06 Judicial Intelligence Oversight in Kenya: Prospects and Challenges

Joel Chacha Kerata, Nicholas Ondoro, and Simon Nyambura

Abstract

Kenya, like other democratic states, has embraced various forms of intelligence oversight, including judicial mechanisms as a means to enhancing accountability in the intelligence agency. The structure and function of intelligence oversight is tied to the specific context of a nation, influenced by its unique culture, history, constitutionalism and the prevailing political landscape. This context is continually evolving and adapting to the ever-changing security landscape. These factors, along with the inherent secrecy surrounding intelligence operations, necessitate an examination of prospects and challenges for judicial intelligence oversight. This study sought to establish how judicial intelligence oversight has been operationalised in Kenya; the nature of interactions between the judiciary and intelligence, and the influence of judicial oversight on the execution of the intelligence mandate. The research employed purposive sampling and utilised primary data gathered through key informants interviews and in-depth interviews. Secondary data was derived from a comprehensive literature review, thematically analysed and presented in narrative form. The study established limited public understanding of judicial oversight processes despite Kenya's robust legal frameworks underpinning such processes. Besides the secrecy of intelligence operations, judicial oversight is restricted by the fact that inquiries are case-specific, making such mechanisms reactive and limited to litigation before the court. Further, it was found that the judiciary has been scrutinising intelligence procedures to determine compliance with legal demands as well as safeguarding intelligence secrets. However, the extent of this scrutiny depends on the prevailing political regime. The research recommends enhanced awareness of judicial oversight mechanisms as well as greater transparency in judicial oversight of intelligence efforts to make them more visible to the public.

Keywords: Intelligence oversight, secrecy, accountability, constitutionalism, judiciary

Introduction

Judicial oversight has emerged as one of the avenues for keeping democratic governments accountable for their actions within the established legal framework, to ensure that the executive acts within the purview of the constitution. Such oversight is driven by the need to safeguard democratic tenets, especially for institutions that wield special powers that, if unchecked, are susceptible to abuse and negate the very democracy they are meant to protect (Born et al., 2015; Wills, 2010). Thus, judicial oversight emerges out of the recognition that intelligence services collect and analyse information, and conduct counterintelligence and covert action, hence the potential to abuse these powers (Gill, 2020; Wegge, 2017).

Judicial oversight represents an expansion of accountability mechanisms traced to the United States of America since the formation of the Central Intelligence Agency. Congressional oversight inspired accountability practices and the spread of democratic ideals has led to the expansion of oversight mechanisms to other parts of the world, including Europe and Africa. Members of the Five Eyes alliance, an intelligence cooperation framework between the USA, UK, Canada, Australia, and New Zealand, have established robust oversight mechanisms, including parliamentary, judicial, and the Office of the Inspector General (James, 2018). Though these countries have variations in the practice of oversight, judicial oversight remains a common practice among members of the Five Eyes.

In Africa, the practice of intelligence oversight is understood within the historical context that security and governance institutions have been adopted from colonial times (Kwadjo, 2009; Muchwa, 2021). The colonial outfit was primarily used to superimpose the will of the colonisers, whose sole aim was to protect colonial interests in the continent (Shaffer, 2019). Therefore, security and intelligence agencies were part and parcel of this colonial disposition with intelligence structures inclined towards regime protection and repressive, hence impairing efforts to hold them accountable (Born & Leigh, 2007; Nte et al., 2022). Equally, the presence of oversight tools is not matched with the political will for meaningful engagements between intelligence agencies and bodies tasked with the oversight (Nte et al., 2022; Pelizzo & Stapenhurst, 2014; Yusuf & Ojoduwa, 2022). Nonetheless, several African states such as Ghana, Kenya, Uganda, South Africa, Botswana, Sierra Leone, Liberia, and Burundi have adopted constitutions that enhance the separation of powers, governance structures, and systems that promote citizen participation (Moyo & Ncube, 2014; Muchwa, 2021).

