

BEYOND INTERNATIONAL LAW: REASSESSING THE MUNICIPAL REGULATION OF ESPIONAGE IN NIGERIA

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Abstract

Espionage is commonly analysed within the framework of international law and the law of armed conflict where it is often treated as an inevitable but legally indeterminate aspect of inter-state relations. This focus has tended to obscure the fact that espionage, particularly in peacetime, is predominantly regulated and experienced at the domestic level. This article moves beyond the international law paradigm to examine espionage as a municipal and constitutional issue within the Nigerian legal system. It argues that while international law maintains a position of strategic silence on espionage, Nigeria's response to espionage-related activities is shaped by domestic criminal legislation, constitutional norms, and the operational practices of security and intelligence institutions. Drawing on comparative insights from the United Kingdom and Canada, the article highlights how statutory clarity, intent thresholds, and public-interest safeguards can protect national security without undermining constitutional rights. It finds, with normative proposals for recognising espionage within Nigerian law while safeguarding fundamental freedoms and public accountability. The article contends that a clearer municipal and constitutional articulation of espionage is necessary to align intelligence practices with the rule of law and to prevent the erosion of constitutional safeguards under the guise of national security.

Keywords: Constitutional Rights, Espionage, International Law, National Security, Whistleblowing, Secrecy Laws.

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1. Introduction

Espionage is traditionally understood as an activity conducted between sovereign states, involving the clandestine collection of information that benefits one state to the detriment of another. International law situates espionage within issues of sovereignty, non-intervention, and diplomatic relations. This inter-state framing is inadequate in understanding how espionage operates in Nigeria, where the offence is neither formally defined, nor codified. Consequently, the legal landscape governing espionage in Nigeria is fragmented, doctrinally underdeveloped, and prone to constitutional tension. Scholarly engagement with espionage-related offences in Nigeria is also notably thin, creating a gap in understanding how such conduct is prosecuted, controlled, and constrained under municipal law. This notwithstanding, Nigeria's legal framework for protecting state secrets reflects a longstanding emphasis on national security.

Rooted in colonial-era values that seemingly prioritise secrecy over transparency and accountability, conduct commonly associated with espionage is criminalised under various statutes in Nigeria.¹

Against this background, this article examines how Nigeria's espionage-related offences intersect with fundamental rights. Using a doctrinal and comparative methodology, the article positions espionage not merely as a matter of secrecy but as a constitutional and legal governance challenge. The article proposes reforms that align national security objectives with transparency, whistle-blower protections, and democratic governance in Nigeria.

The article is divided into six parts. Immediately after this introduction, Part 2 is the conceptual and theoretical framework. Parts 3, 4, and 5 deal with the legal and institutional architecture governing espionage in Nigeria, the ethical dilemmas of the subject, and a comparative study of two jurisdictions. Part 6 synthesises the recommendations and conclusion of the paper.

¹ The Official Secrets Act, 1962 (Act No. 29), the Criminal Code Act, Cap 77 Laws of the Federation of Nigeria 1990, the Penal Code, 1960 (Act No. 25), and the Cybercrimes (Prohibition, Prevention, etc.) Act, 2015 (Act No. 17).

2. Conceptual Analysis And Theoretical Underpinnings

2.1 Conceptual Analysis

2.1.1 Espionage

Espionage is the conscious, deceitful collection of information, ordered by a government or organization hostile to or suspicious of those the information concerns, accomplished by persons unauthorized by the target to do the collecting.² A lot of classic literature treats espionage as a wartime phenomenon, with discussions revolving around spies, and secret agents, persons who possess a romantic mystique of international intrigue, but whose activities at times, debases human trust.³ Conversely, literature concerning espionage and international law outside the laws of war is much less developed. In fact, traditional international law is remarkably oblivious to the peacetime practice of espionage.⁴ While espionage is often associated with war, its practice extends into times of peace.

In peacetime, States engage in intelligence-gathering for various purposes. Espionage in this context is less about immediate military objectives, but more about anticipating threats, monitoring foreign policy developments, and safeguarding strategic interests. This broadens the conventional understanding of espionage, highlighting that it is not merely a wartime tool but a constant feature of statecraft. Unlike wartime where espionage may be partially legitimised under the laws of war, peacetime intelligence activities often operate in a grey area of domestic and international law, raising questions about sovereignty, privacy, and human rights. These challenges compel states to balance the imperative of national security against the need to respect legal boundaries and civil liberties, demonstrating that peacetime espionage is not merely a technical or operational issue, but a complex legal and ethical dilemma requiring careful regulation and oversight.

In Nigeria, peacetime espionage is complicated by the absence of comprehensive and specific legislation. This lacuna raises practical and ethical concerns that, without clear statutory guidance, intelligence activities may infringe constitutional rights. Nigeria faces

² Geoffrey B. Demarest, 'Espionage in International Law' *Denver Journal of International Law & Policy* [1996] (24) (2) 321-348 <<https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1657&context=djilp>> accessed 16 February 2026.

³ Henry Wager Halleck, *Halleck's International Law or Rules Regulating the Inter-course of States in Peace and War* (H.H. Bancroft 1861).

⁴ Quincy Wright and Others, 'Forward' in Roland J. Stanger and Richard A. Falk *Essay on Espionage and International Law* (Ohio State University Press 1962) <<https://ia801709.us.archive.org/16/items/essaysonespionag00stanrich/essaysonespionag00stanrich.pdf>> accessed 16 February 2026.

the dual challenge of ensuring national security through peacetime intelligence operations while simultaneously adopting a legal framework that upholds civil liberties and provides accountability for espionage conducted outside the context of war.

2.1.2 International Law and Espionage

International law has long occupied an uneasy position in relation to espionage because it is a sensitive issue that is normally measured against situational ethics or political convenience, rather than the yardstick of international law.⁵ While intelligence gathering is universally practised by States, international law neither comprehensively regulates nor expressly prohibits espionage as a general category of conduct, particularly in peacetime. As a result, the legal status of espionage is mired in uncertainty and ambiguity. This doctrinal silence is not merely accidental, but a reflection of the conceptual foundations, structural limits, and normative priorities of international law as a decentralised legal system grounded in State sovereignty and consent.

International law is principally designed to regulate overt inter-state relations. Espionage, by contrast, is inherently clandestine, operating outside formal channels of international engagement. Its regulation would require States to subject their most sensitive national security activities to external legal scrutiny, an outcome fundamentally at odds with the sovereignty-preserving logic that underpins international law. Consequently, international law has historically treated espionage as a political and strategic reality rather than as a justiciable legal wrong.

