

40

University of Bayreuth

African Studies

WORKING PAPERS



BIG SAS works! 11

“Hanging out” with judicial and legal elites

Reflections on researching “up”

Diana Kisakye, 2023

40

University of Bayreuth
African Studies
WORKING PAPERS

“Hanging out” with judicial and legal elites

Reflections on researching “up”

Diana Kisakye, 2023



CC-BY 4.0

Institute of African Studies (IAS)

The *University of Bayreuth African Studies Working Papers* are published by the Institute of African Studies (IAS) in Bayreuth, Germany.

The IAS promotes African Studies at the University of Bayreuth by supporting scholars from a wide range of academic disciplines from almost all faculties. It facilitates cooperation between researchers and institutions engaged in Africa-related projects, as well as teaching, both on campus and around the world. The IAS consists of three central bodies: the Iwalewahaus, the Africa Multiple Cluster of Excellence, and the Africa Research Center (*Forschungszentrum Afrika*), which is currently under construction.

The Working Papers give scholars the space to present empirical studies, theoretical reflections, and report preliminary findings, ongoing projects, and current research. The Working Papers usually reflect works-in-progress and invite discussion and feedback.

Submitted papers are subject to internal review at the University of Bayreuth. Contributions may be submitted to the editor-in-chief: Dr. Jane Ayeko-Kümmeth (IAS@uni-bayreuth.de)

The *University of Bayreuth African Studies Working Papers* feature on the EPub document server at the university library:

2005 - 2018

[https://epub.uni-bayreuth.de/view/series/Bayreuth African Studies Working Papers.html](https://epub.uni-bayreuth.de/view/series/Bayreuth%20African%20Studies%20Working%20Papers.html)

2018 - ongoing

[https://epub.uni-bayreuth.de/view/series/University of Bayreuth African Studies Working Papers.html](https://epub.uni-bayreuth.de/view/series/University%20of%20Bayreuth%20African%20Studies%20Working%20Papers.html)



Institute of African Studies

Director: Prof. Dr. Gabriele Sommer
Vice-Director: Prof. Dr. Stefan Ouma

University of Bayreuth
Wölfelstr. 2
D-95440 Bayreuth

Phone: +49 (0)921 554511
Fax: +49 (0)921 554502

www.ias.uni-bayreuth.de
IAS@uni-bayreuth.de

BIGSASworks!

The Bayreuth International Graduate School of African Studies (BIGSAS) was founded in 2007 and is part of the Africa Multiple Cluster of Excellence since 2019. It is funded by the German Research Foundation in the framework of the Excellence Strategy of the German Federal and State Governments. In the focus of this unique structure of multi- and interdisciplinary, creative and innovative training are around 90 doctoral candidates, the Junior Fellows, from more than 25 African, American, Asian and European countries.

BIGSASworks! is part of the University of Bayreuth African Studies Working Papers and highlights the academic contributions of BIGSAS doctoral candidates. The working papers provide the opportunity to pre-publish research following internal peer advice. BIGSASworks! working papers are edited by BIGSAS Junior Fellows with the support of BIGSAS and the Institute of African Studies.

BIGSASworks! Series Editors

Usman Ahmad
Monika Christine Rohmer



Bayreuth International Graduate School of African Studies

Head of BIGSAS: Dr. Susanne Mühleisen
Deputy Head: Prof. Dr Alexander Stroh-Steckelberg
University of Bayreuth
Geschwister-Scholl-Platz 3
D - 95440 Bayreuth

Phone: +49 (0)921 55 5101
www.bigsas.uni-bayreuth.de
bigsas@uni-bayreuth.de

About the author

Diana Kisakye is a PhD candidate (Political Science) at the Bayreuth International Graduate School of African Studies (BIGSAS) and a Research Associate on the project “Multiplicity in Decision-Making of Africa’s Interacting Markets: The Functioning of Community Law, the Role of Market Participants and the Power of Regional Judges” within the Africa Multiple Cluster of Excellence at the University of Bayreuth. Diana’s research interests include judicial politics, African development politics and policy, and regional integration processes in Africa. Her dissertation embarks on unearthing the strategies of judicial empowerment in African sub-regional courts and, more broadly, assessing their relevance to regional integration processes in Africa.

Abstract

The challenges of researching “up” are widely acknowledged. Moreover, these hurdles are intensified for law and courts field investigators where the profession’s cherished virtues – protocol, hierarchy and decorum – hamper access to interviewees and could potentially be detrimental to rapport building for the researcher unfamiliar with courtroom formality. This paper draws on the author’s field experience to highlight the potential of the informal dimension of fieldwork – “hanging out” – in traversing some of the limits of researching legal and judicial elites. It teases out the complexities of studying judges as political actors and the peculiar circumstances of studying legal elites in close-knit circles. Through “hanging out” at relevant court events, strategically positioning oneself in social events and informally building rapport, the author gained access to spaces usually closed off to outsiders. By “hanging out” with judges, the author challenged her perceptions of absolute judicial fidelity to the law, interrogated their professed devotion to apoliticism and the experience humanised judges and helped her deal with her own discomfort with interviewing judges. The paper concludes by weighing the promises and limits of the informal approach to researching legal and judicial elites, pondering ethical considerations, the researcher’s positionality and the boundaries of continuous residence.

Key words: Researching courts, hanging out, judicial research, informality, African sub-regional courts

Résumé

Les difficultés liées à la recherche "vers le haut" sont largement reconnues. En outre, ces obstacles sont d'autant plus importants pour les enquêteurs de terrain dans le domaine du droit et des tribunaux, où les vertus chères à la profession - protocole, hiérarchie et décorum - entravent l'accès aux personnes interrogées et peuvent potentiellement nuire à l'établissement de rapports pour le chercheur qui n'est pas habitué à la formalité des salles d'audience. Cet article s'appuie sur l'expérience de terrain de l'auteur pour souligner le potentiel de la dimension informelle du travail sur le terrain - "traîner" - pour franchir certaines des limites de la recherche sur les élites juridiques et judiciaires. Il met en évidence les complexités de l'étude des juges en tant qu'acteurs politiques et les circonstances particulières de l'étude des élites juridiques dans des cercles très fermés. En "traîner" lors des événements judiciaires pertinents, en se positionnant stratégiquement dans les événements sociaux et en établissant des relations informelles, l'auteur a eu accès à des espaces habituellement fermés aux étrangers. En "traînant" avec les juges, l'auteur a remis en question sa perception de la fidélité absolue des juges à la loi, s'est interrogé sur leur dévotion avouée à l'apolitisme et l'expérience a humanisé les juges et l'a aidé à faire face à son propre malaise face aux entretiens avec les juges. L'article conclut en évaluant les promesses et les limites de l'approche informelle de la recherche sur les élites juridiques et judiciaires, en réfléchissant aux considérations éthiques, à la position du chercheur et aux limites de la résidence continue.

Mots clés : Recherche sur les tribunaux, traîner, recherche judiciaire, informalité, tribunaux sous-régionaux africains.

Acknowledgements

Research for this paper was funded by the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) under Germany’s Excellence Strategy – EXC 2052/1 – 390713894.

Additionally, the research for this project was conducted under the guidance of my supervisor, Prof. Alexander Stroh-Steckelberg, within the larger research project, “Multiplicity in Decision-Making of Africa’s Interacting Markets: The Functioning of Community Law, the Role of Market Participants and the Power of Regional Judges (MuDAIMa),” which investigates various facets of judicial organs in African Regional Economic Communities (RECs). Even though this article emerges from the joint project initiative, all arguments on the methodological considerations presented here are entirely my own.