Kenya, like many states going through democratic transitions, has embraced the rule of law and entrenched intelligence oversight mechanisms in the legal framework governing the state based on the separation of powers. This shift has not been easy but resulted from a build-up of efforts that date back to the struggle

for multi-party democracy (Mutahi, 2016; Nzau & Guyo, 2018). This paper therefore sought to explore, through the prism of Principal-Agent model, the prospects and challenges of judicial oversight in Kenya. Specifically, it sought to establish how judicial intelligence oversight has been operationalised; determine the nature of interaction between the judiciary and intelligence as well as exploring the extent to which judicial oversight has influenced the execution of the intelligence mandate.

Literature Review

The judiciary, which derives legitimacy through the separation of powers, plays a crucial role in overseeing intelligence agencies, particularly the authorisation and use of special powers. The courts arbitrate on complaints against the intelligence services. Judicial oversight remains significant in protecting civil liberties amidst increased surveillance powers across intelligence organisations (Obuobi, 2018). Though the judiciary is vested with powers to grant warrants to intelligence agencies, there are concerns over the independence and ability of judicial officers to interrogate intelligence matters appropriately (Barker et al., 2017).

The judiciary, like the legislature, oversees the National Intelligence Service (NIS) based on constitutional separation of powers. Through judicial oversight, the courts ensure that the rule of law and important principles of democratic governance are upheld. The Bill of Rights outlined in the Constitution provides members of the public an opportunity to seek legal redress whenever they feel their rights have been violated. On its part, the High Court has jurisdiction in accordance with article 165 to hear and determine applications for denial, violation, or infringement, or a threat to a right or fundamental freedom in the bill of rights (Murray, 2013).

Accordingly, the court, in accordance with the law, may grant appropriate relief, including a declaration of rights, an injunction, conservatory orders, invalidate laws that deny or infringe on rights, award compensation, and order a judicial review (Mutethia, 2020). Besides, the NIS Act 2012 obligates the national intelligence service to seek warrants before undertaking any operations to protect national security. In this context, oversight over the NIS is necessary; unlike the legislature, which depends on political majority, the judiciary exists to protect and promote human rights. The courts have to safeguard human rights in their interpretation of the law, whether for minorities or individual citizens. The courts have the power to determine whether the actions of the executive and public authorities respect the limit set by the constitution. The courts have several ways to ensure that this is done. First, the courts have unltimate authority on what is legal, binding, and constitutional. Second, they have the power to declare laws and actions unconstitutional. Third, the courts can force the executive to turn over

documents and evidence for justice. However, the courts' success in executing these mandates depends on the judges and magistrates being independent of those wielding power (Oganyo, 2014).

The NIS Act, 2012, provides for judicial oversight by requiring the Director General to seek judicial warrants to investigate any threat to national security or perform any of its functions. The application can be made ex-parte before a judge of the high court. The act, therefore, places the responsibility of oversight with the judiciary by outlining specific requirements that must be met before the warrants are issued. Among these requirements, the warrant being sought must comply with section 47 of the constitution, which demands that the warrant be made in writing, accompanied by an affidavit. The sworn statement must include the purpose for which it is being sought and whether other investigative structures have been exhausted. The warrant must also specify the type of information being sought. In extreme urgencies, the DG may seek warrants six hours after the investigations in accordance with section 45 of the Act. But should it arise that the matter is as a result of intelligence operation, the court has an obligation to determine the legality of the process of obtaining information and the evidence produced before it (Mutahi, 2016).

Theoretical Framework

The study is premised on the principal-agent theory developed by Jensen and Meckling (1976) in an attempt to explain a company's governance structure based on a conflict of interest between owners and the managers of the company. Accordingly, the principal (owner) delegates decision-making authority to the agent (managers) expecting loyalty. The principal expects the agent to act in the best interest of the owners of the company. However, this is not always the case owing to conflicts arising from divergent interests. The conflicts arise from the fact that agents may have different interests from their principals; agents may have different incentives from the principal, and there could be informational asymmetries between the two actors. These conflicts may affect monitoring, incentives, coordination, and strategy owing to power asymmetries (Bernhold & Wiesweg, 2021).

