literature largely either neglects or assumes a rural context rather than engaging it directly (Cutler 2016; Miller 2011). Finally, and perhaps unsurprisingly, very few scholars consider rurality as it impacts *both* state and tribal court judges in the US (Nesper 2015; Wahwassuck 2008).

1.2 Who Needs Subaltern Cosmopolitan Legality?

A critical gap emerges here: scholars and practitioners lack a framework by which to make sense of and contextualize rural judges' actions and experiences. Sociolegal literatures on judicial language, ideology, and interaction (Atkinson 1992; Philips 1998); on moral and cultural conceptions of community and dispute (Greenhouse et al. 1984; Merry and Silbey 1984; Yngvesson 1988); and on the "relational-orientation" of some judges and litigants (Conley and O'Barr 1990) are of course relevant and, when taken together, help make sense of the phenomena at hand. Yet even in combination, this scholarship fails to fully capture—and perhaps could not anticipate—the global dimensions and mutual precarity underlying rural judges' behavior.

Enter subaltern cosmopolitan legality. As put forth by Santos and Rodríguez-Garavito (2005), the approach offers a subaltern or bottom-up way in which to regard "efforts at counter-hegemonic globalization." The core elements of the perspective are appealing—and so, too, are Santos and Rodríguez-Garavito's openly expansive interpretations of these elements. The authors rightly critique cosmopolitan political and legal projects "as Western- or Northern-centric and exclusionary as those global designs they oppose" (Santos and Rodríguez-Garavito 2005: 13), yet here Santos and Rodríguez-Garavito more generally enlist cosmopolitanism as "a set of projects aimed at planetary conviviality" (Mignolo 2002: 157). "Such convivial sociability focuses on conversations among places whereby people in disparate geographic and cultural locations understand and welcome their differences while striving to pursue joint endeavors" (Santos and Rodríguez-Garavito 2005: 13). This is a name for Judge Avory's work, for the laughter he elicited in the quiet courtroom while I looked on. *This guy you petitioned? Right now he's working on my roof!* It also describes the more grief-filled projects I describe below, the "joint endeavor" of rural judges to clarify and cultivate respect and fairness on behalf of low-income litigants amid a mutual experience of what one judge described as "feeling powerless, disregarded, ignored."

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

As excluded from top-down cosmopolitan projects—among them the urbanormative policies and funding structures I describe below—and witnesses to the hollowing out of local economies wrought by neoliberal globalizations (Hursh and Henderson 2011), the shared suffering of many rural judges and rural low-income litigants is acute and compelling. And what results is markedly *not* passive, even if judges do not immediately, or ever, see their actions as a subversion of hegemonic institutions or ideologies. Instead, this context reflects Santos' more subtle interpretation: "Subaltern cosmopolitanism, with its emphasis on social inclusion, is therefore *of an oppositional variety*" (Santos 2002: 460, emphasis added). In other words, there is an experience of mutual exclusion—and a persistent if not defiant commitment to remedy it.

Of course, and where my utilization of Subaltern Cosmopolitan Legality may ultimately fall short, this commitment does not take the form of overt, sustained political mobilization or grassroots legal strategies. My research documents meaningful collaborative relationships between judges—whether within or across state/tribal court contexts—but these are largely small-scale and informal. Relatedly, there remain critical sociostructural power asymmetries between state and tribal judges, and of course between judges and the litigants before them. After all, my research occurs within sites, institutions, and discourses that directly sustain the hegemony of dominant groups. These include courtrooms, laws, and a landscape wholly altered by settler colonialism and global capitalism.

Still, if we employ a bottom-up approach to mobilizations at a particular *scale*, in this case that of state and nonstate actors and of state and tribal legal orders in rural Northern Minnesota and Wisconsin, then there is potential here, namely, for a new way to understand what is too often regarded as a "known" context. Indeed, my data meaningfully exhibit the subversive and alternative knowledge possibilities that subaltern cosmopolitan legality seeks, even if the scale is really quite small. I here defer to Santos' call to interpret these "embryonic experiences in [the] prospective spirit" (2002: 465) of a sociology of emergence—in other words, to expansively regard the actions that go "against entrenched and powerful interests, ideologies, and institutions that are hegemonic precisely because they are seen as commonsensical" (Santos and Rodríguez-Garavito 2005: 17).

This approach, I believe, is precisely what is needed to illuminate what the rural "access to justice crisis" really is, what it looks like and feels like to those who daily encounter and endure it. As I demonstrate here, it means that many judges effectively self-identify not only as decision-makers, but as the eventual, if not

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

only, source of respect, time, and ultimately, *access* for a growing wave of pro se litigants whom they often already know. These judges' embodied response is an ad hoc, deeply intimate alternative to hegemonic policies and practices born of shared suffering and power-filled resistance. It is localized legal practice, one that ostensibly "keeps the peace" while surfacing a multitude of tensions elsewhere (Edwards 2009). Yet where I may deviate from Santos and Rodríguez-Garavito's sociology of emergence is the authors' attention to a realist analysis, or one that explores what is real, what is necessary, and what is possible. To those judges I've interviewed, what is possible is no different from what is necessary, and it is not sustainable. Indeed, there is a great, private toll to the resistance I've observed.

2. Context and Methods

2.1 Northland Poverty and Legal Precarity

In popular coverage, the Northland is often described in terms of landscape, if not nostalgia. A *New York Times* article reads, "People on both sides [of the Minnesota and Wisconsin border] share Scandinavian, German and Irish roots, working-class pasts and a stoic sensibility hardened by a steady chill off Lake Superior" (Davey 2014). Firmly acknowledging the power of this prevailing moral narrative, my research underscores a different and more accurate reality. For one, the Northland has many prominent Native nations, with seven Anishinaabe reservations and the Red Lake Nation in Northern Minnesota and all of Wisconsin's eleven federally recognized tribes spanning the northern half of the state. There are also relatively well-established Hmong, Latinx, and Somali communities across the region. The Northland is in many ways still as "working class" as in the past, with rural areas contending with substandard infrastructure, human capital deficits, and economies based largely on extractive industries and manufacturing jobs that are often low-wage and non-unionized (*see* Williams 2016). Accordingly, residents are economically and environmentally vulnerable to the distant but thoroughly studied decisions of state and federal agencies, foreign mining companies, and global economies more broadly. "It might seem like we're a bunch of redneck folks," commented one resident of Northeastern Minnesota's Iron Range, "but we're a bunch of redneck folks who really pay attention to international markets."

Indeed, it is largely these global processes that further bridge Northern Minnesota and Wisconsin, in this case via growing rates of poverty and unemployment. Between 2009 and 2014,

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

Wisconsin's poverty rate reached its highest in thirty years (Jones 2015). With the exception of Milwaukee County, the state's highest poverty rates are now concentrated in its northernmost counties. These include Menomonee and Hayward Counties, which additionally have the state's highest childhood poverty rates with 44.8% and 33% of residents under age 18 living in poverty, respectively. While Minnesota has one of the lowest poverty rates in the nation, its lowest median incomes have also come to be concentrated in the north—a marked change since 1999, when the poorest counties were scattered throughout the state (Legg and Nguyen 2015). Indeed, by 2012, most of Northern Minnesota fell into the state's two highest poverty brackets, with Mahnomen and Beltrami Counties having 27.2% and 20.7% poverty rates, respectively. As in Wisconsin, unemployment across rural Northern Minnesota has steadily increased, with particularly high rates in the Northeastern Iron Range where in 2016 there were nearly 7000 mining-related layoffs (Hanna 2016).

Notably, this mutual experience of poverty and precarity occurs amid markedly divergent state politics. In 2010 Wisconsin elected Republican governor Scott Walker and Republicans to majorities in the Legislature, whereas by 2012 Democrats controlled the Minnesota Legislature and every state constitutional office. Attending to this "natural experiment" between the new right and modern progressivism (Jacobs 2013), scholars have since contrasted Minnesota's efforts to legalize gay marriage, create the state's Obamacare health insurance exchange, and raise taxes by 2.1 billion with Wisconsin's end to collective bargaining rights for most public employees, rejection of a Medicaid expansion, cuts to public K-12 funding, and passage of restrictive antiabortion and voter ID legislation (Davey 2014; Greenblatt 2013).