Contents

Institute of African Studies (IAS)	ii
BIGSASworks!	iii
About the author	iv
Abstract	v
Résumé	vi
Acknowledgements	vii
1 Introduction	1
2 Research context	2
3 Preparing for field research	4
4 Into the thick of the field	5
5 Towards intentional socialisation	9
5.1 “Hanging out” with judges, lawyers and in court	10
5.2 Pondering “continuous residence” and “research friendships”	14
6 Conclusion	16
7 References	17
8 10 Latest UBT African Studies working papers	22

“Hanging out” with judicial and legal elites

Reflections on researching “up”

Diana Kisakye

1 Introduction

The challenges of “studying up” (Nader 1972) are widely recognised in political science literature.¹ While some scholars see elites as a static and fixed category with unique methodological challenges (Beckmann and Hall 2013), others problematise the elite-non-elite binary and prioritise the relational power dynamics between researcher and research participants (Fujii 2012; Fujii 2017; MacLean 2006; Smith 2006). In agreement with Glas (2021: 438), the elite category is not a monolith, even if it remains useful in articulating the peculiarities of speaking with educated and authoritative individuals as research participants, recognising that these experiences are “fraught with variable challenges related to positionality.”² We know that “judges dislike being measured and ranked by academics who do not understand anything about what qualities make for a truly great judge” (Knight and Gulati 2017: 2). As such, this paper advances discussions on methodological considerations in the study of law and courts, through a reflexive account of researching members of the secretive and supposedly ‘apoliticised’ judicial profession, pondering ethics, positionality, and highlighting the role of the informal in a predominantly formalistic professional culture.

Previous studies that reflect on fieldwork among judicial elites note the challenges of generating and maintaining access and suggest meticulous formal techniques for approaching potential respondents (Ward and Wasby 2010: 131), stress the gendered dynamics of attaining and

1 By and large, studying “up” has been understood as conducting research within more powerful groups - economically, socially, politically, among others - than the researcher.

2 It is beyond the scope of this article to delve into these debates. The author aligns herself with authors that prioritize reflexivity and nuance the location of power during interviews as relational, multi-directional and complex.

maintaining access (Ellett 2011), and even the potential co-optation of researchers (Ellett Forthcoming: 23). Most of these works have drawn on interviews and participant observation to gather data (Ellett 2011; Jaremba and Mak 2014; Pavone 2022; Trochev 2018; Widner 2001), with a few authors alluding to the informal dimension (Ellett Forthcoming), but hardly engaging it.³ My experience researching courts in Eastern Africa was similarly permeated with access difficulty but proved more yielding when I employed a more informal approach to accessing contacts and conducting fieldwork. While “hanging out” is not new – it has existed in anthropological methodological discourse as “deep hanging out” (Geertz 1998) – it has only recently been adopted to the study of international relations and to study “up” in particular (Nair 2021).

I draw on Deepak Nair’s conceptualisation of “hanging out” while studying “up” (Nair 2021) to think through my own approach to gaining research access, acceptance amongst the closed legal and judicial circles and the resulting successes of the informal dimension of fieldwork. Understood this way, “hanging out” is not accidental but deliberate and planned, and has a sense of clear start and finish for the participants. Moreover, I incorporate discussions on issues of trust, rapport, ethics, power and positionality, drawing on interpretivist political science scholarship with sympathy for critical paradigms (Bourke 2014; Ellett 2011; Fujii 2012; Fujii 2017; Glas 2021; Willis et al. 2007; Yanow and Schwartz-Shea 2015).⁴ Like these scholars, I reject the “detached” researcher narrative and advocate for a reflexive research process which understands that “total control is an illusion” (Fujii 2017: 91). The paper begins by situating the research in its context and proceeds to illustrate how “hanging out” alleviated the difficulty of accessing research participants enabling me to go beyond formal interviews to appreciate informal encounters and to build rapport. It also reflects on the promises and limits of “hanging out”, the resulting tensions and power dynamics emanating from my positionality, and highlights how “hanging out” emerged as the thread that wove my research strategy together.

2 Research context

With the increasing “judicialisation of politics” worldwide, courts are increasingly getting involved in resolving matters that were previously reserved for overt political channels (Hirschl 2004; Hirschl 2008; Yepes 2007). For international courts (ICs), veering into overtly politicised, socially contentious or politically divisive issues has prompted counterattacks in various forms (Alter and Madsen 2021). ICs, by their nature, are usually newly created international legal regimes operating “in a context of regime complexity” with multiple authoritative and competing decision-makers (Alter et al. 2016: 35). In this landscape, ICs frequently find themselves in a very delicate position - facing harsh criticism, hostile reactions and potentially harmful backlash (Caserta and Cebulak 2021; Gathii and Akinkugbe 2021; Helfer and Ryan 2021; Martinsen and

3 Ellett explicitly touches on informality when she writes: “Scholars able to spend lengthy periods of time in the field may find it most productive to meet and interact with members of the judiciary at social functions. Building trust in informal settings can be important in getting the meeting and in engaging in a productive interview.”

4 While long-standing debates on objectivity, subjectivity and universality of research in law and courts teases out these complexities, ranging from validity and reliability to positionality (Halliday and Schmidt 2009; Sarat 1990; Silbey and Sarat 1987; Trubek and Esser 1989), we hardly know how those considerations play out when “hanging out.”

Blauberger 2021). In the African context, ICs are usually established within the rubric of Regional Economic Communities (RECs)⁵ and are thus located at the intersection of fragile democratic contexts, the complex interplay of sovereignty between national and regional supranational politics. Consequently, their position, delegated authority and power are still being negotiated.⁶ It is, therefore, not surprising that various Partner States across different RECs have sought to strip these courts of their power (Alter et al. 2016), permanently restructuring them to curb their growing activism⁷ or even succeeding in bringing them to an early demise.⁸

Against this background, my dissertation examines the emerging political relevance of Africa’s REC courts through a close analysis of judicial empowerment strategies in African REC courts. Thus, through an in-depth study of the East African Court of Justice (EACJ), my work interrogates how international judges build and negotiate their autonomy, legitimacy and influence whilst operating in uncertain political environments.⁹ Recent scholarship shows that they are checking governments for breaches of their contractual obligations to integration processes and entertaining disputes previously left to the confines of the legislative and executive branches (Akinkugbe 2020; Gathii and Akinkugbe 2021). However, we hardly know much about the individuals behind these decisions and scholarly accounts are preoccupied with the institutional, jurisdictional, and enforcement challenges, ignoring the actors – who are no longer being kept on the sidelines. My study perceives judicial agency as an active form of judicial empowerment and explores judicial resourcefulness and creativity as exhibited through intentional judicial strategies of resisting political interference and mobilising judicial allies. It also probes how those alliances support judicial empowerment, especially as courts dive further into overtly politicised jurisprudence. Thus, I employed “relational interviewing” (Fujii 2017) alongside observation (participant or otherwise) and “hanging out” (Nair 2021) to get closer to the situated knowledge that reveals perceptions and meanings that judges and their constituencies attach to the performance and role of the REC court more broadly, but also specifically, how they actively negotiate the limitations and challenges they face.

5 Aside from Africa’s REC courts, there other ICs at the African regional level. See Gathii and Otieno Mbori 2020 for a great summary of all African ICs.

6 This is deliberately phrased as such; not only to include how their authority is contested, but also to grant agency to the actors that play an active role in negotiating its position within the political landscape in the EAC.

7 The East African Court of Justice (EACJ) did not go unscathed following a controversial ruling in Anyang’ Nyong’o vs. Attorney General of Kenya, which saw the creation of an Appellate Division and explicit threats of disbanding the Court. See Onoria 2010; Gathii 2013; Alter et al. 2016 and Possi 2018 for detailed accounts of this case.