Demarest views espionage as —an unfriendly act,|| that does not violate international law.⁶ He also considers that intelligence gatherers should not be considered as spies if collecting within the scope of their express identities.||⁷ His concern is to ensure that people are not so labelled with a broad brush.⁸ Manuel Garcia-Mora however, believes that —peacetime espionage is a violation of international law.⁹ Quincy Wright similarly believes that

⁵ Juan Pablo Hernandez, ‘The Legality of Espionage under International Law’, *The Treaty Examiner* [2020] (1) 31-38 <https://treatyexaminer.com/wp-content/uploads/2020/04/Hernandez_Espionage-2.pdf> accessed 16 February 2026.

⁶ (n 2).

⁷ *ibid.*

⁸ *ibid.*

⁹ Manuel R. Garcia-Mora, ‘Treason, Sedition and Espionage as Political Offenses Under the Law of Extradition’ *University of Pittsburgh Law Review* [1964] (26) (65).

peacetime espionage violates a duty that States have under international law—to respect the territorial integrity and political independence of other States.¹⁰

Another school of thought believes that espionage is neither legal nor illegal. To this end, Daniel Silver and Frederick Hitz reason that—there is something almost oxymoronic about addressing the legality of espionage under international law.¹¹ Silver and Hirtz are realistic about the fact that countries, for reasons of self-defence and for their own interests, are going to commit espionage in other countries. According to them, that may explain why no treaties or conventions specifically prohibit espionage. Christopher Baker places his view of espionage in the third in-between category. He argues that—international law neither endorses nor prohibits espionage, but rather preserves the practice as a tool by which to facilitate international cooperation.¹² Baker demonstrates that shared intelligence can be very useful in monitoring and enforcing agreements on arms control.¹³ Without espionage, Baker claims,—countries could be required simply to accept the information provided by other treaty partners as accurate.¹⁴

Where espionage appears within international legal discourse, it does in a context-specific manner. International Humanitarian Law, for example, recognises espionage in armed conflict and distinguishes spies from lawful combatants, denying them prisoner-of-war status if captured.¹⁵ This treatment does not amount to a prohibition of espionage, instead, it regulates its consequences within a narrow wartime framework. This selective engagement reveals a deeper conceptual posture in that international law accommodates espionage through managed ambiguity. States tolerate intelligence activities by other States while simultaneously condemning them rhetorically when exposed. Legal responses typically take non-judicial forms of diplomatic protests, expulsion of intelligence officers, or reciprocal countermeasures, rather than adjudication before international courts or

¹⁰ (n 2) 338 (citing Quincy Wright, *Espionage and the Doctrine of Non-Intervention in Internal Affairs*, in *Essays on Espionage and International Law* 12).

¹¹ Daniel B. Silver, *Intelligence and Counterintelligence* in John Norton Moore & Robert F. Turner (eds), *National Security Law* (updated and revised by Frederick P. Hitz & J.E. Shreve Ariail Carolina Academic Press 2005).

¹² Christopher D. Baker, 'Tolerance of International Espionage: A Functional Approach' *American University International Law Review* [2003] (19) (5) 1091-1111 <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1176&context=auilr> accessed 16 February 2026.

¹³ *ibid.*

¹⁴ *ibid* 1105.

¹⁵ (n 2).

tribunals. Such responses underscore the extent to which espionage is treated as a matter of political discretion rather than legal obligation.

The conceptual explanation for this posture lies in international law's reliance on sovereign equality and non-intervention because a general prohibition of espionage would require States to define and limit intelligence activities that they regard as indispensable to national security. International law's silence thus functions as a sovereignty-preserving mechanism. In this sense, the absence of regulation is itself a form of regulation that prioritises inter-state stability over normative coherence. However, this approach produces a significant normative deficit.

By declining to regulate espionage comprehensively, international law leaves unresolved questions concerning legality, accountability, and the protection of individual rights. This deficit has become increasingly pronounced in the contemporary era, characterised by sophisticated surveillance technologies, cyber-espionage, and transnational intelligence cooperation. In federal constitutional systems such as Nigeria's, intelligence and security operations intersect directly with constitutional provisions. Sections of the Nigerian Constitution guaranteeing privacy,¹⁶ personal liberty,¹⁷ and freedom of expression¹⁸ are inevitably implicated by surveillance and intelligence-gathering practices. Unlike international law which largely refrains from interrogating these internal dynamics, constitutional law demands justification, proportionality, and legal authority for state action. The conceptual inadequacy of international law in this regard necessitates a methodological shift. Rather than treating international law as the primary regulatory framework for espionage, it is more accurately understood as a background normative order that delineates the outer boundaries of state conduct while leaving core regulatory questions to domestic legal systems. International law's silence does not negate legality; instead, it relocates the locus of regulation from the international to the municipal sphere.

For Nigeria, reliance on international law alone provides little guidance on how espionage should be regulated within its constitutional order. The absence of clear international prohibitions does not resolve questions of domestic legality, nor does it address concerns about abuse of power, executive overreach, or erosion of civil liberties. These concerns fall

¹⁶ Section 37 of the Constitution of the Federal Republic of Nigeria 1999.

¹⁷ Section 35 of the Constitution of the Federal Republic of Nigeria 1999.

¹⁸ Section 39 of the Constitution of the Federal Republic of Nigeria 1999.

squarely within the domain of municipal and constitutional law where legitimacy is measured not by consent between states, but by conformity with constitutional norms. Accordingly, international law's principal conceptual contribution to the analysis of espionage lies in its limitations. Its silence, deference to sovereignty, and reluctance to adjudicate intelligence practices underscore the necessity of domestic regulation.

Far from rendering municipal analysis secondary, international law implicitly mandates it by declining to occupy the field. In this sense, a study of espionage in Nigeria must move beyond international law, not because international law is irrelevant, but because it is conceptually incomplete and ill-suited as the primary framework for assessing the legality of intelligence activities that operate within domestic constitutional spaces. A municipal and constitutional analysis therefore emerges not as an alternative approach, but as a necessary one. In essence, International law, properly understood, frames the problem, while constitutional law resolves it.

