
RESEARCH ARTICLE

Assessment of Independence of Regulatory Structures Governing Data Protection and Privacy in East Africa: A Case Study of Kenya and Tanzania

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ABSTRACT

In an era of widespread digital information exchange, protecting personal data and privacy has become crucial. East African countries such as Kenya and Tanzania have implemented regulatory structures to address these concerns. However, the effectiveness and independence of these structures raise questions, necessitating a comprehensive assessment. Therefore, this study investigates the question of the independence of data protection authorities in East Africa with a particular focus on Kenya and Tanzania. This study was guided by three questions, namely, do the structures of data protection authorities in Kenya and Tanzania affect their independence? Are the data protection authorities in Kenya and Tanzania sufficiently funded to run their duties? And are the tenures of Commissioners of data protection authorities in Kenya and Tanzania secured? The study engaged two approaches: doctrinal legal research methodology, which analyses law in the form of legislation, case law, and international instruments, as well as comparative legal research methodology, which involves comparative analysis of identified criteria from Kenya and Tanzania. It was observed that the Kenyan data protection authority is more independent than the Tanzanian data protection authority.

KEYWORDS

Data Protection, Regulatory Authorities, Data Privacy, law

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1. Introduction

Data protection and privacy have become increasingly important in today's digital age. As individuals and organizations generate and store vast amounts of personal and sensitive data, the need to safeguard such information from unauthorized access and misuse has become paramount. Data breaches not only lead to financial losses and reputational damage but also jeopardize individuals' fundamental rights and freedoms. Consequently, regulatory structures governing data protection have emerged to ensure the secure and responsible handling of data, both at national and international levels. East African countries, being among the countries that have undergone a technological revolution, have also been facing several challenges to data protection and data protection needs¹. Obstruction of privacy issues associated with big data through breaches is a sample of crimes that disturb data protection and privacy at large.

¹The Kenya Data Protection (compliance and enforcement) Regulation Act 2021, the Ugandan Data Protection and Privacy and Regulation 2021 under section 39 of data protection and privacy of 2019, The Tanzania personal data Protection and privacy act 2022, The Rwanda Utilities Regulatory Authorities (RURA)

Similar to what has occurred in other parts of the world, most East African countries have taken the initiative to protect their individuals' data². Greenleaf³ argues that more answers satisfactory answer needs to be found in the international instruments on data privacy, individual and judicial implementation, and standards that have been proposed by the DPAs, where 13 factors were identified as an element of independence, five of which were commonly found which includes independence guaranteed by legislation, appointment of commissioners for fixed term, removal only for specified inadequate conduct. The author's argument is relevant to this study, hence the need to conduct this study. Schuez⁴ explained that DPAs are the key factor in protecting not only individual's data but also it raises awareness among people on their basic right to privacy. In his study, he showed the way of assessing the independence of DPAs in four countries in the EU. His focus was mostly on the government's partial control of the DPAs, which infringes on their privacy; therefore, he partially discussed a few aspects of assessing DPA's independence, giving room for other scholars to dive deep into the concept of DPA's independence.

The data protection authorities in East Africa and countries that are in EAC are vested with powers to safeguard the right to privacy of individuals⁵. East African Countries like Tanzania recently signed the Personal Data Protection Act of December 2022 as per Article 16 of the constitution of the United Republic of Tanzania URT 1977, which advocates for the right to privacy and security; the Kenyan Personal Data Protection Act 2019 sets the complaints against the breach of personal data privacy handling including the process and procedures on how one can be held liable⁶. The major turning point on personal data protection and privacy is the establishment of data protection structures (Data Protection Authorities), which have been given powers to protect individual data⁷ by; which these bodies are acting independently without the interference of external pressure to ensure the proper protection of personal data.