The relationship between citizens and the executive, including the judicial mechanisms can be seen through the prism of the principal-agent theory. Thus, citizens are the principals, while the executive, including the intelligence agency, assumes the agent's role. Thus, the executive and its organs, such as the National Intelligence Service, are accountable to the citizens through legally established public oversight institutions, including judicial mechanisms. In the case of intelligence services, the citizens have delegated the responsibility of national security, which is a flexible phenomenon. The citizens expect that the intelligence

agency will act within its mandate and adhere to the legal requirements. Yet the mandate does not specify the methods through which national security has to be secured, providing room for possible conflict between the citizens and the service. Each party may prefer different approaches to solve security challenges (Eisenhardt, 1989). Equally, the citizens may not be aware of the capabilities and intentions of the service in meeting its mandate and the actions of the agency may not be made public once the relationship is established.

Methodology

The study adopted a qualitative research approach to explore perspectives about the exercise of judicial intelligence oversight. The case study design allowed for a detailed contextual analysis of the intricacies underpinning intelligence oversight in Kenya (Creswell & Creswell, 2017; Kothari, 2017). To achieve thematic saturation, the study employed a sample of 21 respondents. This falls within the range of 9-17 respondents recommended by Hennink et al. (2017) as being sufficient for thematic saturation. The study employed key informant and in-depth interviews to obtain primary data from the judiciary, academia, parliamentary committee and intelligence practitioners while secondary data analysis was used to explore existing literature on intelligence oversight in Kenya. Purposive sampling was used to identify respondents who were engaged through structured interviews. To bolster validity and reliability, the study used triangulation of field notes, audio recordings and transcriptions in the analysis of data. Further, the researcher acknowledged common patterns as well as variations in participants' responses. The data was structured, coded and thematically analysed according to the study's predefined objectives. The use of a matrix to code the data enhanced visualisation and exploration of insights. The findings were presented in narrative form (Ibrahim, 2012; Maguire & Delahunt, 2017).

Findings

Operationalisation of judicial intelligence oversight

The study found limited public understanding of the operationalisation of judicial intelligence oversight that is dependent on personal experiences with the matter. Nevertheless, the concept and practice of judicial oversight in Kenya is associated with legal principles such as rule of law, accountability and protection of human rights. This underscores the significance of robust legal frameworks, including a country's constitution in anchoring intelligence oversight efforts and the extent to which intelligence agency is compliant with the requirements. This is consistent with the observations made by Omburo (2020) that countries in East Africa are gradually opening their intelligence agencies to oversight. The finding is also consistent with DCAF's requirement for both internal and external oversight frameworks to be anchored in law as requisite for effective intelligence oversight

(Born & Wills, 2012). Gill (2020), also observes that a statutory mandate is critical in establishing a practical oversight framework.

The judiciary is considered an important aspect of intelligence oversight alongside the Presidency, National Security Council, as well as the Legislature. However, an understanding of specific processes involved in judicial oversight remains a challenge despite the acknowledgement that oversight is undertaken within specified regulatory parameters to prevent abuse of power. Judicial oversight emerges as a reactive rather than proactive process, thus fitting perfectly within the McCubbin's fire alarm oversight mechanisms that require external groups to monitor and report violations. Nevertheless, Kenya has various legal mechanisms for judicial oversight including judicial review to determine the fairness and legal compliance by the intelligence agency, authorisation of investigative warrants, presiding over litigations related to intelligence operations, safeguarding and checking violations against individual rights and civil liberties as well as assessing and determining admissibility of intelligence-led evidence to ensure its legally valid.

> *Oversight at the High Court is done through an application through a process called judicial review. An administrative body should act fairly within the powers given to them by the law. If they don't, the parties can move to the High Court for a number of orders, including judicial review order to stop a public body from doing what it is doing. If it is doing something illegal or something in excess of its powers, we call it as it is (R9, in-depth interview, 2023).*

Court Users' Committees also act as a platform for collaboration among actors in the justice system to resolve issues. In all of these methods, the primary focus of the courts is the assessment of the legality of the actions, procedures, and steps taken during intelligence investigations.