2.1.3 Whistleblowing

Whistleblowing involves the revelation of wrongdoing that is ordinarily concealed by institutional structures. Jubb defines it as a —deliberate non-obligatory act of disclosure that is made by a person who has or had privileged access to data or information of an organisation.¹⁹ Conceptually, whistle-blowing is rooted in the democratic governance theory, which emphasises openness, checks on power, and institutional responsibility. Where formal oversight mechanisms fail, whistle-blowers may serve as informal regulators by exposing concealed misconduct.

A central conceptual pillar of whistle-blowing is public interest disclosure because the act is justified not by personal gain, but by the need to protect society from harm or injustice. This distinguishes whistle-blowing from leaks motivated by malice or political sabotage. From an ethical standpoint, whistle-blowing occupies a complex space between loyalty and moral responsibility. On one hand, employees owe duties of confidentiality and institutional loyalty, and on the other hand, they owe broader duties to the public and the law. Ethical theories justify whistle-blowing where the harm being exposed is serious,

¹⁹ Peter B. Jubb, 'Whistleblowing: A Restrictive Definition and Interpretation' *Journal of Business Ethics* [1999] (21) 77-94.

internal reporting mechanisms have failed, or disclosure is proportionate and necessary.²⁰ Accordingly, whistle-blowing is conceptualised as a moral response to institutional wrongdoing, rather than betrayal.

Another conceptual aspect is the vulnerability of whistle-blowers within power systems. They frequently face retaliation, dismissal, harassment, or criminal prosecution. This reality underpins the rationale for whistle-blower protection regimes.²¹ Without protection, the conceptual promise of whistle-blowing as an accountability tool becomes illusory. While whistleblowing conflicts with traditional notions of secrecy and loyalty, it represents a modern governance response to systemic abuse of power.²² It is neither mere disloyalty nor unauthorised leaking of information. Its legitimacy flows from its alignment with public interest, ethical responsibility, and the promotion of transparent governance.

In Nigeria, a whistle-blowing Policy was introduced by the Federal Government in 2016 as an anti-corruption mechanism aimed at encouraging individuals to voluntarily disclose information relating to financial misconduct, fraud, bribery, diversion of public funds, and other corrupt practices in public and private institutions. The policy, coordinated primarily through the Federal Ministry of Finance, provides channels through which whistleblowers may confidentially report unlawful activities and, in some cases, receive financial rewards where the information leads to successful recovery of stolen assets. Although the policy has contributed to significant recoveries of public funds and strengthened transparency initiatives, it remains largely administrative in nature because it is not yet backed by a comprehensive legislative framework guaranteeing robust protection for whistleblowers against retaliation, victimisation, or dismissal. Consequently, concerns persist regarding confidentiality, institutional enforcement, and the need for a comprehensive whistleblower protection law in Nigeria.

²⁰ Kiran N, 'Whistle Blowing: Definition, Justification and Precautions' <<https://www.yourarticlelibrary.com/business/ethics/whistle-blowing-definition-justification-and-precautions/99631>> accessed 16 February 2026.

²¹ UNODC, *Whistleblowing Systems and Protections; The Need for Effective Whistle-blowing Systems* (University Module Series: Anti-Corruption, Module 6: Detecting and Investigating Corruption) <<https://www.unodc.org/e4j/zh/anti-corruption/module-6/key-issues/whistle-blowing-systems-and-protections.html>> accessed 16 February 2026.

²² Daniele Santoro and Manohar Kumar, *Speaking Truth to Power: A Theory of Whistleblowing* (Springer International Publishing 2018).

2.1.4 National Security

National security is traditionally understood as the protection of a State's sovereignty, territorial integrity, and political independence from external threats.²³ Over time, this meaning has undergone significant expansion, reflecting the complexity of modern societies. Contemporary conceptualisation no longer confines national security to military concerns alone, but to a broader spectrum of political, economic, social, and human dimensions essential to the stability and survival of the nation.²⁴ In its modern sense, therefore, national security extends to the protection of political institutions from subversion, the safeguarding of economic systems from destabilisation, and the maintenance of public order against internal unrest, terrorism, and organised crime.²⁵ This broader approach recognises that threats to national security increasingly arise from non-military sources, including cybercrime, corruption, poverty, environmental degradation, and public health crises. Consequently, national security is now conceived as a multidimensional construct concerned with preserving the overall functioning and resilience of the state and society.

Alongside this expansion, a significant conceptual shift from a purely state-centric understanding of security to a more human-centred perspective has emerged. The traditional state-centric approach prioritises the survival of the State and the protection of its territorial boundaries and governing institutions. Security, in this sense, is achieved when the state is insulated from external aggression and internal insurrection. By contrast, the human security framework emphasises the safety and welfare of individuals, arguing that a state cannot be truly secure where its population is exposed to chronic violence, deprivation, or systemic injustice.²⁶ National security also occupies a central position within legal and constitutional frameworks, because it serves as a fundamental justification for the exercise of exceptional state powers. Most legal systems recognise national security

²³ Barry Buzan, *People, States and Fear: The National Security Problem in International Relations* (2nd edn, Lynne Rienner Publishers 1991).

²⁴ Richard H. Ullman, 'Redefining Security' *International Security* [1983] (8) (1) 129-153 <<https://doi.org/10.2307/2538489>> accessed 16 February 2026.

²⁵ Barry Buzan, Ole Wæver, and Jaap de Wilde, *Security: A New Framework for Analysis* (Lynne Rienner Publishers 1998).

²⁶ Tani Marilena Adams, *How Chronic Violence Affects Development, Social Relations, and the Practice of Citizenship: A Systemic Framework for Action* (Wilson Center Publication 2017) <<https://www.wilsoncenter.org/program/latin-american-program>> accessed 16 February 2026.

as a legitimate ground upon which rights may be limited, particularly where such limitations are necessary to prevent serious threats to public order or state survival.

Conceptually, national security functions as both a protective principle and a regulatory tool within the legal order, but one of the most enduring challenges associated with it is the balance between collective safety and individual liberty. Measures adopted in the name of security frequently involve limitations on constitutional rights. While such restrictions may be justified in times of genuine threat, their prolonged or disproportionate application can erode democratic values and the rule of law. Consequently, contemporary legal theory emphasises the principles of necessity and proportionality as essential safeguards against the misuse of security powers.²⁷

Beyond its protective function, national security also operates as a powerful instrument of governance. It shapes legislative priorities, informs public policy, influences resource allocation, and frames political discourse. Governments often mobilise national security narratives to justify institutional reforms, expand the authority of security agencies, and garner public support for controversial measures. In this respect, national security is not merely a neutral concept concerned with protection, but also a political construct capable of redefining state power and citizen-state relations. A nuanced understanding recognises it as a dynamic, context-driven construct that must be carefully balanced with democratic principles and the rule of law to ensure that the pursuit of security does not itself become a source of insecurity.