The independence of Data regulatory Structures, also named data protection Authorities (DPA), is central to any successful implementation of data protection legislation. The question of data protection Authorities' independence relates to the institutional design and structures of the DPA resource. The Kenya Data Protection Act 2021 Under Part 11 has explicitly provided for the powers of the office of data protection and privacy, whereby throughout this part, the data commissioner is fully conferred powers to conduct an investigation on their initiatives on the data subject complaints or the third party also the commissioner has powers to exercise any powers prescribed by any other registration under section 9 (1) h however Section 9 (1) b allows the data commissioner to obtain professional assistance, consultancy within or outside public service. On the other hand, regarding the independence of data protection authorities, the Kenya Data Protection Regulation Act 2021 Section 67 1 (a-c) advocates for the funds whereby the funds to run the office mainly depend on the annual budget of the national assembly. This is a brainer that the independence of these bodies is limited since they have to wait for the other body to help them financially.

The Tanzania Personal Data Protection of 2022, when it comes to funds to operate the office as per section 51 (a), the money will either be coming from the budget from the parliament and other grants and gifts will help to sustain the office needs which is also argued that these authorities themselves are not indeed independent. Also, in section 53 (3), the minister of the required ministry is capable of ordering the board to make some changes to the estimated budget if it does not comply with it⁸. One of the key factors in ensuring the effective protection of an individual's personal information is the assessment of the independence of regulatory structures governing data protection and privacy. This assessment is particularly crucial in East Africa, specifically in the countries of Kenya and Tanzania. By evaluating the level of independence of these regulatory structures, we can determine whether they are equipped to enforce data protection laws impartially and without undue external influence.

Therefore, the main objective of this study was to critically examine the independence of data protection authorities by making a comparative study between the data protection, privacy, and regulations act/laws in Kenya and Tanzania by investigating their funds, interference with external forces, and their security of tenure. The formal way of assessing the DPAs' independence was done by assessing the textual provision of the Kenyan and Tanzania Personal Data Protection Act. Data protection and privacy authorities under the Data Protection and Privacy Act in East African countries were critically made referring to both laws in the particular countries. The observation under the Act⁹ is the observation to what extent that the data protection authorizes is independent by making close observation of the principles of data protection and privacy. These Acts¹⁰ appear to provide room

²The Kenya Data Protection (compliance and enforcement) Regulation Act 2021, the Ugandan Data Protection and Privacy and Regulation 2021 under section 39 of data protection and privacy of 2019, The Tanzania personal data Protection and privacy act 2022, The Rwanda Utilities Regulatory Authorities (RURA)

³ Greenleaf. G. Independence of data privacy authorities (part1): I International Standards 2011

⁴ Schutz P. Comparing Formal Independence of Data Protection Authorities in in selected EU comparative perspective IFIP Prime life International Summer School June 2012 Available at <https://link.springer.com>

⁵ Ibid pg 2

⁶ Available at; <https://www.dlapiperdataprotection.com> Data Protection Laws of the world 2023

⁷ Personal Data Protection Guidelines for Africa 2019 <https://www.internetsociety.org>

⁸ Rwanda Personal Data Protection and Privacy Act

⁹ Data Protection and privacy act in Kenya, Uganda, Rwanda and Tanzania 2019,2021,2022 respectively

¹⁰ Ibid

for interference of other bodies as a result of the lack of indecency in making decisions to these authorities during the process of exercising their powers¹¹.

2. Independence of Regulatory Authorities in Tanzania and Kenya

2.1 Legal Framework of Regulatory Authority

The legal frameworks governing data protection in Tanzania were put into practice in December 2022, and they will be used in Tanzania mainland, and Zanzibar except for things that are not union matters¹² enacted dedicated data protection laws, while others rely on sector-specific.¹³ These laws generally align with international standards, such as the General Data Protection Regulation (GDPR) of the European Union, but variations exist in terms of scope, enforcement powers, and penalties. The main objective of this law is to protect individual data and ensure the proper collection and dissemination of data sharing of individual data¹⁴. The GDPR, however, advocates for the independence¹⁵ of data protection authorities for it to work with adequacy.

The Data Protection Act of 2019¹⁶ was enacted to align Kenya's data protection practices with international standards, such as the General Data Protection Regulation (GDPR)¹⁷ in the European Union. It aims to provide comprehensive protection for individuals' data while promoting the growth of the digital economy. The Act applies to both public and private entities that collect, process, or store personal data within Kenya's borders, ensuring that all organizations comply with its provisions¹⁸. The Data Protection Authority is an independent body established under the Act and operates as the watchdog for data protection matters in Kenya.¹⁹ The DPA is vested with extensive powers to enforce data protection laws, investigate data breaches, and impose penalties on organizations that violate the Act's provisions.²⁰ The Authority is composed of a board appointed by the Cabinet Secretary responsible for matters related to information and communication technology.

