

African Judiciaries Research Network (AJRN) newsletter, no. 2, September 2023

If anyone has any information that they would like included in the next newsletter (to be circulated the week of 2 October) please email g.lynch@warwick.ac.uk. Similarly, if you have suggestions of people who we should contact about joining the network or would like to unsubscribe from the newsletter please email g.lynch@warwick.ac.uk.

Call for papers for an AJRN stream at the African Studies Association of the UK (ASAUK) Biennial Conference 2024

The next ASAUK Conference will be held on 29 to 31 August 2024 at Oxford Brookes University, UK with a focus on “generation and regeneration”. See <https://asauk.net/african-studies-association-of-the-uk-biennial-conference-2024-call-for-hosting/> for further details. The AJRN is hoping to organise a thematic stream on “African judiciaries”. The focus of individual panels within that stream will then depend on the abstracts submitted, but possible panel themes include judicial identities, judicial decision-making, judicial independence, judicial reforms, and judicial impact. At this stage, the AJRN requests that members who are interested in presenting their work on African judiciaries at ASAUK 2024 **submit a paper title, short abstract (up to 300 words), and details of their institutional affiliation** to g.lynch@warwick.ac.uk by **Friday 13 October**. Unfortunately, the ASAUK have not yet shared details of registration fees or bursaries. Please share this call with any colleagues or students who may be interested.

Profile of the month



O'Brien Kaaba, LLB (University of London), LLM (University of Zambia), LLD (University of South Africa) is a lecturer and assistant dean for research in the School of Law at the University of Zambia and a senior research fellow at SAIPAR. He has formerly served as Elections Manager for the National Democratic Institute for International Affairs (NDI) in Zambia, Political Specialist for the US Department of State at the American Embassy in Lusaka (Zambia) and as a Human Rights and Rule of Law Advisor for the Germany Development Cooperation (GIZ) in Zambia. In June 2022 he was appointed as a Commissioner (board member) of the Anti-Corruption Commission. Relevant publications include:

O'Brien Kaaba, Marja Hinfelaar and Koffi Sawyer, “A comparison of the role of domestic and international observers in Zambia’s 2016 and 2021 general elections,” (2023) 16 *Journal of East African Studies*, 643-658.

O'Brien Kaaba, “Democratic Backsliding and Constitutional Adjudication in Zambia,” in Laura-Stella Enanchong, Elvis Fokala and Adem Kassie Abebe (eds), *Democracy in Africa: Regression and Resilience* (Juta, 2022)

O'Brien Kaaba and Babatunde Fagbayibo, "Adjudicating Presidential Election Disputes in Africa: The Emerging Challenge of Election Technology," (2021) 36 *Southern Africa Public Law Journal*, 1-21.

O'Brien Kaaba and Charles M Fombad, "Adjudication of Disputed Presidential Elections in Africa," in Charles M Fombad and Nico Steytler (eds) *Democracy, Elections and Constitutionalism in Africa* (Oxford University Press, 2021)

O'Brien Kaaba and Privilege Hang'andu, "Institutional Collusion in the Electoral Process: The Electoral Commission of Zambia, the Zambia Police and the Department of National Registration," (2021) WFD and SAIPAR Briefing Paper 7 Zambia Electoral Analysis Project Briefing Paper Series.

O'Brien Kaaba and Peter Mwanang'ombe, "Parallel Vote Tabulation in Zambia," (2021) WFD and SAIPAR Briefing paper 1 Zambia Electoral Analysis Project Briefing Paper Series.

O'Brien Kaaba and Julius Kapembwa, "The Right of Prisoners to Vote in Zambia," (2021) WFD and SAIPAR Briefing paper 8 Zambia Electoral Analysis Project Briefing Paper Series.

Marja Hinfelaar, O'Brien Kaaba and Michael Wahman, "Electoral Turnovers and the Disappointment of Enduring Presidential Power: Constitution making in Zambia," (2020) *Journal of Eastern African Studies*, 1-22.

Tinenenji Banda, O'Brien Kaaba, Marja Hinfelaar and Muna Ndulo (eds) *Democracy and Electoral Politics in Zambia* (Leiden: Brill, 2020).

O'Brien Kaaba, "Adjudication of Presidential Elections in Zambia," in Tinenenji Banda, O'Brien Kaaba, Marja Hinfelaar and Muna Ndulo (eds) *Democracy and Electoral Politics in Zambia* (Leiden: Brill, 2020).

O'Brien Kaaba and Privilege Haang'andu, "The Electoral Commission and the Conduct of Democratic Elections in Zambia," in Tinenenji Banda, O'Brien Kaaba, Marja Hinfelaar and Muna Ndulo (eds) *Democracy and Electoral Politics in Zambia* (Leiden: Brill, 2020).