2.2 Theoretical Analysis

2.2.1 Realism

Realism in international relations asserts that states exist in an anarchic environment and prioritise survival, security, and power.²⁸ Realism is a straightforward approach to international relations, stating that all nations are working to increase their own power. The theory further states that a nation's foremost interest should be self-preservation, and that

²⁷ Robert Alexy, *A Theory of Constitutional Rights* (Oxford University Press 2009).

²⁸ Kenneth N. Waltz, *Theory of International Politics* (Addison-Wesley Publishing Company 1978) <https://dl1.cuni.cz/pluginfile.php/486328/mod_resource/content/0/Kenneth%20N.%20Waltz%20Theory%20of%20International%20Politics%20Addison-Wesley%20series%20in%20political%20science%20%20%20%201979.pdf> accessed 17 February 2026.

continually gaining power should always be a social, economic, and political imperative.²⁹ The theory of realism has the advantage of providing a clear rationale for state secrecy and surveillance measures, and explains the prioritisation of national security over individual liberties in enforcement decisions. It has however often been criticized for its narrow focus on the state, rather than the individual, neglecting the rights and protections of citizens.³⁰ It can also justify overly broad or opaque regulation, increasing the risk of constitutional infringement.³¹

2.2.2 Legal Positivism

Legal positivism conceives law as a system of rules created and enforced by recognised human authorities, independent of moral considerations. Positivism maintains a conceptual separation between law as it is, and law as it ought to be, insisting that the validity of legal norms depends on their sources rather than their ethical content.³² John Austin emphasised law as commands backed by sanctions,³³ while H.L.A. Hart refined the theory by introducing the idea of primary and secondary rules, particularly the —rule of recognition through which a society identifies valid law.³⁴ Conceptually, legal positivism prioritises certainty, predictability, and institutional authority as the foundations of legal order.

Beyond its descriptive account of how law operates, legal positivism also reflects a commitment to legal neutrality and objectivity. By excluding moral judgment from the determination of legal validity, it seeks to prevent subjective values from undermining the stability of legal systems. This approach allows courts and officials to apply law consistently, even where its outcomes may appear unjust, leaving moral reform to political processes rather than judicial discretion. Critics argue that such strict separation risks legitimising oppressive or immoral laws, particularly under authoritarian regimes.³⁵ Fuller critiques legal positivism by arguing that law cannot be understood purely as a system of

²⁹Norwich University, 'Key Theories of International Relations' <<https://online.norwich.edu/online/about/resource-library/key-theories-international-relations>> accessed 17 February 2026.

³⁰ Robert Keohane, *Neorealism and Its Critics* (Columbia University Press 1986).

³¹ Mark Neocleous, *Critique of Security* (Edinburgh University Press 2008).

³² Harold Kincaid, 'Positivism in the Social Sciences' *Routledge Encyclopedia of Philosophy* [1998] <<https://www.rep.routledge.com/articles/thematic/positivism-in-the-social-sciences/v-1/sections/influence-on-the-philosophy-and-practice-of-the-social-sciences>> accessed 17 February 2026.

³³ John Austin, *The Province of Jurisprudence Determined* (Cambridge University Press 1832) <<https://www.koeblergerhard.de/Fontes/AustinJohnTheprovinceofjurisprudencedetermined1832.pdf>> accessed 17 February 2026.

³⁴ H.L.A. Hart, *The Concept of Law* (Oxford University Press 1961).

³⁵ Lon L. Fuller, *The Morality of Law* (Yale University Press 1965).

rules separate from morality.³⁶ He emphasizes the concept of the —inner morality of law, including principles like generality, publicity, and non-contradiction, which are necessary for a legal system to function effectively. Fuller’s critique highlights that positivism fails to account for the moral and procedural dimensions necessary for law to achieve justice and legitimacy.³⁷

Nonetheless, positivism remains influential in modern legal systems, especially in constitutional and administrative practice where adherence to enacted rules and institutional procedures is central. Conceptually, it presents law as a social fact rooted in authority and structure, rather than a moral enterprise grounded in universal principles. The absence of a formal espionage offence in Nigeria illustrates the challenges of positivist principles because Nigerian authorities rely on related laws which functionally regulate espionage but lack clarity and specificity.

2.2.3 Natural Law Theory

Natural law theory posits that certain rights are inherent and must constrain state power, and that laws that infringe these rights are illegitimate, regardless of formal codification. This is often captured in the famous maxim *lex iniusta non est lex* (an unjust law is not law). Aquinas argues that law is rooted in reason and moral order, reflecting the eternal law of God, that human laws are valid only if they align with this moral order, and that natural law provides a universal standard of justice that transcends positive or man-made law.³⁸ Aquinas’ articulation remains central to the natural law tradition, influencing later philosophers and jurists who argue that law cannot be separated from morality.³⁹

This theory advances a moral and rights-based critique of overbroad espionage regulation, but it has the disadvantage of being less precise in prescribing the form and scope of statutory regulation. It may also conflict with the state’s need to act swiftly to protect sensitive information. Regarding Nigeria, it provides a normative lens to assess whether the

³⁶ *ibid.*

³⁷ *ibid.*

³⁸ Thomas Aquinas, *Summa Theologica* (Benziger Bros 1945) <https://www.documentacatholicaomnia.eu/03d/1225-1274,_Thomas_Aquinas,_Summa_Theologiae_%5B1%5D,_EN.pdf> accessed 17 February 2026.

³⁹ John Finnis, *Natural Law and Natural Rights* (2nd edn, Oxford University Press 2011) <<https://etica.uazuay.edu.ec/sites/etica.uazuay.edu.ec/files/public/Natural%20Law%20and%20Natural%20Rights%20%28Clarendon%20Law%29%20%28%20PDFDrive%20%29.pdf>> accessed 17 February 2026.

functional regulation of espionage respects constitutional guarantees such as freedom of expression and right to fair hearing.