Other than judicial oversight, the constitution also creates 11 independent commissions and independent offices to exercise functions as specified in their respective mandates. Among the commissions, the Kenya National Commission on Human Rights (KNCHR) and the Commission on Administration of Justice (CAJ) stand out as possible avenues for the promotion and protection of human rights (GOK, 2010). The office of the Auditor General and the Controller of Budget are some of the independent offices that are key in overseeing the national intelligence services. Beyond separating powers and creating commissions and independent offices as structures through which oversight can be exercised, the Constitution and the Information Act are critical in ensuring that those charged with oversight have access to information. By design, these oversight frameworks are consistent with the criteria of an effective accountability mechanism (Hardy & Williams, 2016; Zegart, 2013). These scholars posit that both internal and external mechanisms are

desirable for an effective and comprehensive outcome. Moreover, the frameworks are assumed to complement each other (Born & Mesevage, 2012).

The assumption is that the existence of these structures provides equilibrium in the principal-agent model, hence ideal for exercising oversight over the intelligence. It is also hoped that the structures would ideally enhance the concept of democracy based on the separation of powers and civilian control over intelligence. This would further entrench accountability frameworks, as Kearney (2018) and Brylonek (2016) postulated in their respective works on security sector reforms. However, the invisibility of these structures creates imbalances that undermine the equilibrium, leaving the citizenry with doubts over their effectiveness and essence of being.

Commissions of inquiry provide another avenue for the practice of judicial oversight. The Waki Commission, created to investigate the post-election violence in 2007, emerged as significant in the exercise of judicial oversight. The Waki Commission, which documented massive failures by state security agencies in containing post-election violence, became the first judicial forum where the Director General testified in person.

Despite the challenges, judicial oversight complements other forms of oversight as argued by Born and Mesevage (2012), and could result in the much-needed effectiveness. However, like other forms of intelligence oversight, operationalisation of judicial intelligence oversight faces the challenge of secrecy and informational asymmetries that only serve to aggravate the principal-agent relationship conflicts. This way the ring of secrecy is perpetuated and negates democratic oversight that should be transparent and visible to the public. As a result, informational unevenness that threatens the principal-agent equilibrium in favour of the agent exists, hence negating the essence of oversight.

Nature of interaction between judicial oversight and the intelligence

Judicial processes, though competent, have limitations in their scope and are dependent on individual litigation and are also susceptible to the secrecy that surrounds intelligence operations against a flexible national security concept. Interactions between the judiciary and the intelligence agencies are minimal, primarily occurring within the context of specific court proceedings, making judicial oversight case-specific and reactive as opposed to systematic or institutionalised mechanisms as is the case with parliamentary oversight. The judiciary can only review intelligence activities when a case is presented before it as courts cannot proactively investigate intelligence activities.

> *Matters must be filed in court through judicial review. So that is the only way the judiciary can oversight NIS. But you see now, as I said, unlike parliament, which has committees that can summon and get the information needed, our oversight will be specifically on a certain issue before the courts (R11, in-depth interview, 2023).*

The appearance of the intelligence before external oversight bodies is perceived as an effort to comply with the legal and statutory requirements, instead of achieving the intended purpose of accountability. The development of these frameworks is supposed to promote a culture of openness that transcends legal mandates into the spheres of culture and values, but in practice the perpetuation of secrecy makes intelligence oversight a complex undertaking. This risks further marginalising the public from democratic control of their institutions. This is consistent with several studies that have highlighted the challenges facing external oversight frameworks, besides underscoring the nuances that characterise oversight relationships between the principal and the agent. Walsh (2022), for instance, argues that understanding what intelligence does and its processes is critical in establishing accountability among agencies. However, the findings in this study indicate that the judicial oversight mechanisms are struggling to catch up with the speed of intelligence operations.