O'Brien Kaaba, *The Challenge of Adjudicating Presidential Election Disputes in Africa: Exploring the Viability of Establishing An African Supranational Elections Court* (LLD thesis, University of South Africa, 2016).

O'Brien Kaaba, "The Challenges of Adjudicating Presidential Election Disputes in Domestic Courts in Africa" (2015) *African Human Rights Law Journal* 329-354

Opportunities to write opinion pieces/blogs on African judiciaries

AJRN has teamed up with [Democracy in Africa](http://democracyinafrica.org) to launch a new series of opinion pieces on African judiciaries and democracy. For details on how to write an article for **Democracy in Africa** go to <http://democracyinafrica.org/join-the-new-african-judiciaries-research-network-ajrn-today/>.

The AJRN has also been in touch with **The Conversation Africa** and **The Elephant** and is happy to report that:

The Conversation Africa welcomes articles on African judiciaries that are based on research. These can be republished anywhere in the world under a Creative Commons licence, giving your work a wider reach and introducing it to new audiences. You can pitch your idea for an article [here](#). You can subscribe to the Conversation Africa newsletter [here](#).

The Elephant welcomes articles of 1,500-3,500 words on African judiciaries. The Elephant is a popular online Kenyan news platform which seeks well researched, honest critiques, critical essays and sharp-eyed perspectives on a broad range of topics addressed from a Pan African lens. For details on how to submit a pitch and write for *The Elephant* see <https://www.theelephant.info/write-for-us/>.

Conference/workshop calls

Socio-Legal Studies Association (SLSA) Annual Conference 2024

The organisers of the UK's SLSA Annual Conference 2024 invite members to submit proposals for current topics for the forthcoming conference to be held in Portsmouth on 26-28 March 2024. A current topic is a one-off grouping for the purposes of a single conference which reflects a current topic of debate or an issue of emerging importance and which would be expected to attract at least six papers. Proposals should address the significance and currency of the topic and its appeal for the socio-legal community. Proposals should also be distinguished from regular streams. The deadline for the return of proposals is 18.00 on Friday 29 September 2023, using this [form](#). Please send any enquiries to slsa2024@port.ac.uk.

Recent publications by network members

Gerzso, Thalia. "Judicial resistance during electoral disputes: Evidence from Kenya." *Electoral Studies* 85 (2023): 102653.

<https://www.sciencedirect.com/science/article/abs/pii/S0261379423000756>

Over the last decade, African courts have played an important role in the conduct of free and fair elections. In Kenya, the Supreme Court nullified the presidential election of the incumbent. These rulings challenge the conventional wisdom that courts in hybrid regimes always support power holders despite blatant evidence of electoral fraud. Furthermore, these sparks of judicial resistance deserve our scholarly attention as they have the power to start the [democratization](#) process or limit further autocratization. Hence, this paper seeks to understand the conditions under which courts are able to resist incumbents' pressure to legitimize electoral malpractice and side with the opposition. I argue that institutional reforms incentivize courts to resist the incumbent's pressure and to rule in favor of the opposition during electoral disputes under two conditions. First, institutional reforms must reinforce de jure independence by enacting effective legal and constitutional mechanisms that prevent the executive branch from undermining the [separation of power](#). Second, institutional reforms must mobilize judicial support networks by granting them the tools to engage in strategic and repeated litigation. I test this novel theory by leveraging original qualitative and quantitative data from Kenya. Using process tracing, I show how the 2010 constitution created an environment where the courts had no other choice than to annul the election of the incumbent – President Kenyatta – in 2017.

Network members

NB: If you want to be included in the list of network members in future newsletters, please send a bio in the standard format (see below) with details of positions and institutional/organisational affiliation, up to 5 keywords on relevant research interests, and contact email/Twitter handle to g.lynch@warwick.ac.uk.

Olum Lornah Afoyomungu, Ph.D. student, University of Pretoria, South Africa; Feminist Legal Jurisprudence, African human rights system; afoyomungu2012@gmail.com, @ALornah.

Prof. Stephen Brown, Professor of Political Science, University of Ottawa, Canada; LGBTQI+ rights, decriminalization of homosexuality, strategic litigation, Botswana, Kenya; brown@uottawa.ca; @StephenBrown3.

Prof. Hugh Corder, Professor Emeritus of Public, University of Cape Town, South Africa; judicial politics, administrative law and justice, southern Africa. Hugh.corder@uct.ac.za.

Dr Charlotte Cross, Senior Lecturer in International Development, The Open University, UK; policing, crime and criminalisation, lawfare, Tanzania; charlotte.cross@open.ac.uk; @CrossCharlotte_.