2.2.4 Public-Interest Theory

This theory recognises that disclosure of information can serve societal good rather than personal or foreign gain.⁴⁰ It helps differentiate between espionage intended to benefit a foreign power, and legitimate civic disclosures, such as investigative journalism or whistleblowing.⁴¹ This distinction is crucial in Nigeria, where broad secrecy laws risk criminalising public-interest conduct. Contextually however, it is difficult to operationalize in distinguishing harmful espionage from legitimate disclosure, and this can be challenging. It may also conflict with national security imperatives in practice.

2.2.5 Comparative Functionalism

Functionalism in comparative law suggests that laws evolve to serve societal needs, and that different jurisdictions may adopt different approaches to meet similar objectives. Proponents of the theory argue that social institutions and behaviours across cultures should be understood by the functions they perform in societies.⁴² Within the context of this work, the theory provides a lens for learning from jurisdictions where espionage laws clearly define offences, impose intent thresholds, and include judicial oversight. Functionalism justifies adopting reforms that are tailored to Nigerian peculiarities. It offers practical reform guidance based on tested models, and demonstrates how legal clarity and oversight can coexist with national security. However, a limitation is that overreliance on foreign models may also undermine indigenous legal development.

2.2.6 Synthesis of the Theories

The five theories collectively provide a comprehensive analytical toolkit for understanding espionage in Nigeria. Realism and legal positivism explain why the state enforces espionage-like conduct and the challenges of non-codification. Natural law, public-interest, and balancing theories justify constitutional safeguards and rights-sensitive reforms, while comparative functionalism supports drawing lessons from other jurisdictions to strengthen

⁴⁰ George J. Stigler, 'The Theory of Economic Regulation' *The Bell Journal of Economic and Management Science* [1971] (2) (1) 3-21 <<https://doi.org/10.2307/3003160>> accessed 17 February 2026.

⁴¹ Richard A. Posner, 'Theories of Economic Regulation' *The Bell Journal of Economics and Management Science* [1974] (5) (2) 335-358 <<https://www.jstor.org/stable/3003113>> accessed 17 February 2026.

⁴² Walter Goldschmidt, *Comparative Functionalism: An Essay in Anthropological Theory* (University of California Press 1966).

Nigeria's legal framework. Collectively, they form the theoretical foundation for the article's subsequent analysis of municipal regulation, constitutional tensions, and normative proposals.

3. The Legal and Institutional Architecture Regulating Espionage in Nigeria

3.1 Existing Legal Order

3.1.1 The Official Secrets Act (OSA), 1962

The Official Secrets Act is modelled on British secrecy law and aims at safeguarding state security by criminalizing unauthorized disclosure, transmission, or retention of classified government information. Its overarching purpose is to protect official information and sensitive matters that, if disclosed without authority, could prejudice Nigeria's security, defence and public safety.

In protecting classified information, Section 1 of the Act makes it an offence for a person to transmit classified matter to someone not authorised, or to obtain, reproduce or retain classified material without proper authority. The Act defines classified matter as information officially designated by government security classification systems that should not be disclosed publicly due to its sensitivity.⁴³ The Act also imposes a duty upon public officers by expressly requiring them to safeguard classified information that comes into their possession by virtue of their office, with failure to do so constituting an offence.⁴⁴ The Act makes provision for the protection of defence establishments by designating certain locations and materials related to defence and national security as protected places, and prohibiting any unauthorized entry or inspection by persons for purposes prejudicial to security.⁴⁵ It contains offences relating to unauthorized disclosure of information, interference with officers guarding such information, harbouring spies, and related acts.⁴⁶

The Official Secrets Act has been challenged by later transparency-oriented legislation, specifically, the Freedom of Information (FOI) Act 2011, which establishes a right of access to public records and provides mechanisms and procedures for public information requests. From a Nigerian perspective, Government officials and communication managers are often reminded of their obligations under the Official Secrets Act and warned that leaks

⁴³ Section 9.

⁴⁴ Section 1 (2).

⁴⁵ Section 2.

⁴⁶ Section 1 (1) (a).

of official secrets can amount to felony under the law. The wording of the Act focuses solely on the status of the information rather than the public-interest or ethical motives behind disclosure. Consequently, whistle-blowers or ethical insiders who expose wrongdoing may be prosecuted as spies, illustrating the Act's failure to distinguish between malfeasance and malicious intent.

By way of summary, the language of the Act is broadly drawn and encompasses not only unauthorized disclosure but also conduct that could facilitate espionage or intelligence leaks.

3.1.2 Criminal Code and Penal Code Provisions

Complementing the OSA, are provisions in the Criminal Code, and the Penal Code, which criminalise acts prejudicial to state security, including communication with foreign powers. The Criminal Code Act contains provisions that complement the Official Secrets Act in relation to secrecy and espionage-related offences. Under Section 97 for instance, it is a misdemeanor for a public servant to publish or communicate facts or documents which he learned by virtue of his office and which he is duty-bound to keep secret, and abstract or copy official documents without authority. This provision mirrors part of the protective intent of the Official Secrets Act, but it specifically targets public servants and their duty obligations. It reinforces criminal liability for unauthorized disclosures even outside the formal classification system under the Official Secrets Act. While the Criminal Code does not expressly use the term —espionage,⁴⁷ it criminalizes other state security threats that overlap with espionage-type conduct, for example treason,⁴⁷ instigating invasion,⁴⁸ and concealing acts against state security.⁴⁹

On its part, the Penal Code does not have the exact provisions on official secrets like section 97 of the Criminal Code. Its broader offences relating to state security such as treason,⁵⁰ inciting mutiny, aiding enemy states, or harming state security, form part of the legal framework that addresses severe breaches of state security⁵¹.

⁴⁷ Section 37.

⁴⁸ Section 38.

⁴⁹ Section 40.

⁵⁰ Section 410.

⁵¹ Section 413.

3.1.3 Cybercrimes (Prohibition, Prevention, etc.) Act, 2015⁵²

The Act addresses the modern technological context of espionage. Sections 24 and 25 criminalise unauthorised access to, interception of, or disclosure of electronic communications and data. A major drawback is that the Act lacks differentiation between disclosures made in good faith and malicious cyber-espionage, increasing legal exposure for ethical actors.

3.1.4 The Terrorism (Prevention and Prohibition) Act, 2022⁵³

This Act significantly expands the legal architecture for addressing terrorism in Nigeria, and in doing so, incorporates conduct traditionally associated with espionage, particularly through its criminalization of intelligence-related facilitation and covert assistance. An act of terrorism includes any act deliberately done with the intent to intimidate or coerce the government, destabilize the constitutional or political structures of Nigeria, or seriously harm public safety or national security.⁵⁴ This definition is broad and extends beyond physical violence to include acts that undermine state authority through strategic or informational means.