8 The suspension and closure of the Southern African Development Community (SADC) Tribunal is an extreme example of the fatality of counterattacks on ICs. There is consensus that the suspension was a direct result of the Tribunal’s ruling in favour of white farmers in disputes over land seizures in Zimbabwe (Ndlovu 2011; Nathan 2013; Hansungule 2013; Lenz 2012; Alter et al. 2016; Achiume 2017; Brett 2018; Brett and Gissel 2020).

9 Even though there are eight active ICs in Africa (Gathii and Otieno Mbori 2020), only four have compulsory jurisdiction and offer access for non-state actors to initiate litigation (Alter 2014): the Common Market for Eastern and Southern Africa (COMESA) Court of Justice, the East Africa Court of Justice (EACJ), the Economic Community of West African States (ECOWAS) Court of Justice, and the Southern African Development Community (SADC) Tribunal. Thus, my choice of case study is informed by the actual political involvement of REC courts.

3 Preparing for field research

Having commenced the research during the Covid-19 epidemic, travel was heavily restricted and almost impossible for the first year of my research project. Within this time, the project drew on our existing professional capital – colleagues based in Bayreuth¹⁰ and elsewhere¹¹ – to make initial contacts with research participants across multiple locations. I also conducted introductory online meetings to garner contacts for future research and establish early connections with research participants. Amidst travel restrictions, I could not undertake a “pilot trip” as I had intended. Instead, I conducted preliminary interviews with judges, lawyers, and issue-area experts to gain initial insights and orientation to the study.

While preparing for and conducting online interviews, I experienced a moral dilemma. On the one hand, I sought research assistance from individuals usually out of the office, perhaps dealing with personal and other familial responsibilities, amidst unprecedented levels of social, economic and health anxieties brought on by the pandemic. Even if I sought assistance only at their convenience, carefully navigating the daily stresses resulting from the COVID-19 outbreak, I was still making additional requests from individuals dealing with the uncertainty of a health crisis. Indeed, it was incumbent upon me to be sensitive to these issues and devise appropriate and considerate ways of reaching out to interview participants without expectations or additional pressure. Continuous reflexivity permitted me to see my relatively privileged status – a researcher in the Global North, with secure internet, food and other supplies, “locked down” in the comfort of my home and awaiting my vaccine booster shot – reaching out to far-away research participants in the Global South, unaware of how the pandemic may have affected their daily lives but expecting their amenability to my online interview requests. How could I stay away, sheltered and unwilling to travel before my second vaccine, whilst hounding research participants with emails requesting an online interview? My experience with virtual interviewing and the earlier mentioned moral quandaries, heightened by issues of trust and rapport – especially in judicial interviews where protocol, formality and hierarchical relations are core values – reinforced the necessity of fieldwork. I was relieved when mobility restrictions were lifted so I could finally travel to the field¹² and eliminate the figurative firewall that prevented a more genuine rapport-building virtually.

10 I am appreciative of Prof. Thoko Kaime for his guidance while preparing to go the field, for taking an interest in our research and for opening up his networks to us in the relevant sites of research.

11 Likewise, I am beholden to Professors James Thuo Gathii and Chris Maina Peter who indulged my curiosity at the start of the project, suggested very practical ways in which I could conduct the study despite the challenges brought on by the pandemic, and whose encouragement and wisdom still guide my thoughts in this PhD journey. I am especially grateful to my academic mentor, Prof. Rachel Ellett for her guidance throughout the research journey.

12 I use the term “field” here very loosely, cognizant and appreciative of debates that debunk the idea of the field that is “out there” citing an ambiguity in the boundary between the field and home (Amit 2000: 8). Indeed, the boundaries of the field are as elastic, mobile and intermittent as the prevailing circumstances surrounding it. I am cautious of the demarcation between the field and “home” especially as the binary does not suit my circumstances.

4 Into the thick of the field

To examine the construction of judicial power in the East African Court of Justice (EACJ), adopting a “multi-sited ethnography” (Marcus 1995) was crucial.¹³ Even though it is headquartered in Arusha, the EACJ operates five sub-registries in Bujumbura (Republic of Burundi), Nairobi (Kenya), Kigali (Rwanda), Kampala (Uganda) and Dar es Salaam (Tanzania). The court comprises a First Instance and an Appellate Division, with a maximum of fifteen judges.¹⁴ Except for the president (head of Appellate Division) and the principal judge (head of First Instance), who reside in Arusha, all other judges serve on an ad hoc basis and are usually located in their home countries. Therefore, accessing serving and former judges, lawyers, and other relevant national actors necessitated conducting research across multiple locations.¹⁵ The goal was to visit the headquarters and sub-registries, starting in Kampala and continuing a three-country research journey.¹⁶ Next, I would travel to Arusha, attend court sessions and interview judges and the leading litigants in the region, the Pan African Lawyer’s Union (PALU) and the East Africa Law Society (EALS), who are both domiciled there. From Arusha, I would let the snowball effect take shape and follow judges and lawyers to Dar es Salaam and possibly Nairobi. Accordingly, between September 2021 and June 2022, I followed judicial and legal elites across selected cities in East Africa, from Kampala to Bujumbura, Arusha, Dar es Salaam and Nairobi.¹⁷

Even though I had reached out to some judges and lawyers, requesting formal interviews before my trip, accessing them proved to be thornier than I imagined. The close-knit¹⁸ legal space was not letting me in amidst their busy schedules and other engagements. The easy access I had imagined, based on home affiliations and relations, was faltering. The subsequent section offers a vignette, taken from field note entries in Kampala, to illustrate the quandaries I faced with accessing legal and judicial elites.

Access impasse¹⁹

I thought beginning my field trip in Kampala would ease me into the unknown process of interviewing legal and judicial elites. Assuredly, my familiarity with the country,

13 The EACJ is an organ of the East African Community (EAC) and operates across multiple sites in the region.

14 Art. 24(2) EAC Treaty.

15 Alternatively, a researcher is best positioned to meet the judges in Arusha when the court is in session (usually up to four times a year). Starting November 2021, the court now conducts a rotational system of sitting in the various member states. Burundi pioneered the move and Uganda hosted the court in November 2022.

16 I originally selected the original three EAC states as the points of reference owing to their longevity in the community and given that they have sent the highest number of judges to the court.

17 The order in which the research travel occurred and the selection of sites was a result of a series of informal interactions with key judicial leaders in the EACJ as explained further in the paper.

18 In the four EAC countries in which I conducted fieldwork, only a very small relatively tight circle of lawyers tended to dominate litigation in the EACJ. This is not to imply that the entire legal space in these countries is as small or as connected.

19 Author’s Field notes, September 30, 2021, Kampala

language and people would open up the impenetrable and closed legal spheres - after all, it is home. Unfortunately, a drought of interviewees after a three-week stay here has disabused me of the notion. Judges are not as forthcoming, even the retired ones! Last week, I tried reaching out to two former EAC judges, but in vain. I even offered to follow one of them back to his village (even though I dreaded the six-hour bus journey there), only for him to decline, citing construction work that he would be too busy tending to entertain me. "I could shadow you as you tend to those projects," I had pleaded. My plea fell on deaf ears. The lady justice was no different either; she referred me to a serving judge, saying, "I have not been at the court for so long. You are better off meeting a serving judge," she implored. Even my persistence, elucidating my desire to sip from her institutional memory, did not help. While she empathised with me and my research endeavour, here was another polite snub. Well, "if judges are proving challenging, I will opt for lawyers then," I mused. After all, I know Advocate X; personally, we went to primary school together. Surely, I could draw on that childhood connection to reminisce and perhaps build rapport. He should be forthcoming.