Justice Dorothy A. DeGabriele, Judge of the High Court, Malawi, Current PhD Scholar, University of Warwick, UK; Law and Development, Governance and Electoral Justice, Courts and Politics within SADC, Dorothy.Degabriele@warwick.ac.uk; @a_degabriele.

Dr. Pilar Domingo, Senior Research Fellow in the Politics and Governance group, at ODI, UK: rule of law; judicial politics; access to justice, human rights; p.domingo@odi.org.uk.

Dr Martha Gayoye, Lecturer in law, Keele University, UK; courts and judges in Africa, judicial diversity and women judges, gender and constitutions in the Global South.

Dr. Thalia Gerzso, Postdoctoral Fellow at the London School of Economics, UK, political institutions, judicial behavior, democratic processes, electoral contention, Kenya, Senegal; www.thaliagerzso.com; t.gerzso@lse.ac.uk; @thaliagrz.

Tim Fish Hodgson, International Commission of Jurists' global lead on Economic, Social and Cultural Rights and Disability and Access to Justice. Former clerk to Justice Zakaria Yacoob at the Constitutional Court of South Africa and previously worked for the Socio-Economic Rights Institute of South Africa and SECTION27; @TimFish42.

Prof Cora Hoexter, part-time Professor, School of Law, University of the Witwatersrand, Johannesburg; judicial behaviour, non-judicial functions, judicial discipline; cora.hoexter@wits.ac.za.

Walter Khobe, Lecturer, Department of Public Law, Moi University, Kenya; Public Law in Kenya, African Comparative Constitutional Law; Judicial Politics in Kenya; ochiengwally@yahoo.com; @ochiengwally.

Diana Kisakye, PhD Candidate (Political Science), Bayreuth International Graduate School of African Studies (BIGSAS), University of Bayreuth, Germany; judicial politics, sub-regional courts, development politics and policy, regional integration; Uganda, Tanzania, Malawi; Diana.Kisakye@uni-bayreuth.de; LinkedIn: Diana Kisakye.

Prof. Gabrielle Lynch, Professor of Comparative Politics, University of Warwick, UK; judicial behaviour, election petitions, Kenya, Uganda, Zambia; g.lynch@warwick.ac.uk; @GabrielleLynch6.

Monte McMurchy, Rector American Christian Liberal Arts University Congo—UCI, Kinshasa, DR Congo; institution building, electoral process/procedure, judicial subordination; montemcmurchy@sympatico.ca; @diplomat15 and @montemcmurchy.

Prof. Mark Fathi Massoud, Professor of Politics and Director of Legal Studies, University of California, Santa Cruz and Visiting Professor, University of Oxford Faculty of Law; rule of law, colonialism, state-building, religion; mmassoud@ucsc.edu; mark.massoud@law.ox.ac.uk; @ProfMassoud.

Prof. Maame A.S. Mensa-Bonsu, Associate Professor of Law, Ashesi University, Ghana; Judicial review, judicial behaviour, judicial amendments, Supreme courts, Ghana, Nigeria, West Africa.

Sfiso Benard Nxumalo, Stipendiary Lecturer of Law and DPhil Candidate, University of Oxford, UK; constitutionalism, human rights, politicisation of the judiciary, South Africa, United Kingdom, African Union; Sfiso.nxumalo@law.ox.ac.uk; @sfiso_benard.

Mikhail Nyamweya, Master of Science student in African Studies, University of Oxford; Governance and democracy, Kenya; mikhailnyamweya@gmail.com.

Prof Collins Odote, Associate Professor of Law and Associate Dean Faculty of Law, University of Nairobi; c.odote@uonbi.ac.ke; @profodote.

Mohamed Abdi Sallah, Advocate of the High Court of Kenya, Constitutional and Public Admin Law practitioner, Election Petitions/Dispute Resolution; mohdabdisallah@hotmail.com.

Dr Peter Slinn, sometime Head of Law School, SOAS, Univ. London, Vice-President Commonwealth Legal Education; implementation of Commonwealth Latimer House principles; independence of judiciary; judicial relationship with other branches of government; slinndocs@hotmail.com.

Prof. Ann Stewart, Professor of Law, University of Warwick, UK; judicial behaviour; gender and age discrimination, Kenya, Tanzania, East Africa, Botswana, Zimbabwe, Southern Africa; ann.stewart@warwick.ac.uk.

Lucianna Thuo, Lecturer, Kabarak Law School, Kenya, inclusion, women in law, electoral dispute resolution, Kenya; lwambui@kabarak.ac.ke; @LuciannaThuo.

Prof. Tukala Celestin Tshimande, political scientist, Faculty of Social, Administrative and Political Sciences and the Centre for Political Studies, University of Kinshasa, DRC; electoral sociology, sociology of political parties, the judicial system; tukala.cele@gmail.com.