More specifically, section 15 criminalizes the provision of material support, training, expert advice, or services to terrorist groups or terrorist purposes. This provision captures espionage-type conduct, such as supplying sensitive governmental or security information, acting as an informant for hostile actors, or transmitting intelligence that enhances the operational capacity of terrorist organizations. Furthermore, the Act expressly targets concealment,⁵⁵ non-disclosure, and covert communication, which are central characteristics of espionage. The Act also imposes a duty on individuals to disclose information relating to terrorist acts, criminalizing intentional silence or withholding of intelligence.⁵⁶ These provisions mirror the logic of espionage offences, where secrecy and concealment are the primary mechanisms of wrongdoing.

In addition, the Act empowers law enforcement and intelligence agencies, subject to judicial authorization, to intercept communications, monitor electronic correspondence, and

⁵² Act No. 17, 2015.

⁵³ Act No. 15 of 2022.

⁵⁴ Section 2.

⁵⁵ Section 16.

⁵⁶ Section 16.

obtain intelligence necessary to prevent terrorist acts.⁵⁷ These surveillance and interception powers are inherently counter-intelligence tools designed to detect covert networks, secret communications, and unauthorized information flows. Thus, the Terrorism (Prevention and Prohibition) Act 2022 functions not only as a counterterrorism statute but also as a counter-espionage framework, recognizing that terrorism is sustained by clandestine intelligence activities and providing legal mechanisms to criminalize and disrupt such covert informational threats to national security.

3.2 Institutional and Enforcement Dimensions

3.2.1 Core Intelligence and Security Agencies

1. Department of State Services

This is Nigeria's primary domestic intelligence and counter-espionage agency, and operates under the Presidency. The department is responsible for counter-intelligence operations, surveillance of foreign intelligence activities, protection of classified state information, and monitoring internal threats.

2. National Intelligence Agency

This Agency handles external intelligence gathering, by focusing on foreign espionage threats, diplomatic intelligence, and international counter-intelligence coordination. It manages intelligence outside Nigeria's borders.

3. Defence Intelligence Agency

This is the military intelligence arm of Nigeria. It handles defense-related intelligence, protection of military secrets, and counter-espionage within armed forces

4. Office of the National Security Adviser

Coordinates all national security and intelligence agencies, and advises the President on espionage risks and national security strategy. The office also ensures inter-agency cooperation.

3.2.2 Enforcement Dimensions

Nigeria's espionage framework is enforced primarily by the aforementioned agencies. Prosecutorial discretion is broad, and oversight mechanisms are weak. The concentration of authority, coupled with minimal judicial checks, has led to an environment where executive

⁵⁷ Section 68.

discretion largely defines what constitutes espionage, leaving little room for public-interest disclosure. There exists also, the problem of secrecy and lack of transparency because many espionage cases are not publicly disclosed. Political sensitivity is also another challenge, because espionage accusations may intersect with political rivalry. The growth of cyber-espionage similarly constitutes a problem, thereby increasing threats from digital actors and foreign state hackers.

There are also structural weaknesses and gaps such as overbreadth, when the focus is on unauthorized disclosure, rather than intent or harm, thereby risking criminalising ethical whistleblowing. There is also the problem with judicial uncertainty, with courts yet to develop a structured approach for balancing national security with constitutional freedoms in espionage cases. The obsolescence of the extant laws and policies also means that the colonial era language is prevalent in the laws, and fails to account for modern intelligence and digital realities.

It suffices therefore, to state that Nigeria's statutory regime is broad, punitive, and insufficiently nuanced to distinguish ethical disclosures from malicious acts. This combination of outdated colonial-era statutes, digital-era offences, and concentrated enforcement authority creates a legal environment in which whistleblowers and ethical insiders are exposed to significant criminal liability.

3.3 Constitutional Rights Implicated by Espionage-Related Laws in Nigeria

3.3.1 Freedom of Expression

Section 39 guarantees every Nigerian the right to freedom of expression, including the right to receive and impart information. This provision forms the constitutional basis for whistleblowing, investigative journalism, and public-interest disclosures. However, secrecy laws frequently curtail these rights because by any unauthorized communication of classified information, regardless of ethical or public-interest intent, can be prosecuted as espionage. This limits the practical application of Section 39.

3.3.2 Right to Fair Hearing

Section 36 guarantees procedural fairness in criminal proceedings, including the right to a fair trial, the right to challenge evidence, and the right to legal representation. Espionage-related prosecutions often involve classified evidence, ex-parte hearings, and restricted disclosure of intelligence reports, which may compromise the ability of accused persons to

defend themselves. Whistle-blowers, in particular, face trials in which proving ethical intent or public-interest motivation is nearly impossible.

3.3.3 Right to Privacy

Section 37 protects the privacy of communications, correspondence, and personal data. Extant laws such as the Cybercrimes Act 2015 allows for surveillance, interception, and monitoring of electronic communications. While intended to secure sensitive information, these measures can conflict with constitutional privacy rights.

3.3.4 Derogation for National Security

Section 45 of the Constitution of the Federal Republic of Nigeria, 1999, as altered, permits the restriction of certain fundamental rights where such restriction is —reasonably justifiable in a democratic society^{ll} in the interests of defence, public safety, public order, public morality, public health, or for the purpose of protecting the rights and freedoms of others. Consequently, while Chapter IV of the Constitution guarantees a litany of rights, section 45 authorizes legislation that limits those rights where national security is at stake.

It must be noted however, that Section 45 does not grant unlimited power to the state. The restriction must be —reasonably justifiable in a democratic society,^{ll} which introduces a proportionality requirement. As such, any limitation on civil liberties in the name of combating espionage, or related matters must be necessary, proportionate, and consistent with democratic values.

3.4 Judicial Treatment of Espionage in Nigeria

The Nigerian judiciary has historically approached espionage-related cases with caution and deference to the executive, reflecting the sensitive nature of national security. This deference has significant implications for whistle-blowers and ethical insiders operating in government and security institutions. Courts therefore retain the authority to review whether security-based restrictions are excessive or merely a pretext for suppressing lawful expression or dissent. Decisions tend to focus narrowly on whether the accused unauthorisedly possessed, communicated, or published classified information, rather than evaluating the intent, motive, or public-interest value of the disclosure.