> *Do courts even know that the intelligence is involved in any case? Do we ordinarily get to know? No, we don't. It is the prosecutors who will know. It is the investigators who will know. Unless an affidavit has been sworn and it is on record and it is submitted that the arrest of the accused person was intelligence-led or through information received from intelligence, that is when the court would ordinarily know. If the information is not shared, we will not know... (R9, KII, 2023).*

Ordinarily, effective oversight demands transparency and openness. However, the low level of interaction between the oversight bodies, negatively impacts on efforts to hold the intelligence accountable. The secrecy of proceedings discourages disclosure and locks out the public from democratic engagement with intelligence narratives. Moreover, the relationship between the overseer and the overseen is premised on suspicion and mistrust. This creates a paradox and runs contrary to Jashari and Pepaj (2018), who postulate that the principle of transparency enhances legitimacy and accountability. This further compounds the challenge of access to information, which causes tension between the principals and their agents, especially when judicial officials have limited access to operational issues and evidence, limiting their ability to conduct effective oversight. Intelligence agencies rarely disclose operational details even in judicial proceedings which are sufficient enough to extract accountability. However, the relationship between the intelligence and oversight bodies rekindles the dilemma of oversight – how much information is good for oversight.

Zegart (2013) acknowledges the unique political environments in which oversight regimes exist and advocate for unfettered access to classified information as a mark of effectiveness. However, the findings indicate little access to classified information in the quest to oversight intelligence, a situation that affects the quality of oversight. The situation is worsened by public fear and lack of awareness regarding redress mechanism for potential violations of rights. The same applies to judicial actors who may not be aware of the involvement of the intelligence in a case before it unless it is explicitly declared.

Nonetheless, the findings of the study indicate some level of success in the courts efforts amid the challenges emanating from the secrecy of intelligence operations. The judiciary still exercises oversight by reviewing the legality of intelligence operations, particularly in relation to criminal procedure and evidence handling. The focus is on compliance with legal requirements and admissibility of evidence rather than examining intelligence techniques or operations. Thus, judicial oversight primarily focuses on ensuring that intelligence-gathered evidence meets legal standards and that due process is followed. With respect to handling sensitive intelligence matters, the courts employ in-camera proceeding, as well as enforcement of witness protection measures, including protection of intelligence officers during cross-examination.

Despite the efforts, the visibility of judicial intelligence oversight remains low, entrenching the perception that it is ineffective, further undermining the principal-agent accountability arrangements. Oversight efforts are thus relegated to compliance to statutory and legal requirements, as opposed to the ultimate end of checking intelligence to prevent excesses, thus giving oversight efforts superficial legitimacy. As a result, they end in what Gill (2020) described as opposing expectations that only leads to tension between the overseer and the intelligence agency.

Influence of judicial oversight on execution of intelligence mandate

The judiciary emerged as an essential oversight mechanism with the potential to significantly impact the trajectory of intelligence operations, particularly in ensuring that intelligence activities align with constitutional and international legal standards. This is consistent with Oganyo (2014), who observes that the judiciary is effective in the interpretation of the Bill of Rights and the issuance of warrants. Apprehension over unfavourable court ruling or legal repercussions may force intelligence to re-examine their operations to avoid legal challenges and accusations of human rights violations. When asked about how oversight impacts the execution of the NIS mandate, some respondents observed that oversight has indeed affected how NIS operates; otherwise, it would find itself in court. Certainly, *it has [...] If it had not impacted, there could be complaints from the people coming*

before us. Of course, they will be having proceedings filed against violation of rights..." (R11, In-depth interview, 2023).

Goldman and Rascoff (2016) observe that the entrenchment of oversight recommendations into legal frameworks is in itself a win for oversight. In the Kenyan context, the inclusion of the Bill of rights in the constitution perhaps underpins the achievement. The existence of a robust legal framework, including the 2010 Constitution that has de-legitimised some activities that were previously considered legal, as well as the NIS Act, 2012, which prohibits members of the intelligence from engaging in torture, cruel treatment, degrading treatment, and politics, thereby bolstering judicial oversight.

The Constitution serves as the foundational framework for judicial oversight of intelligence. Within this constitutional framework, the courts primarily concentrate on scrutinising procedures and interpreting rights, which has led to a significant transformation in how intelligence agencies collect and utilise information as evidence. Cases that fail to meet the constitutional threshold, regardless of whether they are supported by intelligence or not, are more likely to face legal challenges and potentially fail in litigation. Despite the emphasis on the legality of the investigative process, the judiciary has also safeguarded sensitive classified information held by intelligence agencies against unwarranted disclosure. This resembles to the changes enacted by the Patriot Act of 2001 in the United States, which expanded government surveillance powers while at the same time subjecting intelligence activities to enhanced oversight (Gill, 2020). This suggests that oversight is not a zero-sum game because it focuses on both the protection of national security and promotion of democratic principles of governance. Whichever way it goes, the society wins.