That was my optimism speaking last week. The reality is that this week has not been as positive as I had hoped it would be. Recall Advocate X: he declined my interview request. Let me recollect the events leading to his refusal. I believe my mistake was trying to contact Lawyer Y first, a friend and colleague of Advocate X. The two lawyers were working on litigation at the EACJ. Lawyer Y had readily availed his contact details online to solicit funds to push some issues of public interest litigation. Since I did not have Advocate X's contact, I contacted Lawyer Y via a WhatsApp introductory message requesting an interview. He responded, inquisitive about how I had attained his contact details. Upon learning that I had not contributed to the funding platform, he retorted curtly, "You must first contribute, and I will spare you an hour of my time." Shocked by this blatant extortion, I hid my disappointment, stating that ethical limitations prevented me from meeting his demand. Hoping to redeem myself and secure an interview, I reached out to Advocate X. Our phone conversation started pleasantly but took on a harsher tone when he made the connection. "You are that researcher that undermined my friend, aren't you?" I tried to defend my position, insisting that I had been very respectful even though I declined to "contribute" to the online fundraising as a precursor for Lawyer Y's involvement in my research. My interjection must have rubbed him the wrong way because, at this point, he forthrightly scolded me for wasting his valuable time, yet he was in the middle of a multi-million dollar legal suit. I pleaded for him to consider my research interview a pro bono case, which only seemed to agitate him further. This unpleasant encounter climaxed in his declining my interview request. Despite my best efforts to be professional, I succumbed to my emotions, sunk into doubts about what it meant to conduct research with legal elites and even wondered whether I was approaching the study appropriately.

Only later, when self-awareness set in and reflecting on my positionality, could I process my reaction to this encounter. Indeed, positionality theory acknowledges that people have multiple overlapping identities, which implies that meaning-making results from the various aspects of their identity (Bourke 2014). A researcher’s positionality influences who accepts to be interviewed, and their access, determines what information participants are willing to share and directly bears on “the knowledge claims the researcher can advance” (Fujii 2017: 15-16). At the time, I identified as a married female graduate student of Ugandan descent and a naturalised German attending a German university.²⁰ For over five months, I conducted research in predominantly male-dominated legal and judicial spaces. Starting my fieldwork, I had the misguided notion that, being a relatively young black female graduate student, I did not harbour any power or privilege over my interview participants. Being primarily male, older and legally trained individuals, I believed they held the upper hand in all our encounters. However, that was only part of the fluid and complex power structure in the field.

Even though research power differentials are usually assumed to be unidirectional - from the “foreign-usually-white” researcher travelling to the Global South (Doty 1996; Bourke 2014), my experience goes beyond the usual foreignness and whiteness concerns to address the double consciousness (insider-foreigner) that my positionality presents. The researcher’s privilege, holistically conceptualised, encompasses several aspects such as “the ability to choose – where to live, what to eat, how to travel, and with whom to spend time. The most fundamental privilege that all researchers enjoy is gaining entrée into people’s worlds” (Fujii 2017: 16). Though usually glossed over, the most privileged aspect of fieldwork is the researchers’ entitlement to pry into people’s daily lives, professional or otherwise, whether studying up or down. My privilege had accorded me access to online engagements and brought me closer to research participants, and yet, as shown in the vignette above, the lawyers’ stern denial of access was unsettling for me. I had contacted very successful and vocal male lawyers whose knowledge of the topic and social and economic status surpassed mine – I was convinced the privilege scale was tilted in their favour. At the time, I did not attribute their dismissal of my research as a reaction to the power dynamics on my end. I recognised that even if I may have seemed powerless during this ordeal, there were ignored power dynamics that I was not ready to confront – this encounter presented a learning moment and a provocation to rethink my positionality.

On the one hand, being an insider in Eastern Africa paved the way for me to access some spaces known for being closed off to foreign researchers. Likewise, my gender granted me access to women-friendly spaces and may even have played in my favour when some male participants made the time out of their busy schedules to engage in my work.²¹ At the same time, the privilege of being a researcher based in Germany also opened up spaces, especially with young lawyers whose participation in my research was driven by their need to get proximity to higher education

20 My partner did not accompany me for research visits. Even though my supervisor accompanied me to the field, in Dar es Salaam for a week, this article focuses on the time spent in the field alone. I am grateful for his guidance and also acknowledge the opportunities that his positionality accorded my research when we were together in the field.

21 Being relatively young and female, I was accustomed to being patronised, cross-questioned and not being taken seriously. Thus, I carefully planned and conducted my research with older male participants, not leaving room for manipulation or intimidation. I also learned to adjust my demeanour depending on the type of interviewee, oscillating between non-threatening and assertive, as the research situation demanded.

opportunities in Germany. It also granted me access to leading figures in the closed judicial arena. For instance, my closest working relationship in the field was also pursuing his doctorate in Germany, and I was acquainted with his supervisor. Affiliations to a German university shaped how my interlocutors saw me if they granted me access or closed the doors. Even if my experience emerges while studying "up" amongst mostly legal elites, it resonates with other early career female scholars' experiences navigating the field. Debele's encounter while conducting fieldwork for a religious studies project in Ethiopia is an excellent example of the highly complex insider-outsider experience that researchers who conduct fieldwork in their home countries have to navigate (Debele 2017).

On the other hand, affiliation with Germany also raised critical questions on the researcher-researched dynamic, with some participants equating me to an informant for the German government. Some expressed concerns like "How will your research directly benefit the EACJ?"²² or "After listening to our concerns, you will go off, write a book and advance your career. What are you giving back?" As was the case in the vignette, I am a researcher from Germany requesting two very busy and established Ugandan lawyers to avail themselves and their expertise at no direct benefit to them. Why did I assume that these lawyers owed me their time and knowledge? What were my expectations for how these interview situations "should" go? Undeniably, when we travel for fieldwork, especially as scholars from the Global North heading to the Global South, we carry a range of privileges and assumptions that accompany our existence and experience in the field. Appreciating the challenges brought on by my positionality was fundamental as all research interactions are "rooted in power and social relationships" (Mosley 2013: 9), and active reflexivity should drive the research process. So what, I pondered, would help me bridge the challenge of accessing legal and judicial elites?

As grim as gaining and maintaining access to judicial elites seemed, I quickly realised that the solution lay in seeking support from earlier established "working relationships" (Fujii 2017). Lee Ann Fujii, in her ground-breaking work on relational interviewing, reminds researchers not to carry the entire burden of reaching out to relevant actors in the field on our shoulders. Instead, we should make the most of the connections we have whilst taking their expert knowledge seriously and imbuing them with respect, dignity and gratitude for their time (Fujii 2017: 90). Heeding this advice, I reached out to the former registrar of the EACJ, whom I had interviewed online and with whom I continued regular email exchanges, requesting an opportunity to "hang out" which proved to be the breakthrough that I needed at the time.²³ "Hanging out" while studying "up" involves a combination of three facets: continuous residence amid communities of practice, intentional engagement in informal and sociable interactions outside of the professional

22 EACJ staff, several conversations, November 2021, Bujumbura.

23 I am indebted to His Worship Yufnalis Okubo, whose readiness to assist in my research, ample kindness and genuine interest in my work has not only opened up doors in the usually closed legal networks but has also spurred on my confidence in my project knowing that it behoves me to tell this story respectfully, and critically. I choose to disclose the identity of this interlocutor for four reasons: 1) because I have his consent to do so, 2) he would have been identified anyway given that only he held that position at the said time, 3) because of the public manner in which he intervened in my research (on social media), and 4) to show gratitude for that intervention as I view him as a co-producer of knowledge that should be acknowledged publicly.

realm, and participating in rapport-building activities (Nair 2021: 1307). I reflect on the three facets, illuminating how and when I drew on “hanging out” to understand the intimate workings of the court- to be acquainted with the people behind the legal decisions, uncover what drives their involvement, what perceptions they hold of regional law and the regional bloc in general.