In addition, and of particular significance to this research, in 2011 Governor Walker eliminated state funding for civil legal aid. Now eight years later, Wisconsin Judicare, Inc., the legal aid organization tasked with serving the state's northern 33 counties and 11 federally recognized tribes, continues to rely almost entirely on federal grants and Legal Services Corporation funding; funds from Interest on Lawyers Trust Accounts, a source that has diminished significantly owing to low interest rates; and cy pres, or "residual" class action settlement funds. The Wisconsin Court System advertises help for pro se litigants, but this assistance is largely restricted to downloadable court forms and the American Bar Association's Free Legal Answers Web site.

In the meantime, Minnesota has steadily increased its legislative appropriation for civil legal services, with nearly $14 million distributed in FY 2018 and additional funding for a coordinated infrastructure project to "better serve low-income Minnesotans

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

through online, telephone and high-volume advice systems" (MN Supreme Court 2018). Yet while Minnesota's judicial branch is considerably better resourced than Wisconsin's, critical gaps exist in how access to justice efforts are perceived by state decision makers in the "Metro" and how they are experienced in rural Northeastern Minnesota. Most simply, the initiatives touted as advancing "equal administration of justice for all" (Minnesota State Bar Association 2019) prove to be the very same self-help forms, helplines, and online advice systems that low-income rural residents identify as *barriers* to justice. As my data demonstrate, the promotion of legal services that fail to acknowledge limited or absent rural telecommunication and digital infrastructure—let alone the fact that many low-income rural residents simply cannot afford smart phones, personal computers, and/or reliable transportation—is interpreted by many Northland residents as the diversion of public funds even farther from rural communities (*see* Pruitt et al. 2018).

Taken together, this sociopolitical context offers important if not disappointing data, throughout suggesting the access to justice consequences of vulnerable local/global economies, legislative apathy, and well-funded but urbanormative policies. Owing to such restricted or misdirected support, as well as to the social and technological isolation experienced by remote northern communities, the complex needs of low-income residents largely remain unaddressed. So also do their attendant impacts on rural state and tribal court judges.

2.2 Methods and Positionality

To understand this better, I conducted multisited ethnographic fieldwork across the Northland for over four years. Acknowledging the potential suspicion that rural residents may feel toward an "outsider" researcher owing to perceived differences in professional status, gender, ethnicity, or university affiliation (*see*, e.g., Cramer 2016), this research was necessarily reflexive. I viewed my role not as a detached observer but as a participant in an evolving dialogue with research participants, macro-level forces, and theoretical frameworks through which experiences might be constantly interpreted and reevaluated (Sherman 2009; *see also* Burawoy 1998). Accordingly, this research employed mixed and complementary methodologies to build trust and rapport, gain exposure and access to meaningful legal and extra-legal spaces, and ensure the recruitment of diverse research participants. To that end, my research consisted of ongoing regional data and policy analysis; participant observation; individual and household surveys; and semi-structured one-on-

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

one and focus group interviews. Because this manuscript is based generally on research conducted with low-income Northland residents and attorneys, and specifically on that with Northland judges, in this section I focus on the methodologies employed with these individuals.

During preliminary fieldwork (2015–2016), I traveled extensively across Northern Minnesota and Wisconsin and conducted approximately 30 semi-structured interviews with civil legal aid and private attorneys, legal aid staff, community organizers, immigration and social services providers, tribal leaders, judges, members of law enforcement, and low-income individuals who had obtained civil legal assistance through Legal Aid Service of Northeastern Minnesota and Wisconsin Judicare, Inc.

From these contacts, I utilized snowball sampling to identify and recruit participants for the larger research project, which I began in 2017. The qualitative interviews I conducted with low-income individuals[2] centered on experiences of rurality; what socioeconomic problems individuals identified as particularly consequential; whether these concerns were framed as legal; how individuals defined and mobilized justice; and individuals' interpretations and experiences of legal assistance, court systems, and state and global forces. To arrive at these understandings, interviews traced family and employment histories, involvement in and identification with small towns and tribal communities, and engagement—if any—with formal legal structures and professionals. Questions were open-ended to provide subjects the space to narrate and prioritize issues on their own terms.

Approximately 60 low-income individuals participated in these qualitative interviews. Participants were fairly evenly divided by gender, 18 years or older, and largely reflected the socioeconomic and ethnic composition of the Northland. An additional 228 individuals across Northern Minnesota and Wisconsin participated in individual and household surveys conducted for legal needs assessments on behalf of partnering legal aid organizations (*see* Bredeson and Statz 2019; Wolf and Statz 2018). This portion of research is not directly referenced here, with the exception of rural residents' documented frustration with the inaccessibility of Minnesota's self-help resources. Indirectly, however, these survey data heighten the responsibility I feel to employ a necessarily multidimensional approach to low-income individuals' documented experiences of exclusion *along with* their alternative, expansive,

[2] Eligibility criteria for this research was deliberately expansive in order to acknowledge the potential stigma of self-identifying as "low income." Most generally, prospective participants were asked if they felt they would be unable to afford a private attorney if contending with a legal need.

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

and insistent understandings of legal rights and entitlements. Significantly, these nuanced perspectives are largely absent in the prevailing US "A2J" literature, which tends to characterize low-income litigants as not thinking justiciable issues are legal or have legal remedies (Pleasence et al. 2011; Sandefur 2014; 2019).

I also conducted one-on-one interviews with nearly 150 public interest and private attorneys and state and tribal court judges across the Northland. These interviews were semi-structured and documented individuals' personal and professional histories; understandings of local legal need; experiences as "insiders" and "outsiders" owing to gender, race or ethnicity, family history, and socioeconomic location; the reported salience of client and community expectations; definitions of justice; involvement in relevant professional or political policy efforts, particularly those geared toward addressing rural access to justice issues; and what individuals identified as the unique social and spatial dimensions of legal practice in the Northland. All interviews in this research were transcribed and coded via NVivo data analysis software for emergent themes.

Of these legal professionals, fifteen were judges. This portion of research, which I foreground in this article, included semi-structured interviews with four tribal court judges, all of whom participated in one to two follow-up interviews between 2017 and 2019, and semi-structured interviews with seven Minnesota district court judges and four Wisconsin county circuit court judges, three of whom participated in two to three additional follow-up interviews. Of the total number of judges who participated in this research, four self-identified as female, and eleven as male. Importantly, four served on the bench in "one judge" courthouses, and two individuals, one in Minnesota and one in Wisconsin, each divided their time as the sole judge of two county courthouses. Given this relatively small number of judicial participants and the diverse communities in which they work, neither I nor my participants claim to speak for "rural courts," or for state or tribal courts more specifically. There are critical differences between state and tribal court systems, and certainly *within* these systems as well. When we consider, for instance, that there are approximately 350 tribal courts in the US[3]—each a unique instrumentality and manifestation of tribal sovereignty—this variance is unsurprising. Some tribal courts prioritize Anglo-American

[3] The Bureau of Indian Affairs reports 567 federally recognized tribes in the US, of which 351 have tribal courts (Tribal Issues Advisory Group 2016: 10). In addition, 21 CFR courts serve to administer justice on reservations where tribes have retained exclusive jurisdiction over Indians but do not have an established tribal court to exercise that jurisdiction (Creel 2011). "CFR" is a colloquial name for the Courts of Indian Offenses, which are established throughout the U.S. under the Code of Federal Regulations (CFR).

judicial structures, adversarial processes, and written or positive law while others emphasize traditional forums for dispute resolution. Many offer some hybrid of both. Arguably all confront challenges to self-determination and sovereignty (Nesper 2007, 2015; Pommersheim 1988; Wilkinson 2015). Why I explore the work of state and tribal judges together in this article is most simply because a number of these judges *work together*, albeit via informal and at times sporadic channels. Moreover, nearly all of these judges, whether state or tribal, evidence mutual lived experiences of what might be termed "the Northland lawscape," along with a subtly defiant commitment to offer "convivial alternatives" to community members seeking access to justice.

In addition to extensive interviews, research included informal conversations with other tribal court judges at meetings and conferences; invited observations of judges as they presided over civil and criminal matters and participated in diverse forms of alternative dispute resolution, including mental health, Healing-to-Wellness, peacemaking, and treatment courts; and participant observation in local community justice forums and access to justice taskforces on which judges collaborated. Across these diverse ethnographic spaces, I attended to how judges negotiated judicial and administrative requirements, litigants' needs and expectations, and diminishing or tenuous funding. What I did not expect to pursue, but what many judges wanted to discuss, was the profound toll of these negotiations.