Court orders affect how the intelligence collects information through interception. The judiciary plays a crucial role in regulating the scope of communication interception by declaring sections of the SLAA, 2014 null and void. In their orders, the High Court judges declared section 12, 66a, 64, 16, 20, 26, and 42a of Criminal Procedure Code 48 and 95 unconstitutional for violating certain freedoms. These sections would have given security organs, including the intelligence sweeping powers that would violate freedoms and rights if allowed. Today, intelligence has to obtain warrants before intercepting one's communication, though enforcement of such requirements and orders still faces challenges.

Conclusion

Judicial oversight, though part of a robust accountability framework envisaged in the Kenyan Constitution, remains limited in its operationalisation and still faces challenges arising from the secrecy of intelligence operations and little public awareness, raising concerns over its effectiveness in complementing other forms

of oversight. While Kenya has made notable steps to anchor judicial oversight within the legal framework, the public's understanding of judicial oversight is confined to individual experiences, which is in itself reactive to intelligence overreach. The limited interaction between intelligence and the judiciary restricts the ability of the latter to proactively address intelligence violations, further reinforcing the invisibility of the courts, which often depend on cases filed before them. The lack of public awareness of their rights as well as the existence of oversight mechanisms coupled with the secrecy of intelligence operations portend a disequilibrium that undermine the principal-agent relationship. Despite the challenges, the judicial has made significant gains in safeguarding due process and legal compliance in intelligence-related cases.

Recommendations

As Kenya continues to embrace openness, there is a need to address the challenges affecting the equilibrium between the national intelligence service and oversight bodies. The study recommends establishing specialised courts dedicated to hearing and determining intelligence-related cases is advisable. Judges serving in these specialised courts should undergo vetting and be granted security clearance to access information necessary for presiding over matters of critical national interest and security. This step would help ensure a more focused and informed approach to adjudicating such cases.

References

Barker, C., Petrie, C., Dawson, J., Godec, S., Porteous, H., & Purser, P. (2017). Oversight of intelligence agencies: a comparison of the 'Five Eyes' nations.

Bernhold, T., & Wiesweg, N. (2021). Principal-agent theory: Perspectives and practices for effective workplace solutions. In *A Handbook of Management Theories and Models for Office Environments and Services*, 117-128.

Born, H., & Leigh, I. (2007). *Democratic accountability of intelligence services.* Geneva Centre for the Democratic Control of Armed Forces (DCAF).

Born, H., Leigh, I., & Wills, A. (2015). *Making international intelligence cooperation accountable.* Oslo. Printing Office of the Parliament of Norway.

Born, H., & Mesevage, G. G. (2012). Introducing intelligence oversight. *Overseeing intelligence services: A toolkit,* 3-22.

Born, H., & Wills, A. (2012). *Overseeing Intelligence Services: A Toolkit.* DCAF.

Brylonek, M. (2016). Security Sector Reform--Theory and Practice. *Internal Security, 8*(1).

Creswell, J. W., & Creswell, J. D. (2017). *Research design: Qualitative, quantitative, and mixed methods approaches.* Sage publications.

Eisenhardt, K. M. (1989). Agency Theory: An Assessment and Review. *Academy of Management, 14*(1), 57-74.

Gill, P. (2020). Of intelligence oversight and the challenge of surveillance corporatism. *Intelligence and National Security,* 1-20. https://doi.org/10.1080/02684527.2020.1783875

GOK. (2010). Constitution of Kenya, 2010.

Goldman, Z., & Rascoff, S. (2016). *Global Intelligence Oversight: Governing Security in the Twenty- First Century.* Oxford University Press.