5 Towards intentional socialisation

My initial deliberate “hanging out” was in early October 2021 when I reached out to the EACJ registrar while he was on an official trip to Uganda, where he was paying a visit to the Supreme Court. With only a few days in Kampala, amidst several engagements, I had to swiftly arrange to meet him without demanding too much of his time and resources. Heeding Nair’s (2021: 1313) advice to “draw interlocutors away from professional habitats to spaces of sociable and informal interaction”, I asked the registrar to meet at my favourite Ugandan local food restaurant.²⁴ To my delight and surprise, he agreed to this impromptu dining arrangement. In between mouthfuls, we chatted about East African cuisine, compared regional delicacies and briefly recapped our virtual meetings in the past year. In this introductory tête-à-tête, we exchanged more honestly about my doctoral dissertation journey and duly discussed our shared interest in my research topic, cementing the rapport we had built over the past few months and advancing it into a working relationship. With the progression of our informal chat, I sought the registrar’s advice on how to get access. Endowed with legitimacy within the judicial and legal sphere in the EAC, the registrar sought to put my earlier concerns of an impenetrable legal field to rest. With only a Tweet comprising an image of himself, the court president and me, captioned with a few details of my research interest, the registrar broke the barriers that had hampered my research (see Figure 1). His endorsement, couched in an unsuspecting Tweet, was a subtle message to the legal and judicial fraternity, beseeching them to grant me access to engage me seriously as a researcher.

24 Nair advises taking interlocutors away from offices to places of recreation, such as shopping malls, restaurants, coffee shops or even bars in an attempt to benefit from the informal rapport creating through simply “hanging out”.



Figure 1: Tweet by Registrar His Worship Yufnalisis Okubo, October 4, 2021. Image rights: Diana Kisakye. <https://twitter.com/yufokubo/status/1444871560612007938>.

My visibility in the field benefitted immensely from the working relationship with the registrar. Given that I am not legally trained, there are aspects of legal procedure and etiquette with which I am unfamiliar, and his guidance proved exceedingly valuable. His endorsement of my research, via his social media, catered to the prevailing formality, procedure, hierarchy and politesse that governs everyday relations between judicial and legal elites. Even though he could have extended an invitation to me on his own accord, he deemed it more formal, appropriate and with a higher reach if we met the court president and had his formal approval. Highlighting the support of the court leader himself opened up and deepened my access. Following this encounter, the road ahead was entirely shaped by my interactions with the research participants, having attained a “foot in the door” with legal and judicial elites. Echoing Smith (2006: 648), gaining access to powerful groups is not unique to elites only. Fostering networks, connections and relationships that bring us closer to our research interests paves the way, as with all experiences of conducting fieldwork. As such, I deliberately explored participation in activities that contribute to building rapport. In the spirit of “hanging out” while studying “up,” rapport-building is “as important as the primary goals of the research” (Nair 2021: 1307). Thus, the crux of my engagements in the field was through participant observation at relevant court events, legal trainings, and attending court sessions to observe the dynamics in the courtroom.²⁵

5.1 “Hanging out” with judges, lawyers and in court

My entry point into participation with an intent to build rapport was an invitation from the court registrar and president to visit the court and its stakeholders at an exclusive event: the High-level

²⁵ At times, I was a “direct non-participant observer” (Portillo et al. 2013: 7) with a passive role in the engagement.

Judicial Symposium in Bujumbura.²⁶ This event, commemorating twenty years of EACJ existence, would be the first time the court would sit outside Arusha to hold court sessions. This invitation came at an opportune moment when entrée to the legal and judicial space was proving more cumbersome than I had anticipated. I seized the opportunity to follow the Court to Bujumbura, where I attended the Symposium, alert to chances for rapport building. Formal events led by former and current EACJ judges and court staff advanced my understanding of the court’s mandate, its role in promoting the rule of law, cross-border trade and investment, and its growing jurisprudence through broad, bold and intentional interpretation of the EAC Treaty (see Figure 2). Likewise, I was granted access to formally organised social gatherings, which paved the way for a deeper understanding of the people behind the formalistic legal profession and challenged my assumptions of them through one-on-one conversations. For instance, I was invited to the judicial farewell dinner for former EACJ judges,²⁷ which allowed participants to interact informally. Over dinner and sharing alcoholic beverages with interlocutors, without being consumed by research-oriented questions, I could foster working relationships that would later open up room for investigating those queries.²⁸



Figure 2: EACJ Judicial Symposium, November 5, 2021, Bujumbura. Photo by author.

Whereas the overtly informal events, on the other hand, provided chances for casual and personal level interactions with the most relevant actors in and outside the court (e.g. retired and sitting EACJ judges, heads of EAC organs, the international community, bar associations, senior government officials from the Partner States, and civil society organisations). Such internal informal gatherings – dining sessions, judicial cocktail gatherings, and a range of other invitations to engage in private activities – were vital in opening up, broadening and deepening my

26 The EACJ held a 20 year anniversary celebration and Judicial Symposium on 4th – 5th November, 2021 at the Royal Palace Hotel in Bujumbura under the theme “EACJ@ 20: Upholding the Rule of Law in the integration agenda towards the EAC we want.” Hereafter Symposium.

27 Held at Kiriri Gardens Hotel, November 5, 2021, Bujumbura. Images taken during this event remain confidential.

28 Amidst participation in social interactions of “hanging out”, I regularly wrote “field notes” (Sanjek 1990) in diverse forms, ranging from audio phone recordings that I made after a night out to handwritten notes a few days later. My interactions served the critical role of building connections, first and foremost, and the notes taken were only meant as general reflections or clarifying aspects pertaining to the formal interview process.

understanding of the legal and judicial sphere to which I was slowly acclimatising. I gained a more intimate understanding of their attitudes, perceptions or musings on topics that arose in light-hearted conversations – from regional politics to threats to judicial independence.

These informal encounters revealed crucial elements in my research process, steering it in a more humane direction, which paved the way for relational interviews. Relational interviews are an interactive form of interviewing between researcher and interviewee, grounded in a “humanist” ethos that prioritises “the ethical treatment of all participants and continuous reflexivity” (Fujii 2017: 22). Thus, spending time with judicial elites humanised them - helping me to shed off my earlier uneasiness with judicial interactions, building rapport, and bridging the researcher-researched dynamic. For my study, the added value of interviews needed not only lie in the information gathered during the interview process but also in the outcomes of the interactions themselves, and thus, “hanging out” became just as vital as the interviews themselves. Moreover, the attitude of judges in the more formalised interview as opposed to outside the court in informal settings was also starkly different. In the latter, judges tended to be more open to chatting about more politicised topics without the additional burden of being misquoted or simply exposed for their points of view. They were also more likely to be less suspicious of the researcher who does not carry a notepad and pen in hand but is mingling and getting to know them as “people” rather than as “judges.” Additionally, the informal setting bridges the judicial hierarchy. In the formalised interviews, I usually had to go through several judicial gatekeepers – from the judicial security apparatus to the court clerks, secretaries and registry staff – to access the judges who were often isolated in their chambers. The very set-up of the judicial interview placed a wall between the researcher and the judge, as these differences were usually amplified by their professional arrangement, which the less formalised set-up of a bar or a hallway chat dissipated.