3. "We're Very Aware"

"I grew up in this town," commented one judge. "I am seeing 4th generations [of families]. There are people I know all the time in court. People I went to school with." The familiarity that he and many state and tribal judges described is not uncommon in rural regions—areas with what William Freudenberg (1986) calls "a high density of social acquaintanceship." Accordingly, noted one tribal court judge, "[That] is definitely one of the big differences between rural and big city practice or urban practice; we're very aware of the communities and the social networks of a lot of the individuals we're dealing with." When I invited judges to describe these communities further, their responses unfolded a host of deep relational and structural understandings.

"Would you say most of the litigants before you are from [this town]?" I asked one Wisconsin state court judge. "What percentage is from the Reservation?" The judge, who had until now spoken with a great deal of fervor, stared at me blankly. I stared back. This should not have been a surprising question, as Wisconsin

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

and Minnesota are two of six mandatory states named in Public Law 83-280[4] (PL 280), which in 1953 shifted criminal jurisdiction away from a combination of tribal and federal (Bureau of Indian Affairs) control to state and local government (*see* Champagne and Goldberg 2012; Naughton 2007). Results have included complex and well-documented procedural uncertainties, jurisdictional and funding gaps, and conflicts between tribal and state authorities. "I mean," I continued, "Are there a lot of Native litigants?"

Still visibly caught off guard, the judge responded. "You know? I don't know. Because the Native and non-Native community is so interwoven here. I mean, I went to school with—probably a quarter of my class was Native. So—" he paused and tilted his head. "I mean, when I'm [on the bench] I don't—I don't look at it that way. I don't want to."

Of course, this resistance did not equate a lack of sensitivity to social or structural context. Later in our conversation, the judge stated: "I had somebody sitting in custody for four months. Their attorney deals with the district attorney and they really don't have much of a criminal record, so they're gonna go on probation. All right, so they come back on probation, and I'm like, 'Well, you're gonna get released today, where are you gonna go?' 'Well, I'm gonna go home.' 'Are you gonna stay off drugs?' 'Oh yeah, I want to stay off drugs… I want my kids back.' So I said, 'Where you gonna go?' 'Well, to my house.' 'Where is that? In [settlement on reservation]?'" He shook his head, and pointed to a map of the reservation he had sketched as he spoke. "'So how are you gonna fight against driving by the house where you know where they have meth? And how are you gonna fight when they come over to your house, because they know you're a user? And, oh, is there anyone in your house that uses?' 'Well, my brother is.' And it's like—I'm feeding these people back to the wolves. There's no hope. I mean, there are so many times on the bench where I'm like, *This is just useless*. It's senseless. There's no hope. You know, it's just a system that is completely broken, cause probation, parole doesn't do shit. They're just as worthless as can be. Not the people that work there, but the way the system—and the way they're funding it is worthless…."

The above excerpt is a knotty one, rife with implicit, urgent references to overlapping phenomena like the pervasiveness of opioids and methamphetamines in Northland communities,

[4] 327 Pub. L. No. 83-280, 67 Stat. 588 (1953) (codified as amended at 18 U.S.C.A. § 1162, 25 U.S.C.A. §§ 1321 to 1325, and 28 U.S.C.A. § 1360). The only non-PL 280 tribes in Minnesota are the Red Lake Band of Chippewa (excluded from PL 280 at the outset) and the Nett Lake Band of Chippewa (the subject of retrocession in 1975), and in Wisconsin, the Menominee (excluded at the outset).

the absence of treatment centers and a dearth of rural mental health providers (*see* Health Resources and Services Administration 2016), the consequences of deep regional poverty, and the embittering failures of a poorly funded criminal or judicial system. I include it here because state and tribal court judges overwhelmingly answered fairly simple professional questions in a way that inevitably spoke to diverse structural forces, lived knowledge and, most important, the urgent, compounding implications for litigants' lives and the administering of justice.

In Minnesota, this kind of cascading critical response often referenced the precarity of Northeastern Minnesota's largely mining-based economy, one in which families transition in and out of poverty following the "boom and bust" of mines and related employment like welding, daycare provision, and food service. "The population has shrunk," noted one individual. "I don't know the percentage, but let's say there's half as many people working in the mining industry as there used to be. So over the years… there's been strikes, there's been layoffs, it's cyclical. The last layoff was probably two and a half years ago, two years ago, when Keetac went down." [Here he referred to the closure of Keewatin Taconite Mine by US Steel in 2015 owing to a global glut or "dumping" of steel products into US markets]. "Does that change practice? Yes. Sometimes that economic disruption for a family causes them to blow apart more frequently these days. Of course, [some] don't have the money to really establish two houses and go through the trauma of divorce because they're already so economically disadvantaged."

Indeed, it was overwhelmingly *poverty* that was cited by judges when asked to describe their communities. Yet as with the above excerpts, this proved to be an expansive interpretation of poverty, one that revealed many judges' deep sensitivity to low-income litigants as well their profound frustration of being a "left behind" rural region. When discussing the flexibility a Wisconsin state court judge offered defendants with court fees or fines, the clerk of courts stated, "We know there's a reason they're not paying. Money is always a hard, hard issue. For a parent with a family? There's never enough money. We try to be tolerant of that… When you see hardships over and over, it makes you a little more tolerant." At the same time, a clear *intolerance* for the arguable neglect of policymakers emerged, particularly as judges reflected on their own work in under-resourced court systems. "There's a tremendous meth and heroin problem [here]," commented one judge. "I'm telling people, 'Get a job.' There are no jobs."

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

> So you got meth, you got [no] jobs, you've got low-income positioned close to these million dollar [second] homes on the lake from the Twin Cities and Illinois, and they want their taxes low. We tell our [local] representatives what we need, and their response is, "Yeah, but you got to couch it in a way that I can convince the people [in the state's urban political centers]. They don't care about your problems and they have all the power." So we're forgotten up here. We have the heaviest caseload of any court system in the entire state, and we have one judge, and one DA.

Where I had expected judges to reflect on their experiences of power and authority, and perhaps what it might mean to contend with status as a "reputational leader" in a rural community (Shoemaker and Nix 1972), I instead largely found a solidarity many judges assumed with rural litigants, one born of shared grief, economic frustration, and in many ways, vulnerability.

4. How Does this Translate to Judging?

In Max Gluckman's work on Lozi law (Gluckman 1955), "conceptual flexibility" as applied by Lozi judges allows for a certain expansiveness, one in which law might contain customs and values and by which a judge might establish intimacy and authority. "Hence the intricate relationship between law and morality," writes Harri Englund. "[J]udicial discretion entailed moral reflection and sentiment in judges' attempts to make law absorb any contingent development" (Englund 2015: 268). Recall Judge Avory's characterization of his work: "I'm trying to stick with the law, but sometimes you've got to get creative."

The judges I interviewed were deeply committed to professional ethics and their roles as impartial mediators, to the interpretation (and in some cases, creation) of state or tribal code, and to substantive, procedural, and/or restorative justice. However, I am most interested in rural judges' "creative" or alternative actions, and the language and sentiment that aims to "absorb any contingent development." These observed phenomena are compelling for their own sake, while also lending relevant insights to work on judicial empathy, improvisation, and "moral imagination" (Bandes 2011; Rosen 1989; Weinberg and Nielsen 2012). Of course, I would be remiss if I did not acknowledge judges' own caution about their own or their colleagues' practices: "There's a danger in this kind of problem-solving," Judge Avory stated as we stood to leave. "If we push beyond the law, we judges become all powerful."

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

Notably, the power-filled flexibility, warmth, and conviviality I observed of judges was not characterized by these actors as judicial discretion or procedural fairness but rather as "community judging" or "activist judging." "There's the activism of the judge who's trying to change society," stated one judge. "That's activism I'm against—that's not the purpose of the court but of the legislature. I'm for the activism of courts at the circuit court level—at the local community level, trying to work with communities. Every judge I work with [on the Iron Range] is an activist." Another simply said, "It's really about relationships… It's very much 'what can I do to help?' versus sticking with the formal legal process." While for some individuals this translated to valued involvement on treatment courts or in peacemaking circles, in the formal courtroom judges' activism was most apparent in their interactions with pro se litigants.