Hardy, K., & Williams, G. (2016). Executive oversight of intelligence agencies in Australia. *Global Intelligence Oversight: Governing Security in the Twenty-First Century (2016), UNSW Law Research Paper*(2016-35).

Ibrahim, M. (2012). Thematic analysis: A critical review of its process and evaluation. *West east journal of social sciences, 1*(1), 39-47.

James, A. (2018). *Government mass surveillance and law in the Five Eyes countries* University of Melbourne].

Jashari, M., & Pepaj, I. (2018). The role of the principle of transparency and accountability in Public Administration. *Acta Universitatis Danubius. Administratio, 10*(1).

Jensen, M. C., & Meckling, W. H. (1976). Theory of the firm: Managerial behavior, agency costs and ownership structure. *Journal of financial economics, 3*(4), 305-360.

Kearney, C. (2018). *The police process: accountability and external civilian oversight of policing reform in Northern Ireland* Ulster University].

Kothari, C. (2017). Research methodology: Methods and techniques. New Age International (P) Ltd.

Kwadjo, J. (2009). Changing the intelligence dynamics in Africa: The Ghana experience. *In Changing Intelligence Dynamics in Africa.* GFN-SSR.

Maguire, M., & Delahunt, B. (2017). Doing a thematic analysis: A practical, step-by-step guide for learning and teaching scholars. *All Ireland Journal of Higher Education, 9*(3).

Moyo, P., & Ncube, C. (2014). Devolution of power in Zimbabwe's new constitutional order: Opportunities and potential constraints (2014) 18. *Law Democracy & Development,* 289-304.

Muchwa, A. S. (2021). Intelligence oversight systems in Uganda: challenges and prospects. *Intelligence and National Security, 36*(5), 696-708. https://doi.org/10.1080/02684527.2021.1888201

Murray, C. (2013). Kenya's 2010 constitution. *Neue Folge Band Jahrbuch des offentlichen Rechts, 61,* 747-788.

Mutahi, P. (2016). *Building National Intelligence Service for a Democratic Society.* Colourprint Ltd.

Mutethia, K. (2020). The Constitutional Context of Human Rights Defenders in Kenya under the 2010 Constitution. *Available at SSRN 3725831.*

Nte, N. D., Teru, V. A., & Putri, N. M. (2022). Intelligence Education for National Security and Public Safety Policy: A Comparative Analysis of Nigeria, South Africa, and Indonesia. *Lex Scientia Law Review, 6*(1).

Nzau, M., & Guyo, M. (2018). The Challenge of Securing Kenya: Past Experience, Present Challenges and Future Prospects. *The Journal of Social Encounters, 2*(1), 37-59.

Obuobi, P. P. (2018). Evaluating Ghana's intelligence oversight regime. *International Journal of Intelligence and CounterIntelligence, 31*(2), 312-341.

Oganyo, R. A. (2014). *Justiciability of justice: the role of judicial service commission in Kenya in the decisional independence of judicial officers* University of Nairobi].

Omburo, I. (2020). *Comparative analysis of intelligence oversight mechanisms in East African Community [EAC] states.* Strathmore University.

Pelizzo, R., & Stapenhurst, R. (2014). Oversight effectiveness and political will: Some lessons from West Africa. *The Journal of Legislative Studies, 20*(2), 255-261.

Shaffer, R. (2019). Following in footsteps: the transformation of Kenya's intelligence services since the colonial era'. *Studies in intelligence, 63*(1), 23-40.

Walsh, P. F. (2022). Australian intelligence oversight and accountability: efficacy and contemporary challenges. *Intelligence and National Security, 37*(7), 968-984.

Wegge, N. (2017). Intelligence Oversight and the Security of the State. *International Journal of Intelligence and CounterIntelligence, 30*(4), 687-700.

Wills, A. (2010). Understanding intelligence oversight. *Geneva: DCAF*, 25-27.

Yusuf, Y. A., & Ojoduwa, F. J. (2022). Legislative oversight and democratic consolidation in Nigeria: 1999-2019. *African Social Science and Humanities Journal, 3*(2), 57-68.

Zegart, A. B. (2013). *Eyes on Spies: Congress and the United States Intelligence Community.* Hoover Press.