Similarly, I strategically positioned myself in places where I could get close to litigating lawyers in the EACJ. After gaining visibility within the judicial and legal circles, I negotiated my way into legal public talks, conferences, professional meeting points and other gatherings that would get me in the same room as my desired interviewees. One such memorable event is the one-day lawyers’ trial advocacy course.²⁹ Through an interview, I learnt about an upcoming workshop that the East Africa Law Society (EALS) would be hosting to instruct lawyers on litigation before regional courts and tribunals, focusing on practice before the EACJ. Even if the event was closed, only for members of the EALS, I managed to secure a place to attend.³⁰ As a participant observer, I took part in practical exercises intended to provide the delegates with “a first-hand feel of actual litigation” before the EACJ. We were taken through the court’s jurisdiction and admissibility of applications, written proceedings, preparation and filing of pleadings, their amendment, withdrawal, and

29 East Africa Law Society capacity building: Trial Advocacy Training for Regional Courts 2021. The EACJ and the Uganda Law Society hosted a one-day course on trial advocacy before regional courts and tribunals for EAC lawyers with a focus on practice before the EACJ. October 20, 2021. Skyz Hotel, Kampala. <https://twitter.com/ealawsociety/status/1452632041158291467>.

30 I reached out to the EALS headquarters in Arusha via telephone and convinced them that I was an interested member of the public: a researcher who cared to learn more about practice before the EACJ. Again, my positionality and privilege opened up this space. I drew on my connections to the facilitators and was granted access, even after meeting a deadlock with the organisers in Kampala.

practical exercises in drafting, preparing and filing documents. Such formal activities provided an extra avenue for gathering supplementary data.

Even though I took part in all these very instructive, albeit unfamiliar legal proceedings, with keen interest, the most enlightening aspect was becoming privy to the pragmatic questions that participants asked, listening to the rationale given by the trainers (who were themselves “repeat lawyers”³¹ at the court) on what types of cases they decide to litigate, and how legal elites tactfully confront and mitigate pressures from the executive upon filing politically salient claims. Attendance of the training provided raw insights into the legal, economic, social and political considerations that lawyers who appear before the court grapple with on a daily routine. Most rewarding were the informal conversations in which I engaged during the breaks – when questions, doubts and reflections were shared. Such informal interactions allowed me to introduce myself, explain my research objective and seek the research participants’ consent and participation in more formalised interviews.

Finally, while I had hung out with judges and lawyers on separate occasions, it was also critical to attend EACJ court sessions, both in Bujumbura³² and Arusha.³³ Steady attendance of these sessions in different locations made me a regular figure at the court, aided in building rapport with legal elites and litigants, and familiarised me with court processes. Conversations with the court staff, as they set up and cleared the courtroom before and after sessions, offered a “behind the scenes” view of court processes. At such opportunities, I inquired into different aspects of courtroom formality and protocol, chatted informally about the concluded sessions, and became aware of personal anecdotes on lawyers’ and judicial courtroom behaviour and its implications. Even if it remains confidential, this information broadened my perception of the court and its constituencies. Observing courtroom dynamics enabled me to understand the core questions being brought before the court, go beyond the formality, and engage the lawyers and litigants after the sessions to clarify issues raised in the hearings and arrange interviews.

31 I draw on the concept “repeat players” (McGuire 1995) to refer to reputable and influential lawyers that frequently litigate in the EACJ and have played a huge role in influencing judicial decision-making and expanding the reach of the Court.

32 In November 2021, the EACJ held court sessions at the Supreme Court in Bujumbura. The fact that we were all visitors and not in their familiar territory came with a certain sense of freedom that I imagine played in my favour – it brought a shared sense of comradery and gave me a chance to speak to the relevant legal elites who were rather open to engaging a researcher.

33 While at the seat of the EACJ in Arusha, February-March 2022, I also frequently “hang out” in places that potential interviewees frequent in a bid to cross paths and initiate an informal conversation that would result in an interview opportunity.



Figure 3: “Hanging out” in court, Supreme Court, November 21, 2021, Bujumbura.

Photo by author.



Figure 4: “Hanging out” with lawyers, Trial Advocacy Training, October 20, 2021, Bujumbura.

Photo by author.

5.2 Pondering “continuous residence” and “research friendships”

Even though my research stays in each city were relatively short, I believe my six-month stay in the EAC region following the court and relevant actors, who are just as mobile across the region, qualifies as a continuous and uninterrupted stay among judicial and legal communities of practice in the EAC. I was free to stay as long as the research warranted, without necessarily creating stringent measures on my duration of stay, provided I was satisfied with my level of engagement. The period of continuous residence need not affect the quality of the “hanging out” experience. For me, the researcher and interlocutor relationship does not have to be restricted in longevity or limitation of interaction, provided both adhere to the ethical and humane treatment of each other. “Hanging out” paved the way for an alternative to ethnographic immersion that would allow for my time and resource constraints.

Most importantly, “hanging out” enriched not only my research experience but also my life experience – I have gained friends and mentors along the way, met some of their families, and shared meals with them. While researchers caution of the “problematic” role of research friendships, prioritising rapport instead (Glesne 1989: 48–50), I find that stance to be disingenuous if one seeks to “hang out.” After all, our interactions take on an affective tone when we “hang out” repeatedly, ranging from disagreements to critical deliberations on affective topics or hysterical laughter through created mutual insider jokes. While it would be a stretch to call myself an insider, I have established ethical working relationships with my interlocutors, some of whom have become friendships. In agreement with Nair (2021: 1313), researchers should be ethical with “fieldwork friendships.” This includes paying attention to extractive research that simply takes the interlocutors’ interventions for their own academic gain, sometimes without acknowledging their contributions or creating opportunities to reciprocate their kindness. During my visit to Bujumbura, the court network administrator³⁴ welcomed me, graciously tended to me during my stay and was instrumental in helping me familiarise myself with the city. Even if our

³⁴ Same reasons as in Supranote 23.

meeting had been professionally arranged by his boss, who requested him to “take care” of me while I was in Bujumbura, I was certain I had made a friend by the end of my visit. During our interactions, I learned of his interest in furthering his academic career and saw an opportunity to reciprocate his kindness. Upon my return to Germany, we kept in touch and started working on a joint paper that we presented at an academic conference.³⁵

³⁵ “Of paperless hybrid Courts: Embracing the administration of justice through ICT in the East African Court of Justice.” Presented at the VAD 2022 conference “Africa-Europe: Reciprocal Perspectives,” Thursday 9 June, 2021, Freiburg, Germany.

6 Conclusion

The reflections on my field experience exemplify the messy, unpredictable and challenging route of studying “up”, especially amongst legal and judicial elites whose profession thrives on formality, secrecy and discretion. Discussing judicial matters under investigation is not only frowned upon but is also considered unethical. As such, challenges abound for the researcher seeking to get closer to the judges’ situated knowledge from an overtly political lens as they must walk the tightrope between avoiding sub judice matters and seeking clarification on events that were already decided. I witnessed the same hardships in my quest to unravel the subtleties of the political nature of judging in African REC courts. I raised interview questions that caused suspicion and discomfort as they seemed to question judicial fidelity to the law and apoliticism. “Hanging out” allowed me to develop sensitivity to judicial practice and gave me the vocabulary to frame future interview questions more appropriately.

Likewise, informal socialisation events presented opportunities to exchange with actors on sensitive topics without them feeling interrogated. It also permitted more prolonged, dynamic, and affective interactions, which broadened my perception of the research problem. In my experience, informality in judicial research may be the entry point to accessing judicial attitudes to their work and contextualising and demystifying the court process. However, the researcher must remain ethical and keep sensitive information attained through “hanging out” confidential or anonymised if they sought and achieved informed consent. In the same vein, the researcher ought to reflect on the fluid and multi-directional power differentials, recognising the value that positionality plays in creating or closing access. Indeed, even with legal and judicial elites, the researcher’s positionality influences who agrees to participate and how they go about it.