In April 2018, I drove across Northern Wisconsin to interview a judge who had been suggested by a number of attorneys and judges across the region. He was notorious for his "rocket docket," everyone said, and some additionally commented on the good relationship he had with the tribal judge of a neighboring Native nation. The four-hour drive took six owing to hard-driving snow, and I arrived at the tiny courthouse disheveled and tired. When I introduced myself to the clerk of courts, a diminutive older white woman who wore a loose, brightly patterned dress and whose paneled office walls were lined with silk flowers, she stood and hugged me, then pulled back to cheer my eight-month pregnant belly. It was a surprising and warm welcome, one that left me unprepared for Judge Hawkins' very reserved nature.

I was keen to learn more about the judge's work, as he was one of three Wisconsin state court judges to straddle two county courts. He was quiet but thoughtful, and his speedy approach to trying cases proved a response to a less productive predecessor and local attorneys who had taken advantage of the dysfunction. "I've got to serve some purpose," he stated, "and it's not simply to rubberstamp what the two attorneys want to do… I'm going to expect you to be prepared. When I come in here—holy Christ, you better be on your game, 'cause we're moving this. Now I'm 'the rocket docket' because I move it along."

At times, Judge Hawkins was startlingly stark in his descriptions of his work. There was no Judicare presence this far north, he said, and it's a struggle to get public defenders. "I've got a guy now who's been [in jail] 60 days, he's eligible, they can't find an attorney for him." He paused. "The [lack of state] funding for public defenders has created all kinds of problems for us. They're waiving their rights to an attorney to avoid the delay and indecision… If I have someone who's not in jail, every two weeks or

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

every week I'm having them come back, just in case the attorney is appointed, so they're missing work, they gotta find babysitters, they gotta get out in the snowstorms, or there's a warrant for arrest if they don't come to court."

Judge Hawkins steadily couched his judicial approach within the broader regional context. "There's no real major industry in the county," he said. "They used to have the sawmill and everyone was employed. I think the major employer now is the tribe, and county government. … 85% of our land is non-taxable [as state and federal forests], and so we're stuck …And the state has been placing restrictions on the ability to tax. You got tax levy limits, and school needs more money… So every year, there's a referendums: Can we borrow $2.3 million to keep the school going? And if they vote no, the school's gonna have to close. And if the school closes, [families] gotta follow the school, you're gonna have an increasingly smaller tax base to pay increasingly larger taxes. I don't know where that's going to end."

I observed Judge Hawkins in the courtroom and in his chambers, and in both settings he appeared authoritative and even authoritarian (Conley and O'Barr 1990: 96). Often, his language stood in stark contrast to more openly empathetic judges. When I told him that my research was on "access to justice," however, and that I admittedly felt unsure about the term itself, his face changed. "Access to the courthouse isn't access to justice," he stated. "Anybody can walk in the courthouse. You get in and come in and fumble around—[and] they had 'justice.' They had access to the system, *but they didn't get a just result*."

> Sometimes [with pro se litigants] you'll have a situation where it's not contested, or not known if it's contested, and you have a difficult position as a judge. [So] I'm gonna step in as an advocate, and I'll abandon my neutrality, and I'm gonna say, you know, "That's wrong, this is right." But you have to be very careful you don't do that too much. In some instances you have to be cognizant of the fact that they don't know what's going on, and I do tell them, "I'm gonna give you a little more leeway, you don't know the rules of evidence, okay, I understand." … It's like people's court. Everyone comes in, they tell you [their story], you kind of talk them, you tell them what the law is—they got their day in court, everyone is okay about it.

In many ways, "access" in this case—and indeed, in every interview I conducted with judges—was more about *listening* than about access to the courtroom, to self-help forms or online resources, even to direct representation. "People just want to be heard," was echoed throughout these interviews, and it was

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

embodied in the loose mannerisms, respectful gaze, and easy laughter I observed of Judge Avory and in so many court proceedings across the Northland. Others noticed it, too. One rural attorney commented, "I go in representing one party, and the pro se litigant is on their own. Judge will give them a lot of leeway on how to tell their story, what they want to do. [She] is very good about letting them talk in a more informal manner…She's really generous."

Judge McDonald, a Wisconsin state court judge, commented, "Whether a person wins or loses in the courtroom, they [need to] feel they had a fair chance to have a say," To my surprise, he added, "Sometimes in pro se cases it's actually easier."

"I didn't expect that," I responded.

"Well, I find it easier, because I bend over backwards: Is there anything else you want to tell me? Remember, this is your case. Is there anything somebody you want to call as a witness?" I make sure I go over that over and over and over, and they'll say, "No, I guess there isn't." I say, "Okay, alright. Do you have any paperwork you want to show, any pictures, anything? I think they find that procedural fairness when they're pro se and they've got something to say. When the lawyer's there, [the litigant] can't figure out why—they told the lawyer this, and the lawyers" like, "No, that's not going to go anywhere." It bugs them. Now, in pro se, they'll say it to me. It might make no difference, *but they got the chance to say it*."

While the literature—and indeed, most of my data—tend to evidence the critical significance of counsel, both for litigants and for judges (Stienstra et al. 2011), I can't help but wonder, and indeed argue, that judges' profound and almost desperate commitment to offer this space and respect to low-income litigants stems from a deep, embodied need to remedy something bigger—that, to borrow from Englund, judges' "moral reflection and sentiment" seeks to make the courtroom absorb the contingent developments of lost industry, state disinvestment, absent social and mental health services, and the many other multi-scalar persistent injustices of rurality. An effective "last stop," judges are intermediaries between immediate suffering and outside interests (*see* Brison 1999), and the participatory, convivial space they create—even within the power-filled bounds of a legal institution—proves an intimate counter to so many dominant forces.

5. Beyond the Courthouse

Of course, judges themselves exceed these institutions, most notably in this research through cross-jurisdictional collaboration

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

and community advocacy. Reflecting a mutual sensitivity to the distinct challenges of Northland rurality, a number of state and tribal court judges discussed partnerships they had forged to make courts more accessible to litigants. In one instance, this "shared striving" (Santos and Rodríguez-Garavito 2005: 13) proved vital to indigent defendants but was thwarted by policy changes elsewhere. "In criminal cases," noted one state court judge, "the difference between success and failure is a ride. I can't do it anymore because [Wisconsin] has gone to a paperless court system now, but I had an arrangement with the tribal court in [nearby Native nation] whereby every 60 days I would take our criminal and juvenile delinquency case load and hold court in the tribe. And I did it for one primary reason: because Tribal members were having a hard time getting here. And it's only 25 miles, but 25 miles, if you don't have a ride, is difficult. So we'd go up there. And it worked out really, really well."

As an important aside, rural distance and travel surfaced as a mutually experienced concern, one judges themselves contend with often (*see* Statz and Pruitt 2019). Describing a colleague, Judge Hawkins commented, "He's a single judge, so if I get substituted, it'll usually go to him and vice versa… We try to schedule it so it's convenient. I'll probably stay overnight; I don't want to drive back in this junk," he said, noting the wet snow hitting his window. "It's only a half hour drive, but you might get 25 inches of snow one night." One state court judge in Minnesota in poor health was known for occasionally holding court until 8 or 9 pm: "When the judge is feeling well, they cram in as much as they can," his clerk stated. "He knows litigants have a long way to travel."

This collaborative understanding of rural experience emerged in other novel ways. Judge Singer, a tribal court judge in Wisconsin, publicly advocated for his circuit court colleague to get a second judgeship and an additional courtroom. Together, they also worked to develop a local criminal justice coordinating committee. "It helps with identifying people that were in jail for either alternative sentencing or diversion," Judge Singer stated. "And we're starting to see a little bit of the benefits from that." This was for community members, but it was also "to make sure the tribal voice is part of the conversation," he added. In a separate conversation, his state court counterpart offered his own interpretation: "[The tribe] exists. And the fact is, they're sovereign—a domestic sovereign nation. And they have rules that, well, some of them apply differently to them. That's fine. All I care about is that we are in the same boat, and if we do well, they do well. And if they do well, we do well. I mean, there's no separating the two."