In *Okedara v. Attorney General*⁵⁸, the court upheld sections of the Cybercrimes Act, 2015 relating to the unauthorised access and dissemination of digital information, affirming the state's discretion to determine security threats. Here, the court did not consider whether the accused acted in good faith or for public benefit. Similarly, in *SERAP v. Minister of Information*⁵⁹, the court allowed a public-interest disclosure concerning government contracts with social media platforms, demonstrating that judicial recognition of public interest is possible, although limited and context-specific. In *Dokubo-Asari v. FRN*⁶⁰, the issue was whether prima facie evidence of threat to national security can justify refusal of bail and thereby limit the accused's constitutional right to personal liberty. The Supreme Court upheld the refusal of bail, agreeing with lower courts that evidence before the court showed a threat to national security stemming from treasonable felony and related conduct. The court reasoned that when national security is genuinely threatened, the personal liberty of an accused might be subordinated in determining bail, reflecting a judicial stance that national security concerns can override individual rights in exceptional circumstances. Although not directly related to espionage, the significance of this case to Nigerian jurisprudence is that where national security is genuinely threatened, or likely to be threatened, individual constitutional rights may be restricted in favour of the greater national interest.

4. Ethical Dilemmas

4.1 Ethical Obligations of Public Officers

Public officers and security personnel carry heightened ethical obligations in relation to espionage because they are custodians of classified information and national security assets. Whistle-blowers act from ethical considerations, seeking to expose malfeasances. However, under Nigerian espionage-related statutes, even well-intentioned disclosures may constitute criminal offences. This creates a tension between legal compliance and ethical duty, forcing insiders to choose between remaining silent and potentially enabling wrongdoing, or risking prosecution by reporting misconduct.

At the same time, ethical responsibility in the context of espionage is not absolute obedience to secrecy, it must be balanced with constitutional values such as accountability

⁵⁸ (2019) LPELR-47298(CA) @ 4-6 paras. F.

⁵⁹ ECW/CCJ/JUD/08/21 (Unreported).

⁶⁰ (2007) 12 NWLR (Pt. 1048) 320; LPELR-958(SC).

and the public interest. Public officers face moral tension where secrecy obligations intersect with corruption, abuse of power, or unlawful state conduct. In such situations, ethical conduct requires adherence to lawful reporting channels rather than unauthorized disclosure, thereby preserving national security.

4.2 Democratic Accountability and Public Interest

Whistleblowing is a cornerstone of democratic governance, ensuring accountability, transparency, and public confidence in institutions. In Nigeria, the conflation of whistleblowing with espionage has a chilling effect. Investigative journalism for instance, is undermined when sources fear legal repercussions. Civil society oversight of security institutions is weakened also due to restricted access to information. The consequence is that public confidence in the integrity of government and intelligence agencies diminishes. By criminalising ethical disclosure, the law inadvertently protects misconduct and erodes democratic norms.

4.3 National Security

The protection of national security often justifies extraordinary state powers, including surveillance, detention, and intelligence gathering. Agencies such as the Department of State Services are mandated to detect threats that may undermine the sovereignty and stability of the Nigerian state. In a context marked by terrorism and internal security challenges such as Nigeria's, robust intelligence powers are frequently defended as indispensable tools of prevention. Ethical reasoning grounded in utilitarian principles may support temporary restrictions on certain freedoms to safeguard the greater public good.

Nevertheless, civil liberties are constitutionally guaranteed and form the backbone of democratic order. Expansive surveillance or prolonged detention without transparent judicial safeguards risks normalizing exceptional measures. The ethical dilemma arises when the imperative to secure the state encroaches disproportionately upon individual rights. Democratic accountability requires that national security measures be necessary, proportionate, and subject to meaningful review to prevent the erosion of fundamental freedoms under the guise of security.

4.4 Political Neutrality and Executive Influence

Intelligence agencies are expected to maintain political neutrality to preserve institutional legitimacy. Security institutions are constitutionally mandated to serve the state rather than partisan interests, but ethical professionalism demands impartial threat assessment and equal application of the law regardless of political affiliation. However, intelligence agencies operate under executive control, creating potential for political influence. In certain contexts, there is the risk that security institutions may be perceived as instruments of executive advantage. Such perceptions erode democratic trust and weaken institutional credibility. The ethical challenge is ensuring operational independence within a framework of executive oversight, thereby preventing the conflation of national security objectives with partisan political goals.

4.5 Digital Surveillance and Privacy Ethics

The rise of cyber-espionage and digital intelligence has transformed security practices in Nigeria, particularly under the framework of the Cybercrimes (Prohibition, Prevention, etc.) Act. Digital surveillance tools enable interception of communications, metadata analysis, and monitoring of online activities. From a security perspective, such tools are essential for identifying emerging threats in an increasingly networked environment.

Nevertheless, digital surveillance poses profound ethical concerns regarding privacy, data protection, and consent. Bulk data collection and opaque technological processes risk intruding into citizens' personal lives beyond what is necessary for security objectives. The absence of transparent safeguards or independent audits may intensify these concerns. Ethical governance in the digital age, therefore, demands clear legal standards, proportionality in data collection, and strong oversight mechanisms to prevent surveillance from undermining democratic freedoms.

5. Cross-Jurisdictional Analysis

5.1 The United Kingdom (UK)

1. Legal Clarity

The United Kingdom has recently undertaken significant reform of its espionage regime through the National Security Act 2023,⁶¹ updating and supplementing the earlier Official Secrets Act 1989.⁶² The 2023 Act introduces new foreign interference offenses, modernizes

⁶¹ c. 32 <<https://www.legislation.gov.uk/ukpga/2023/32/contents>> accessed 17 February 2026.

⁶² c. 6 <<https://www.legislation.gov.uk/ukpga/1989/6/contents>> accessed 17 February 2026.

espionage definitions, and strengthens responses to hostile state activity, including cyber operations. The reform process was characterized by parliamentary debate and committee scrutiny, reflecting the UK's legislative responsiveness to evolving threats. The statutory language attempts to define offenses with greater precision than earlier secrecy laws, reducing interpretive ambiguity. This modernization signals an adaptive legal culture that recalibrates national security law in response to technological and geopolitical change. Equally important to note is that the Public Interest Disclosure Act 1998⁶³ shields employees from retaliation when reporting wrongdoing in good faith, including within sensitive sectors.