Not limited to judicial research alone, “hanging out” enables the researcher to build ethical and reciprocal working relationships, forge legitimacy, build rapport, and access closed research arenas. Mutually beneficial working relationships broaden the researcher’s grasp of field realities and offer insights into their socio-political embeddedness in networks. Moreover, “hanging out” is not a given - it is intentional and planned, having a clear goal but also allowing for spontaneity. The researcher ought to draw on their social and professional capital, as in my case, to get a “foot in the door”. In sum, methodological considerations that venture beyond the formalised interview must be engaged more rigorously. Future research could systematically think through the kinds of information that a researcher can access through informal versus formal interviews, chart out how individuals respond differently to similar questions depending on the research set-up, and even contrast the use of these informal settings across different status groups.

7 References

- Achiume, Tendayi. 2017. The SADC Tribunal: Socio-Political Dissonance and the Authority of International Courts. In *International Court Authority*, ed. Karen J. Alter, Mikael Rask Madsen, and Laurence R. Helfer, 124-148. Oxford University Press.
- Akinkugbe, Olabisi D. 2020. Towards an Analyses of the Mega-Politics Jurisprudence of the ECOWAS Community Court of Justice. In *The Performance of Africa's International Courts: Using International Litigation for Political, Legal, and Social Change*, ed. James Thuo Gathii, 149–77. Oxford University Press.
- Alter, Karen J. 2014. *The New Terrain of International Law: Courts, Politics, Rights*. Princeton and Oxford: Princeton University Press.
- Alter, Karen J., James Thuo Gathii, and Laurence R. Helfer. 2016. Backlash Against International Courts in West, East and Southern Africa: Causes and Consequences. *European Journal of International Law* 27 (2): 293–328. <https://doi.org/10.1093/ejil/chw019>.
- Alter, Karen J., Laurence R. Helfer, and Mikael Rask Madsen. 2016. How Context Shapes the Authority of International Courts. *Law and Contemporary Problems* 79 (1): 1–36. <https://scholarship.law.duke.edu/lcp/vol79/iss1/1/>.
- Amit, Vered. 2000. Introduction: Constructing the Field. In *Constructing the Field: Ethnographic Fieldwork in the Contemporary World*, 1–18. London: Routledge.
- Beckmann, Matthew N, and Richard L Hall. 2013. Elite Interviewing in Washington, DC. In *Interview Research in Political Science*, ed. Layna Mosley, 196–208. Cornell University Press Ithaca, NY.
- Bourke, Brian. 2014. Positionality: Reflecting on the Research Process. *The Qualitative Report* 19 (33): 1–9. <https://www.proquest.com/docview/2486198787/abstract/ABC004158C8744A0PQ/1>.
- Brett, Peter, and Line Engbo Gissel. 2020. *Africa and the Backlash Against International Courts*. Bloomsbury Publishing.
- Brett, Peter. 2018. Who Are Judicial Decisions Meant for? The “Global Community of Law” in Southern Africa. *International Political Science Review* 39 (5): 585–99. <https://doi.org/10.1177/0192512118773449>.
- Caserta, Salvatore, and Pola Cebulak. 2021. Territorial Disputes by Proxy: The Indirect Involvement of International Courts in the Mega-Politics of Territory. *Law and Contemporary Problems* 84 (4): 123–51. <https://lcp.law.duke.edu/article/territorial-disputes-by-proxy-caserta-vol84-iss4/>.

- Debele, Serawit. 2017. Ambiguities of “Insider-Ness” in the Study of Religion: Reflecting on Experiences from Ethiopia. *Fieldwork in Religion* 11 (2): 157–69. <https://doi.org/10.1558/firn.29682>.
- Doty, Roxanne Lynn. 1996. *Imperial Encounters: The Politics of Representation in North-South Relations*. Vol. 5. Minneapolis: University of Minnesota Press.
- Ellett, Rachel L. 2011. Stuck in Between: Interviewing Judges and Other Legal Elites in Africa. *Law and Courts* 21 (1). http://artsandsciences.sc.edu/poli/juri/2011_Winter.pdf#page=11.
- Ellett, Rachel L. Forthcoming. In Defense of Interviews. In *Data and Methods in the Comparative Study of Legal Institutions*. New York: Cambridge University Press.
- Fujii, Lee Ann. 2012. Research Ethics 101: Dilemmas and Responsibilities. *PS: Political Science & Politics* 45 (04): 717–23. <https://doi.org/10.1017/S1049096512000819>.
- Fujii, Lee Ann. 2017. *Interviewing in Social Science Research: A Relational Approach*. 1 Edition. New York: Routledge.
- Gathii, James Thuo, and Harrison Otieno Mbori. 2020. Reference Guide to Africa’s International Courts: An Introduction. In *The Performance of Africa’s International Courts*, ed. James Thuo Gathii, 300–344. Oxford: Oxford University Press.
- Gathii, James Thuo, and Olabisi D Akinkugbe. 2021. Judicialization of Election Disputes in Africa’s International Courts. *Law and Contemporary Problems* 84 (4): 181–218. <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5025&context=lcp>.
- Gathii, James Thuo. 2013. Mission Creep or a Search for Relevance: The East African Court of Justice’s Human Rights Strategy. *Duke Journal of Comparative & International Law* 24 (2): 249–96. <https://doi.org/10.2139/ssrn.2178756>.
- Geertz, Clifford. 1998. Deep Hanging Out. *The New York Review of Books* 45 (16): 69–72.
- Glas, Aarie. 2021. ‘Positionality, Power, and Positions of Power: Reflexivity in Elite Interviewing’. *PS: Political Science & Politics* 54 (3): 438–42. <https://doi.org/10.1017/S1049096520002048>.
- Glesne, Corrine. 1989. Rapport and friendship in ethnographic research. *International Journal of Qualitative Studies in Education* 2: 45–54. <https://doi.org/10.1080/0951839890020105>.
- Halliday, Simon, and Patrick Schmidt. 2009. *Conducting Law and Society Research: Reflections on Methods and Practices*. New York: Cambridge University Press.
- Hansungule, Michelo. 2013. The Suspension of the SADC Tribunal. *The Strategic Review for Southern Africa* 35 (1): 135–145. https://repository.up.ac.za/bitstream/handle/2263/40305/Hansungule_Suspension_2013.pdf?sequence=1&isAllowed=y.