Other judges discussed their activism in nonadversarial settings outside formal courtrooms, whether as members of treatment courts, peacemaking circles, or local equal justice committees. One tribal judge spoke at length about his work with young offenders. "I'd say to them [in court], 'You used meth, or you took advantage of your grandmother, and that's on you.' But knowing them sometimes helps, because then you have the ability to break through—*you know more of the story*. I would say, 'Do you know what your spirit name is? Do you know where you come from?' …I make a big deal of truancy… Sometimes [I] am the only authoritative figure that ever held them accountable… I'd go to the school and just walk through, and those students would be like, 'Oh, there's the judge. I'm in class.' That positive reinforcement." He leaned back in his chair. On his desk were displayed a small tribal flag, a small Wisconsin state flag, and a small Green Bay Packers flag. "A lot of courts don't have that ability… It's hard for a tribal member to understand that a million people can live in one spot. Or a thousand people, and not know who they are. So these judges, these [urban] judges have the pleasure of anonymity, but they also have the burden of not knowing who they're dealing with, and so that impersonalizes the court system."

6. "And We Have Nothing"

> The sociology of emergence… entails interpreting in an expansive way…to expose and underscore the signals, clues, or traces of future possibilities embedded in nascent or marginalized legal practices or knowledge. (Santos and Rodríguez-Garavito 2005: 17)

I write with a deep, reflexive admiration for the work of the judges presented here. I also recognize that these marginalized legal practices—perhaps best described by one judge as "what we get away with to a greater extent in rural communities"—are in many ways *all that is left*. Amid the complex sociospatial and structural precarity of the rural Northland and in the absence of lawyers and context-appropriate self-help initiatives, state and tribal court judges are *it*. "I can't give up hope," said one judge. "Because then there is no hope for this community." They are the embodiment of access, if they so choose.

Some don't, of course: A number of research participants described rural judges who openly belittled pro se litigants or simply had no apparent desire to establish rapport with the individuals before them. It is important to discuss this behavior not only to complicate my data but to demonstrate that even as the ostensible "last stop" in the provision of access, the actions of the judges

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

I interviewed are not *inevitable*. Rather, they represent a conscious decision to interact with litigants in a different way. "You have some judges who act like an attorney for both sides if they're both pro se," said Ron. "'Here's what I mean, here's how you do it.' A lot of judges won't do that: 'If you can't figure out how to get the information properly and under the rules, then I'm not going to have the information.'" In some ways this is understandable: Many Northland judges contend with enormous caseloads and, by virtue of being in small courthouses, must be generalists. Without attorneys, the burden is exacerbated. Most generally or generously interpreted, the disrespect and detachment participants observed could be a consequence of judicial burn-out, a function of the profession, or a form of self-protection.

After all, and as I describe here, the embodied, inclusive, subtly subversive work of judicial intimacy has a cost. In this way, I admittedly remain uncertain about its potential. Not all of the judges I interviewed were suffering, of course, or suffering in the same ways—among them individuals relatively new to the bench and those in two or three judge courthouses, where the opportunity to process events and decisions with a colleague would be more likely. Special consideration should of course also be given the unique and diverse contexts of tribal courts, where judges (who might be appointed or elected) may face the additional dimension of community and kinship obligation and/or contend Indian Reorganization Act (IRA) constitutions. IRA constitutions usually lack separation of powers and instead often concentrate all or nearly all of a tribal government's power into a single "legislative" branch—tribal council (Kleinfeld 2016).

Many of the struggles I documented are not unique to rural judging. Common stressors associated with the bench include high case-loads, time limitations, social isolation, lack of privacy, the pressure of making legal decisions, safety concerns, job security, and experiences of others' trauma (Flores et al. 2009; Miller et al. 2018; Resnick et al. 2011). These stressors appeared commonplace to rural judges—they were referenced often in our conversations but with relative indifference: "It's just part of the job." "You've got a combination of a competitive adversary environment, being on public spectacle, daily talking with people who are in crisis… You put all these things together, and I think it makes perfect sense why this profession is on the high end of emotional damage," stated one judge.

Others understood social and safety stressors as the reality of judging in an area with a high degree of social acquaintanceship (*see*, e.g., Fahnestock 1991). "You have to be very conscious that the integrity of your court is respected, so… it's like being on all the time, every time," noted one judge. "You have to be very

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

careful about who you interact with in public, careful about where you go shopping. The normal things that you would do for relief are also scrutinized, so you can't go to different areas because someone will find something to use against, to advance their issue at the expense of the court. And the court needs to be isolated…" Judges commonly mentioned encountering litigants at children's sporting events, at ceremony or church, even in line to see *Star Wars*. A number of older judges reported adjusting their behaviors to maintain some anonymity: One judge only bought groceries late at night to avoid court-related conversations with fellow shoppers, and another only ate out at restaurants in a neighboring county. "It's the nature of the work," said a judge on the Iron Range. "I've got shades. I do carry a pistol, lots of the time. There are threats against me that I'm aware of, [but] I don't worry about it."

The combination of rural sociospatiality and a rural access to justice crisis adds new dimensions to judges' existing stress. Whereas Judge McDonald saw attorneys as limiting low-income litigants' opportunities to speak and be heard—and importantly, *to feel* heard—most judges unsurprisingly felt that the "expected" burdens of the bench were compounded in the growing absence of rural public interest and private attorneys. "The responsibility for advocates, whether they're law trained or not, is to manage the expectations of the participants," stated one tribal judge. Without attorneys, and as the sole judge of a tribal court,

> You respect the process by referring to [self-represented litigants] in respect. And they have an idea, so if you don't completely throw them off their game, they'll participate to the point that they can. …So usually my first appearance, the initial appearance, I would explain to them what's going on, and ask them if they understood, and tell them that they have a right to object, that they have a right to request other information, they can ask questions, they can adjourn… It drives the clerks crazy, because they have to type everything out—but there'd be these long conversations, lot of paragraphs of information that we would have that allowed [unrepresented litigants] to participate.

"[But it] was hard," he added. "It burns out somebody who's doing it all by themselves. I just found myself on an island by myself, trying to maintain the integrity of the tribal court system."

In addition to the unique demands and professional isolation experienced by rural judges, the social costs of high rural acquaintanceship, and the emotional work of guiding pro se litigants, there is something more in my data. As judges steadily

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

offered nuanced, critical understandings of litigants' needs—and, of course, the broader sociospatial and local–global aspects of this need—there emerged a subtle but consistent sense of *shared experience*. It's helpful here to recall the subaltern, for however oppositional or subversive their practices, in this domain judges embodied a mutual marginalization that can best—or only—be understood "from below."

"What are some of your concerns?" I asked Judge Hawkins.

"Well," he responded. "There's the same concerns you have anywhere. That is, drugs and alcohol, and recidivism. And then we're in a rural area, so they drive because there's no public transportation, and so you get these OWI (Operating While Intoxicated) fourths and fifths. It's because they live out in the sticks. And they gotta get to work! I know it sounds odd, but they have to get places." He paused and toyed with a paperclip. "And where do you send them?"

> Some counties have alcohol and drug assessors and counsels and treatment facilities and in-patient treatment. And we have nothing. Some of this stuff requires insurance money. No one has insurance here… I want to send some of the defendants to batterers groups—but they don't have anything like that here. No victims' groups, none of that stuff. Domestic abuse, anger management. None of those facilities. None of those counselors are available.

The context I have detailed through this article, namely that of a "left behind" rural region uniquely vulnerable to global economic shifts, *matters*. As Judge Hawkins described, it powerfully constrains litigants' ability to access necessary health and mental health services as well as other social supports. As my data demonstrate, this experience extends to judges as well.

"You're trying to walk a line on the ethical rules at the same time that you're providing advocacy," stated another judge. "And you're dealing with a system that you can't control—it's really hard. It's extremely frustrating… And so people deal with stress in different ways. Some have money problems…Some drink, some are just chronically depressed. How do you not get affected by the [local] issues I just told you about?"

"We don't have a lot of social events," said a judge who divides his time between two county courthouses. "And I don't have another judge where you can go, 'Jesus, this is getting me down.' I'm getting trauma. I get secondary trauma and I can't take it anymore… In the big cities, for three months you're on criminal, and for three months you go to civil cases, and you change the

dockets, and you rotate. [But if] you're the only judge, you don't rotate out."