2. Oversight

The UK intelligence community includes the MI5, MI6, and GCHQ. Oversight is exercised by the Intelligence and Security Committee of Parliament, alongside judicial commissioners responsible for authorizing and reviewing surveillance warrants. This layered oversight system reflects embedded accountability, where secrecy is balanced with institutional review mechanisms capable of accessing classified material. The UK framework demonstrates formalized checks that integrate executive intelligence operations within parliamentary and judicial supervision.

3. Enforcement and Judicial Transparency

Espionage prosecutions in the UK occur within the ordinary court system, albeit with protective procedures for classified evidence. Judicial reasoning is typically published, with redactions where necessary. This contributes to the development of jurisprudence clarifying proportionality, intent, and evidentiary standards. The central feature of the UK model is that national security adjudication remains judicially anchored rather than exclusively executive-driven. Courts serve as visible arbiters of the legality of espionage-related prosecutions.

5.2 Canada

1. Statutory Framework

Canada regulates espionage primarily under the Foreign Interpretation and Security of Information Act⁶⁴ and related provisions of the Criminal Code.⁶⁵ These statutes criminalize

⁶³ c.23 <<https://www.legislation.gov.uk/ukpga/1998/23>> accessed 17 February 2026.

⁶⁴ RSC 1985, c. 0-5 <<https://laws-lois.justice.gc.ca/eng/acts/o-5/page-1.html>> accessed 17 February 2026.

⁶⁵ RSC 1985, c. C-46 <<https://laws-lois.justice.gc.ca/eng/acts/c-46/>> accessed 17 February 2026.

communication of safeguarded information, foreign interference, and activities benefiting hostile actors. A defining feature of Canada's approach is the pervasive influence of the Canadian Charter of Rights and Freedoms.⁶⁶ Espionage laws must comply with constitutional guarantees, including protections for due process, expression, and privacy.⁶⁷ Courts therefore play an active role in interpreting the scope of national security powers and testing them against proportionality standards.

2. Oversight

Canada's intelligence agencies include Canadian Security Intelligence Service, and the Communications Security Establishment. Canada has constructed one of the most comprehensive intelligence oversight systems among liberal democracies.⁶⁸ Parliamentary committees with security clearance review classified operations, while independent review bodies examine legality and compliance. This multi-tiered oversight structure institutionalizes democratic scrutiny without exposing operational details to the public domain.

The Canadian system reflects a strong culture of civilian supremacy and the embeddedness of the rule-of-law, where intelligence agencies operate under routine review rather than episodic political intervention.

3. Enforcement and Jurisprudence

Canadian espionage cases are prosecuted through ordinary courts, with published decisions contributing to doctrinal development. Protective evidentiary mechanisms exist, but courts remain central to adjudication. The jurisprudential record strengthens legal predictability and enhances public confidence in the fairness of proceedings. Canada's approach demonstrates that secrecy and transparency can coexist when mediated through independent judicial institutions.

⁶⁶ Part 1, Constitution Act 1982, Schedule B, c.11
<<https://www.legislation.gov.uk/ukpga/1982/11/schedule/B>> accessed 17 February 2026.

⁶⁷ *ibid.*

⁶⁸ Leah West, 'Watchful Eyes: National Security Review and Oversight in Canada', *Carleton University-Norman Paterson School of International Affairs* [2019]
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3449183> accessed 17 February 2026.

6. Recommendations, and Conclusion

6.1 Recommendations

Nigeria's espionage framework, as examined in the preceding parts, highlights a persistent tension between national security and constitutional leverage. Comparative jurisdictions, however, provide instructive models for reform, demonstrating that it is possible to protect state secrets while protecting public-interest disclosure.

Based on Nigerian realities and comparative insights, this article recommends the incorporation of public interest defences. This would require amending the extant relevant laws, especially the Official Secrets Act, to protect disclosures made in good faith and for ethical or public-interest purposes. This means that Nigerian laws must recognize espionage conceptually, and define espionage narrowly. Intent thresholds must also be established where liability would only attach where the individual intends to harm the state or benefit a foreign power.

The article also recommends that a comprehensive whistle-blower protection legislation is enacted to extend statutory protection to whistle-blowers across all sectors, including national security and intelligence, guaranteeing immunity from prosecution, confidentiality, and protection from retaliation. This must recognize whistle-blowing as a protected civic act while carefully regulating its scope to prevent abuse, because a legitimate national security regime must protect the state without undermining the constitutional order it seeks to preserve.

Based on the lessons gleaned from the UK and Canada, there is also the need to establish independent oversight bodies by the creation of institutions capable of securely receiving, assessing, and investigating disclosures without interference from the executive. From a liberal-democratic governance perspective, the UK and Canada embody —institutionalized constraint models,^{ll} where intelligence agencies are powerful but structurally embedded within accountability networks. Nigeria reflects a —security-centralized model,^{ll} shaped by post-colonial state formation and historical executive dominance. The fundamental difference is not whether espionage is criminalized, because all three states do so, (even if not explicitly stated, as the case with Nigeria) but how intelligence authority is bounded. In the UK and Canada, oversight is normalized and structurally entrenched. In Nigeria

however, oversight mechanisms exist formally but lack equivalent institutional depth and transparency.

From the perspective of the judiciary, the paper recommends that balancing guidelines must also be developed where courts can apply proportionality tests that weigh the need to protect national security against individual rights and public interest. Gleaning from the experience in the UK and Canada, court decisions regarding espionage-related offences must be made public, and this would contribute to doctrinal development on the subject of espionage in Nigeria.

It is also recommended that security agencies implement sustained capacity-building programs to clarify and effectively address the evolving and often ambiguous nature of espionage. In the contemporary security environment, espionage is no longer confined to traditional state-to-state intelligence gathering, but now encompasses cyber intrusions, economic espionage, technological theft, and insider threats, etc. These developments blur the line between lawful intelligence activities, and criminal hostile conduct. Such capacity-building initiatives shall promote lawful disclosure responsibilities and promote ethical conduct alongside confidentiality.

6.2 Conclusion

Nigeria's current espionage framework has a chilling effect on transparency, discourages reporting of misconduct, and undermines public confidence in state institutions. By adopting statutory reforms, institutional safeguards, and judicial frameworks inspired by comparative jurisdictions, Nigeria can reconcile national security with constitutional rights and ethical governance. A rights-based, reform-oriented espionage regime would protect state secrets while encouraging ethical disclosure, strengthening democratic accountability, and reinforcing the rule of law.