- Helfer, Laurence R., and Clare Ryan. 2021. LGBT Rights as Mega-Politics: Litigating before the ECtHR. *Law and Contemporary Problems* 84 (4): 59–93. <https://doi.org/10.2139/ssrn.3867604>.
- Hirschl, Ran. 2004. The Political Origins of the New Constitutionalism. *Indiana Journal of Global Legal Studies* 11 (1): 71–108. <https://www.repository.law.indiana.edu/ijgls/vol11/iss1/4/>.
- Hirschl, Ran. 2008. The Judicialization of Mega-Politics and the Rise of Political Courts. *Annual Review of Political Science* 11: 93–118. <https://www.annualreviews.org/doi/abs/10.1146/annurev.polisci.11.053006.183906>.
- Jaremba, Urszula, and Elaine Mak. 2014. Interviewing Judges in the Transnational Context. *Law and Method* 5. <https://doi.org/10.5553/REM/.000003>.
- Knight, Jack, and Mitu Gulati. 2017. Talking Judges. *Duke Law Journal Online* 67: pp. xli-li.
- Lenz, Tobias. 2012. Spurred Emulation: The EU and Regional Integration in Mercosur and SADC. *West European Politics* 35 (1): 155–73. <https://doi.org/10.1080/01402382.2012.631319>.
- MacLean, Lauren M. 2006. The Power of Human Subjects and the Politics of Informed Consent. *Qualitative Methods* 4 (2): 13–15.
- Marcus, George E. 1995. Ethnography in/of the World System: The Emergence of Multi-Sited Ethnography. *Annual Review of Anthropology* 24: 95–117.
- Martinsen, Dorte Sindbjerg, and Michael Blauberger. 2021. The Court of Justice of the European Union and the Mega-Politics of Posted Workers. *Law and Contemporary Problems* 84 (4): 29–57.
- McGuire, Kevin T. 1995. Repeat Players in the Supreme Court: The Role of Experienced Lawyers in Litigation Success. *The Journal of Politics* 57 (1): 187–96. <https://doi.org/10.2307/2960277>.
- Mosley, Layna, ed. 2013. *Interview Research in Political Science*. Ithaca, NY: Cornell University Press.
- Nader, Laura. 1972. Up the Anthropologist -Perspectives Gained from Studying Up. In *Reinventing Anthropology*, ed. Dell Hymes, 284-331. New York: Vintage Books.
- Nader, Laura. 1972. Up the Anthropologist -Perspectives Gained from Studying Up. In *Reinventing Anthropology*, 284–311. New York: Vintage Books.
- Nair, Deepak. 2021. "Hanging Out" While Studying "Up": Doing Ethnographic Fieldwork in International Relations. *International Studies Review* 23 (4): 1300–1327. <https://doi.org/10.1093/isr/viab001>.
- Nathan, Laurie. 2013. The Disbanding of the SADC Tribunal: A Cautionary Tale. *Human Rights Quarterly* 35 (4): 870–92. <https://doi.org/10.1353/hrq.2013.0059>.

- Ndlovu, Precious N. 2011. Campbell v Republic of Zimbabwe: A Moment of Truth for the SADC Tribunal. *SADC Law Journal* 1: 63-79.
- Onoria, Henry. 2010. Botched-Up Elections, Treaty Amendments and Judicial Independence in the East African Community. *Journal of African Law* 54 (1): 74–94. <https://doi.org/10.1017/S0021855309990179>.
- Pavone, Tommaso. 2022. *The Ghostwriters: Lawyers and the Politics behind the Judicial Construction of Europe*. 1st ed. Cambridge, United Kingdom; New York, NY: Cambridge University Press.
- Portillo, Shannon, Danielle S. Rudes, Jill Viglione, and Matthew Nelson. 2013. Front-Stage Stars and Backstage Producers: The Role of Judges in Problem-Solving Courts. *Victims & Offenders* 8 (1): 1–22. <https://doi.org/10.1080/15564886.2012.685220>.
- Possi, Ally. 2018. An Appraisal of the Functioning and Effectiveness of the East African Court of Justice. *PER/PELJ* 21. <http://dx.doi.org/10.17159/1727-3781/2018/v21i0a2311>.
- Sanjek, Roger. 1990. The Secret Life of Fieldnotes. In *Fieldnotes: The Makings of Anthropology*, ed. Roger Sanjek, 187–270. Ithaca, NY: Cornell University Press.
- Sarat, Austin. 1990. Off to Meet the Wizard: Beyond Validity and Reliability in the Search for a Post-Empiricist Sociology of Law. *Law & Social Inquiry* 15 (1): 155–70. <https://doi.org/10.1111/j.1747-4469.1990.tb00279.x>.
- Silbey, Susan S., and Austin Sarat. 1987. Critical Traditions in Law and Society Research. *Law & Society Review* 21 (1): 165. <https://doi.org/10.2307/3053389>.
- Smith, Katherine E. 2006. Problematizing Power Relations in “Elite” Interviews. *Geoforum* 37 (4): 643–53. <https://doi.org/10.1016/j.geoforum.2005.11.002>.
- Treaty for the Establishment of the East African Community. Done on November 30, 1999. Entered into Force July 7, 2000. Amended December 14, 2006, and August 20, 2007. <https://www.eacj.org/wp-content/uploads/2012/08/EACJ-Treaty.pdf>.
- Trochev, Alexei. 2018. Patronal Politics, Judicial Networks and Collective Judicial Autonomy in Post-Soviet Ukraine. *International Political Science Review* 39 (5): 662–78. <https://doi.org/10.1177/0192512118802943>.
- Trubek, David M., and John Esser. 1989. “Critical Empiricism” in American Legal Studies: Paradox, Program, or Pandora’s Box? *Law & Social Inquiry* 14 (1): 3–52.
- Ward, Artemus, and Stephen L Wasby. 2010. “Get a Life!”: On Interviewing Law Clerks. *Justice System Journal* 31 (2): 125–43.

- Widner, Jennifer. 2001. Courts and Democracy in Postconflict Transitions: A Social Scientist's Perspective on the African Case. *American Journal of International Law* 95 (1): 64–75. <https://doi.org/10.2307/2642037>.
- Willis, Jerry W, Muktha Jost, and Rema Nilakanta. 2007. *Foundations of Qualitative Research: Interpretive and Critical Approaches*. Thousand Oaks: Sage.
- Yanow, Dvora, and Peregrine Schwartz-Shea. 2015. Doing Social Science in a Humanistic Manner. In *Interpretation and Method: Empirical Research Methods and the Interpretive Turn*, ed. Dvora Yanow and Peregrine Schwartz-Shea, 2nd ed., 380–94. New York: Routledge.
- Yepes, Rodrigo Uprimny. 2007. Judicialization of Politics in Colombia: Cases, Merits and Risks. *Sur. Revista Internacional de Direitos Humanos* 4:49–65.

8 10 Latest UBT African Studies working papers

Title	Editor(s)	Year of Publication	Issue
Modalities of Forgetting : A Refusal of Memory Among Post-Conflict Samburu and Pokot, Kenya	Jon Holtzman	2023	36
Orúnmiàṅ Film-Philosophy: An African Philosophy through Cinematic Storytelling	Saheed Adesumbo Bello	2023	35
Media Transnationalism and the Politics of ‘Feminised Corruption’	Sharon Adetutu Omotoso	2023	34
Live as African: On the Relevance of Thomas Sankara’s Agenda for Economic Liberation	Ndongo Samba Sylla	2022	33
‘Social media is for the elite’: Local political communication in Ghana in times of COVID-19	Matthew Sabbi, Dieter Neubert and Alexander Stroh	2022	32
Future Africa?! Timescapes and the Flattening of Time in the Modern Era	Susanne Lachenicht	2022	31
Disputed Meanings of Women’s Liberation: Social Tensions and Symbolic Struggles During Angolan Independence	Fábio Baqueiro Figueiredo	2022	30
beaucoup de peur et de questionnement: Une étude comparative des discours sur le Covid-19 en Côte d’Ivoire et au Cameroun	Martina Drescher, Oumarou Boukari, and Carline Liliane Ngawa Mbaho	2022	29
The Committee and the Uncommitted Material: Assistance to Members in Need at a Pentecostal Church in Western Kenya	Lena Kroeker and Yonatan N. Gez	2022	28

Fieldwork Experiences and Practices in Africa	Nikitta Adjirakor, Oladapo Opeyemi Ajayi, Hanza Diman and Mingqing Yuan	2021	27
---	---	------	----

Diana Kisakye. 2023. "Hanging out" with judicial and legal elites: Reflections on researching "up". University of Bayreuth African Studies Working Papers 40, BIGSASworks! 11. Bayreuth: Institute of African Studies.