Another said, "A lot of these cases, I can't handle without just about crying, and we're supposed to be dispassionate and neutral, and you never show emotion—and it wrecks you. And that's the thing with mental health, *we don't have any resources here either*."

Perhaps this is where my engagement with subaltern cosmopolitan legality must necessarily recede, for as meaningful and power-filled the activism of rural state and tribal court judges, it clearly comes at a profound social and emotional cost. Indeed, the very phenomena that compel judges' work—an absence of attorneys, resources, policy attention, and socioeconomic and infrastructural stability—are largely what devastate it. As the above data demonstrate, many of the same rights and protections denied low-income residents prove out of reach for decision-makers, as well. And accordingly, the embodied, inclusive endeavors of judges on behalf of low-income litigants may be more accurately read as an embodiment of shared suffering. "We connect with people," stated Judge Matthews, in Northeastern Minnesota. "We connect with people," she continued, "and they know we care… And that's probably where the suffering comes from, right? It's hard when you care about the people in front of you and they're suffering."

7. Conclusion

In this article I draw on and in many ways evidence the subaltern ideal of contextualized, nonhierarchical dialogue (Mallon 1994), whether as the respectful, convivial exchange between a judge and low-income litigant, or as the sustained informal partnership between state and tribal court judges. When viewed "from below," these steady agentive negotiations of power, voice, and place reflect a deep if not implicit intent to contend with and resist so many scales of subordination, from urbanormative policies, state and federal neglect, and contested sovereignty to neoliberal labor market reforms, exclusionary laws, and shifts in the global economy.

As my data evidence, state and tribal court judges hold uniquely nuanced, critical understandings of unrepresented litigants' needs and this broader context. And their response is a distinct kind of language and attention, one that attempts to absorb these contingent developments and offer space, clarity, and support. In short: *access*. Yet as my data also reveal, not only do judges daily encounter the complex sociospatial and legal needs of low-income litigants, but they themselves also live the

https://doi.org/10.1111/lasr.12537 Published online by Cambridge University Press

consequences of rural "legal deserts," absent health and social services, long distances, and depressed local economies. And as with litigants, these consequences go unmitigated in the rural Northland. What remains, then, is shared suffering.

If read expansively, as Santos and Rodríguez-Garavito (2005) so encourage, this mutuality and its more positive manifestations—among them empathy, inclusive if not ad hoc sociolegal guidance, and a defiant, ostensibly "nonlegal" experience of an otherwise hegemonic institution—do have potential. These practices are not inevitable, but are perhaps more likely among judges who mindfully encounter, and indeed live, the same sociospatial locations and contingent injustices as the litigants before them. While the sustainability of rural judges' grass-roots level resistance must necessarily be questioned, it is ultimately their language that feels clear; their time that feels expansive; and their relationality that *feels fair*. And it is this participatory access to justice that most represents subaltern cosmopolitan legality—the offering of new understandings and practices with the potential to replace dominant ones, the offering of a new common sense.

References

American Bar Association. 2004. *Gideon's Broken Promise: America's Continuing Quest for Equal Justice*. Chicago, IL: ABA Division for Legal Services Standing Committee on Legal Aid and Indigent Defense.

Atkinson, J. Maxwell. 1992. "Displaying Neutrality: Formal Aspects of Informal Court Proceedings." In *Talk at Work: Interaction in Institutional Settings*, edited by Paul Drew and John Heritage, 199-211.Cambridge: Cambridge Univ. Press.

Bandes, Susan A. 2011. "Moral Imagination in Judging." *Washburn Law J.* 51: 1.

Banwell, S. 1938. "A Frontier Judge." *The Canadian Bar Rev.* 16: 550.

Baxter, Jamie and Albert Yoon. 2014. "No Lawyer for a Hundred Miles?: Mapping the New Geography of Access of Justice in Canada." *Osgoode Hall Law J.* 52: 9-57.

Bredeson, Jon and Michele Statz. 2019. *Not a Legal Issue: A Report on Community Legal Need*. https://www.northlandproject.org/assessments-and-reports (accessed November 01, 2019).

Brinks, Daniel M. 2019. "Access to What? Legal Agency and Access to Justice for Indigenous Peoples in Latin America." *The J. of Development Studies* 55: 348-65.

Brison, Karen J. 1999. "Imagining a Nation in Kwanga Village Courts, East Sepik Province, Papua New Guinea." *Anthropological Q.* 72: 74-85.

Burawoy, Michael. 1998. "The Extended Case Method." *Sociological Theory* 16: 4-33.

Chakrabarty, Dipesh. 2011. *Keynote Address at Conference on "Subaltern Studies: Historical World-Making Thirty Years On"*. Canberra: Australian National Univ. 3–4 August.

Champagne, Duane and Carole E. Goldberg. 2012. *Captured Justice: Native Nations and Public Law 280*. Durham: Carolina Academic Press.

Chatterjee, Partha. 2012. "After Subaltern Studies." *Economic and Political Weekly* 47: 44-9.

Connors, J. 1993. "Resolving Disputes Locally in Rural Alaska." *Mediation Q.* 10: 367-86.

Cooperstein, Eric. 2014. "Go Rural, Young Lawyer!" Lawyerist.com, June 27. https://lawyerist.com/13109/small-town-jobs-lawyers/ (accessed October 15, 2019).
Conley, John M., William, M. O'barr, and William, M. O'Barr. *Rules versus relationships: The ethnography of legal discourse*. University of Chicago Press, 1990.
Coutou, Peter. 2018. "Where the Lawyers Aren't: Attorney Shortage in Rural Wisconsin Compounds Opioid Crisis." *Isthmus*, January 18, 2018. https://isthmus.com/news/cover-story/attorney-shortage-in-rural-wisconsin-compounds-opioid-crisis/ (accessed November 1, 2019).
Cramer, Katherine. 2016. *The Politics of Resentment*. Chicago, IL: Univ. of Chicago Press.
Creel, Barbara. 2011. "Tribal Court Convictions and the Federal Sentencing Guidelines: Respect for Tribal Courts and Tribal People in Federal Sentencing." *Univ. of San Francisco Law Rev.* 46.
Cross, Pamela and Michele Leering. 2011. *Paths to Justice: Navigating with the Wandering Lost—Providing Access to Justice in Rural and Linguistic Minority Communities in South-Eastern Ontario*. Toronto: The Law Foundation of Ontario.
Cutler, Lindsay. 2016. "Tribal Sovereignty, Tribal Court Legitimacy and Public Defense." *UCLA Law Rev.* 63: 1752.
Davey, Monica. 2014. "Twinned Cities Now Following Different Paths." *New York Times*. January 12. http://www.nytimes.com/2014/01/13/us/twinned-cities-now-following-different-paths.html?_r=0 (accessed October 15, 2019).
Edwards, Laura. 2009. *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*. Chapel Hill, CA: Univ. of North Carolina Press.
Ellickson, Robert. 1991. *Order without Law: How Neighbors Settle Disputes*. Cambridge: Harvard Univ. Press.
Engle, David. 1984. "The Oven Bird's Song: Insiders, Outsiders, and Personal Injuries in an American Community." *Law and Society Rev.* 18: 551-82.
Englund, Harri. 2015. "Law, Law Everywhere." *HAU: J. of Ethnographic Theory* 5: 267-71.
Fahnestock, Kathryn. 1991. "The Loneliness of Command: One Perspective on Judicial Isolation." *Judges J.* 30: 13.
Fletcher, Matthew L. 2015. "Bullshit and the Tribal Client." *Michigan State Law Rev.* 1435-72.
Flores, David M., Monica K. Miller, Jared Chamberlain, James T. Richardson, and Brian H. Bornstein. 2009. "Judges' Perspectives on Stress and Safety in the Courtroom: An Exploratory Study." *Court Rev.: The J. of the American Judges Association* 45: 76-89.
Freudenberg, William R. 1986. "The Density of Acquaintanceship: An Overlooked Variable in Community Research." *American J. of Sociology* 92: 27-63.
Fulkerson, Gregory M. and Alexander R. Thomas. 2013. "Urbanization, Urbanormativity, and Place-Structuration." In *Studies in Urbanormativity: Rural Community in Urban Society*, edited by Gregory Fulkerson and Alexander R. Thomas, 5-30.Lanham, MD: Lexington Books.
——— 2019. *Urbanormativity: Reality, Representation, and Everyday Life*. Lanham, MD: Rowman & Littlefield.
Galanter, Marc and Jayanth K. Krishnan. 2004. "Bread for the Poor: Access to Justice and the Rights of the Needy in India." *Hastings Law J.* 55: 789-834.
Gang, Bill. 2005. "Rural District Judges Must Spend Much Time on the Road." *Nevada Lawyer* 13: 16.
Garroutte, Eva. 2003. *Real Indians: Identity and the Survival of Native America*. Berkeley, CA: Univ. of California Press.
Gluckman, Max. 1955. *The Judicial Process Among the Barotse of Northern Rhodesia*. Manchester: Manchester Univ. Press.

Goldsmith, Jack and Adrian Vermeule. 2002. "Empirical Methodology and Legal Scholarship." *Univ. of Chicago Law Rev.* 69: 153-67.

Gradwohl, Janice. 1987. "The Rural Judges of America." *Judges J.* 26: 21-41.

Greenblatt, Alan. 2013. "How Two Similar States Ended Up Worlds Apart in Politics." *National Public Radio*, December 6. http://www.npr.org/sections/itsallpolitics/2013/12/06/248991810/how-two-similar-states-ended-up-worlds-apart-in-politics (accessed September 9, 2019).

Greenhouse, Carol J. 1986. *Praying for Justice: Faith, Order, and Community in an American Town*. Ithaca, CA: Cornell Univ. Press.

Greenhouse, Carol J., Barbara Yngvesson, and David M. Engel, eds. 1984. *Law and Community in Three American Towns*. Ithaca, CA: Cornell Univ. Press. 1994.

Guha, Ranajit. 1982. "On Some Aspects of the Historiography of Colonial India." In *Subaltern Studies* I, edited by Ranajit Guha, 1-8.Delhi: Oxford Univ. Press.

Gwaka, Leon Tinashe, Julian May, and William Tucker. 2018. "Towards Low-Cost Community Networks in Rural Communities: The Impact of Context Using the Case Study of Beitbridge, Zimbabwe." *The Electronic J. of Information Systems in Developing Countries* 84: e12029.

Hanna, Bill. 2016. "Iron Range Unemployment Numbers Keep Growing." *Hibbing Daily Tribune*, March 6. http://www.hibbingmn.com/news/local/iron-range-unemployment-numbers-keep-growing/article_454270ea-e32a-11e5-b783-bbbed7e5744e.html (accessed October 1, 2019).

Halfacree, Keith. 1993. "Locality and Social Representation: Space, Discourse and Alternative Definitions of the Rural." *Journal of Rural Studies* 9(1): 23-37.

He, Xin and Kwai Hang Ng. 2017. "'It Must Be Rock Strong!' Guanxi's Impact on Judicial Decision Making in China." *The American J. of Comparative Law* 65: 841-87.

Health Resources & Services Administration. 2016. RHI Hub: Rural Health Information Hub. [Database of Health Professional Shortage Areas: Mental Health, by County]. https://www.ruralhealthinfo.org/data-explorer?id=209&state=WI (accessed September 1, 2019).

Henry, Charles. 2007. *Long Overdue: The Politics of Racial Reparations*. New York: New York Univ. Press.

Hin, Xe. 2005. "Ideology or Reality? Limited Judicial Independence in Contemporary Rural China." *Australian J. of Asian Law* 6: 213.

Hursh, David W. and Joseph A. Henderson. 2011. "Contesting Global Neoliberalism and Creating Alternative Futures." *Discourse: Studies in the Cultural Politics of Education* 32: 171-85.

Jacobs, Lawrence. 2013. "Right Vs. Left in the Midwest." *New York Times*, November 24. http://www.nytimes.com/2013/11/24/opinion/sunday/right-vs-left-in-the-midwest.html (accessed October 12, 2019).

Jones, Malia. 2015. *Significant Changes in Wisconsin Poverty: Comparisons of the Census Bureau's American Community Survey 2010–2014 and 2005–2009 5-Year Estimates*. Madison: Applied Population Lab. http://www.apl.wisc.edu/publications/acs_5years_dec15/acs_poverty_brief.html accessed September 5, 2019.

Kleinfeld, Joshua. 2016. "Tribal Executive Branches: A Path to Tribal Constitutional Reform." *Harvard Law Rev.* 129: 1662.

Kirmayer, Laurence J., Joseph, P. Gone, and Joshua, Moses. 2014. "Rethinking historical trauma." *Transcultural Psychiatry*. 299-319.

Kliebert, Thomas, Joy D. Osofsky, Howard J. Osofsky, Richard N. Costa, Patrick Drennan, Patricia Morse, and Edward Morse. 2006. "Trauma Interventions and Systems Change in Rural Areas: The Role of the Juvenile Court Judge in Collaboration with Mental Health Professionals." *Juvenile and Family Court J.* 57: 71-7.

Kumar, C. Raj. 2007. "Corruption, Development and Good Governance: Challenges for Promoting Access to Justice in Asia." *Michigan State J. International Law* 475.

Legal Services Corporation. 2017. *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*. Prepared by NORC at the Univ. of Chicago. Washington, DC: Legal Services Corporation.

Legg, Tom and Ngoc (Jenny) Nguyen. 2015. *Widening Inequality in Minnesota: A County-by-County Analysis*. St Paul: Growth & Justice.

Mallon, Florencia E. 1994. "The Promise and Dilemma of Subaltern Studies: Perspectives from Latin American History." *The American Historical Rev.* 99: 1491-515.

McKeon, John C. and David G. Rice. 2009. "Administering Justice in Montana's Rural Courts." *Montana Law Rev.* 70: 201-20.

Merry, Sally Engle and Susan S. Silbey. 1984. "What Do Plaintiffs Want? Reexamining the Concept of Dispute." *The Justice System J.* 151-78.

Mignolo, Walter. 2002. "Cosmopolitanism." In *The Many Faces of Cosmo-Polis: Border Thinking and Critical Cosmopolitanism*, edited by Carol A. Breckenridge, Sheldon Pollock, Homi K. Bhabha, and Dipesh Chakrabarty, 157-87.Durham and London: Duke Univ. Press.

Miller, Bruce Granville. 2011. *Oral History on Trial: Recognizing Aboriginal Narratives in the Courts*. Vancouver: UBC Press.

Miller, Monica K., Jenny Reichert, Brian H. Bornstein, and Grant Shulman. 2018. "Judicial Stress: The Roles of Gender and Social Support." *Psychiatry, Psychology and Law* 25: 602-18.

Minnesota State Bar Association. 2019. "For the Public." https://www.mnbar.org/public-Resources (accessed September 10, 2019).

Minnesota Supreme Court. 2018. Legal Services Advisory Committee FY18 Annual Report, Submitted. December 2018. http://www.mncourts.gov/mncourtsgov/media/scao_library/documents/Annual-report-FY18-FINAL.pdf (accessed October 1, 2019).

Moody, Susan. 1999. "Rural Neglect: The Case against Criminology." In *Crime and Conflict in the Countryside*, edited by Gavin Dingwall and Susan Moody, 8-28.Cardiff: Univ. of Wales Press.

Mundy, Trish Karen. 2012. "Placing the Other: Final Year Law Students' 'Imagined' Experience of Rural and Regional Practice Within the Law School Context." *International J. of Rural Law and Policy* 8: 1-10.

Naples, Nancy. 2007. "The Social Regulation of Citizenship: An Intersectional Analysis of Migration and Incorporation in the Heartland." *J. of Latino/a—Latin American Studies* 2: 16-23.

Naughton, Ross. 2007. "State Statutes Limiting the Dual Sovereignty Doctrine: Tools for Tribes to Reclaim Criminal Jurisdiction Stripped by Public Law 280." *UCLA Law Rev.* 55: 489-95.

Nesper, L. 2007. "Negotiating Jurisprudence in Tribal Court and the Emergence of a Tribal State: The Lac du Flambeau Ojibwe." *Current Anthropology* 48: 675-99.

——— 2015. "Ordering Legal Plurality: Allocating Jurisdiction in State and Tribal Courts in Wisconsin." *PoLAR: Political and Legal Anthropology Rev.* 38: 30-52.

Newman, Daniel. 2016. "Attitudes to Justice in a Rural Community." *Legal Studies* 36: 591-612.

Philips, Susan Urmston. 1998. *Ideology in the Language of Judges: How Judges Practice Law, Politics, and Courtroom Control*, Vol. 17. London: Oxford Univ. Press on Demand.

Piñeiro, Laura Carballo. 2012. "Legal Education in Spain: Challenges and Risks in Devising Access to the Legal Professions." *International J. of the Legal Profession* 19: 339-55.

Pleasence, Pascoe, Nigel J. Balmer, and Stian Reimers. 2011. "What Really Drives Advice Seeking Behaviour? Looking beyond the Subject of Legal Disputes." *Oñati Socio-Legal Series* 1.

Pommersheim, Frank. 1988. "The Contextual Legitimacy of Adjudication in Tribal Courts and the Role of the Tribal Bar as an Interpretive Community: An Essay." *New Mexico Law Rev.* 18: 49-71.

Pruitt, Lisa. 2006. "Rural Rhetoric." *Connecticut Law Rev.* 39: 159-240.

———— 2008. "Place Matters: Domestic Violence and Rural Difference." *Wisconsin J. of Law, Gender & Society* 23: 347-416.

———— 2014. "The Rural Lawscape: Space Tames Law Tames Space." In The Expanding *Spaces of Law: A Timely Legal Geography*, edited by Irus Braverman, Nicholas Blomley, David Delaney, and Alexandre Kedar, 190-214.Stanford: Stanford Univ. Press.

Pruitt, Lisa, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway, and Hannah Haksgaard. 2018. "Legal Deserts: A Multi-State Perspective on Rural Access to Justice." *Harvard Law and Policy Rev.* 13: 15-156.

Pruitt, Lisa R. and Marta R. Vanegas. 2015. "Urbanormativity, Spatial Privilege, and Judicial Blind Spots in Abortion Law." *Berkeley J. Gender, Law & Justice* 30: 76-153.

Reddy, Thiven. 2018. *Hegemony and Resistance: Contesting Identities in South Africa*. London: Routledge.

Resnick, Alexis, Karen A. Myatt, and Priscilla V. Marotta. 2011. "Surviving Bench Stress." *Family Court Rev.* 49: 610-17.

Rosen, Lawrence. 1989. *The Anthropology of Justice: Law as Culture in Islamic Society*. Cambridge: Cambridge Univ. Press.

Runge, Robin and Christyne J. Vachon. 2014. "Planting the Seeds and Getting into the Field: The Role of Law Schools in Ensuring Access to Justice in Rural Communities." *South Dakota Law Rev.* 59: 616-33.

Sandefur, Rebecca. 2014. *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study*. Chicago, IL: American Bar Foundation.

———— 2019. "Access to What?" *Daedalus* 148: 49-55.

Santos, Boaventura de Sousa. 2002. *Toward a New Legal Common Sense*. London: Butterworths.

Santos, Boaventura de Sousa and Cesar A. Rodríguez-Garavito. 2005. "Law, Politics, and the Subaltern in Counter-Hegemonic Globalization." In *Law and Globalization from Below: Towards a Cosmopolitan Legality*, edited by Boaventura de Sousa Santos and Cesar Rodríguez-Garavito, 1-26.Cambridge: Cambridge Univ. Press.

Schmalzbauer, Leah. 2009. "Gender on a New Frontier: Mexican Migration in the Rural Mountain West." *Gender and Society* 23: 747-76.

Shanahan, Colleen F. 2018. "The Keys to the Kingdom: Judges, Pre-Hearing Procedure, and Access to Justice." *Wisconsin Law Rev.* 215-47.

Sharp, Joanne. 2011. "Subaltern Geopolitics: Introduction." *Geoforum* 42: 271-3.

Sherman, Jennifer. 2009. *Those Who Work, those Who don't: Poverty, Morality, and Family in Rural America*. Minneapolis, MN: Univ. of Minnesota Press.

Shoemaker, Donald and Harold Nix. 1972. "A Study of Reputational Community Leaders Using the Concepts of Exchange and Coordinative Positions." *The Sociological Q.* 13: 516-24.

Sŏ, A-gwi and Akwi Seo. 2017. *Creating Subaltern Counterpublics: Korean Women in Japan and Their Struggle for Night School*. New York: Apollo Books.

Spivak, Gayatri. 1988. "Can the Subaltern Speak?" In *Marxism and the Interpretation of Culture*, edited by C. Nelson and L. Grossberg, 271-313.Chicago: Univ. of Illinois Press.

Statz, Michele. 2018. *Lawyering an Uncertain Cause: Immigration Advocacy and Chinese Youth in the US*. Vanderbilt Univ. Press.

Statz, Michele and Lisa Pruitt. 2019. "To Recognize the Tyranny of Distance: A Spatial Reading of Whole Woman's Health v. Hellerstedt." *Environment and Planning A: Economy and Space* 51: 1106-27.

Steinberg, Jessica K. 2014. "Demand Side Reform in the Poor People's Court." *Connecticut Law Rev.* 47: 743-805.

Stienstra, Donna, Jared Bataillon, and Jason A. Cantone. 2011. *Assistance to Pro se Litigants in US District Courts: A Report on Surveys of Clerks of Court and Chief Judges*. Washington, DC: Federal Judicial Center.

Teiser, Sidney. 1943. "A Pioneer Judge of Oregon Matthew P. Deady." *Oregon Historical Q.* 44: 61-81.

Tribal Issues Advisory Group. 2016. *Report of the Tribal Issues Advisory Group*. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/20160606_TIAG-Report.pdf (accessed November 7, 2019).

Wahwassuck, Korey. 2008. "The New Face of Justice: Joint Tribal-State Jurisdiction." *Washburn Law J.* 47: 733-55.

Wallace, Janet L. and Lisa R. Pruitt. 2012. "Judging Parents, Judging Place: Poverty, Rurality, and Termination of Parental Rights." *Missouri Law Rev.* 77: 95.

Wandler, Hilary. 2015. "Spreading Justice to Rural Montana: Rurality's Impacts on Supply and Demand for Legal Services in Montana." *Montana Law Rev.* 76: 225-55.

Weeks, Sindiso Mnisi. 2017. *Access to Justice and Human Security: Cultural Contradictions in Rural South Africa*. London: Routledge.

Weinberg, Jill D. and Laura Beth Nielsen. 2012. "Examining Empathy: Discrimination, Experience, and Judicial Decisionmaking." *Southern California Law Rev.* 85: 313.

Wilkinson, April. 2015. "A Framework for Understanding Tribal Courts and the Application of Fundamental Law: Through the Voices of Scholars in the Field of Tribal Justice." *Tribal Law J.* 15: 67-95.

Williams, Joan. 2016. "What So Many People Don't Get About the U.S. Working Class" *Harvard Business Rev.*, November 10, 2016. https://hbr.org/2016/11/what-so-many-people-dont-get-about-the-u-s-working-class (accessed October 14, 2019).

Wistrich, Andrew J., Jeffrey J. Rachlinski, and Chris Guthrie. 2014. "Heart Versus Head: Do Judges Follow the Law or Follow their Feelings?" *Texas Law Rev.* 93: 855.

Wolf, Jordan and Michele Statz. 2018. *Community Needs Assessment*. Wisconsin Judicare, Inc.. https://www.northlandproject.org/assessments-and-reports (accessed November 01, 2019).

Yngvesson, Barbara. 1988. "Making Law at the Doorway: The Clerk, the Court, and the Construction of Community in a New England Town." *Law and Society Rev.* 22: 409-48.

Yung, Corey Rayburn. 2013. "A Typology of Judging Styles." *Northwestern Univ. Law Rev.* 107: 1757.

Michele Statz *is an anthropologist of law. She is an assistant professor at the University of Minnesota Medical School, Duluth and affiliated faculty at the University of Minnesota Law School. Her research examines rural sociospatiality and justice; the legal profession; and global youth and the politics of representation. Statz is the co-founder and editor of Youth Circulations (http://www.youthcirculations.com/), and her first book, Lawyering an Uncertain Cause: Immigration Advocacy and Chinese Youth in the US (Vanderbilt University Press) was published in 2018.*