2.2 Resources and Budgetary Concept of the DPA

Independent DPAs are essential for upholding the rule of law and ensuring fair and unbiased enforcement of data protection regulations. They act as watchdogs, overseeing and regulating how organizations handle personal data, investigating complaints, and imposing fines for non-compliance.²¹ Independence ensures they are not influenced by political agendas, economic interests, or undue pressure from powerful entities. The Act²² shows that the financial and budgetary resources will be given by the minister after the approval from the general assembly²³; this process may jeopardize the DPA's right to independence as Government Funding and the Risk of Interference may lead to the financial reliance on DPAs on the government poses a significant risk to their autonomy. If DPAs are dependent on government funding, they may be subject to budget cuts or political interference, compromising their ability to function independently and effectively enforce data protection laws.²⁴ Not only that, but also another threat to DPA independence is the budget cuts and resource constraints, which might lead to governments often allocating budgets to various agencies based on their priorities and political considerations.

In times of fiscal austerity, DPAs might face budget cuts that hamper their operational capabilities. A lack of sufficient resources could lead to delays in investigations, reduced staff, and limited outreach and educational programs, making it challenging to address the growing complexities of data protection challenges leading to political influence and biased decision-making as when DPAs are reliant on the government for funding, there is a risk of political influence affecting their decision-making processes. Governments may exert pressure on DPAs to pursue or drop investigations that align with their political interests. This interference erodes the public's trust in data protection enforcement, as it creates an impression that DPAs prioritize political interests over citizens' privacy rights.

Data protection authorities in Tanzania need financial independence to remain impartial and autonomous in their decision-making processes. If they heavily rely on government funding, there might be a risk of undue influence or interference in their operations

¹¹ Ibid

¹² See Tanzania Personal Data Protection Act Dec 2022 S. 1-2

¹³ Ibid pg 46

¹⁴ See Tanzania Personal Data Protection Act Dec 2022 S. 4

¹⁵ Ibid pg 37

¹⁶ Ibid pg 46

¹⁷ Ibid pg 46

¹⁸ Gitthaiga. J and Kurji A.J Kenya:Data Privacy Comperative guide PricewaterhouseCoopers Limited 06 Feb 2023

¹⁹ See S.5 of Kenya Data Protection Act No 24 of 2019

²⁰ See S.3 Of Kenya Data Protection Act No 24 of 2019

²¹ See s.62-63 part VII of Kenya Data Protection Act No 24 of 2019

²² Ibid pg 48

²³ See s.67 (a) part IX of Kenya Data Protection Act No 24 of 2019

²⁴ Ibid pg 50

by political interests. Securing a reliable and independent budget is crucial to ensuring the authority can carry out its duties without any bias. Tanzania data protection Authorities get their annual budget from the national assembly, and the financial budget is posed to the Minister of ICT²⁵. Inadequate financial resources may restrict the authority's ability to conduct comprehensive investigations into data breaches and privacy violations. Insufficient funds may limit the use of advanced forensic tools and delay investigations, allowing potential wrongdoers to evade accountability. The authority's limited investigative powers may undermine its ability to take robust actions against entities violating data protection laws.²⁶

2.3 Security of Tenure of Data Commissioners

Security of tenure refers to the assurance that data protection commissioners can remain in office for a specific term without arbitrary dismissal, removal, or reassignment. A fixed and predetermined term provides them with the necessary stability to act objectively, without fear of political repercussions, and to make decisions solely based on the interest of protecting individuals' data privacy rights.²⁷ Political Interference affects the security of tenure as it acts as a buffer against political interference. Commissioners, when secure in their position, are less likely to succumb to pressure from political figures or private entities seeking to influence their decisions. This independence fosters trust in the DPA's ability to enforce data protection laws impartially²⁸. Tanzania's personal data protection advocates for the appointment of a DPC who will serve for five years and will be removed according to the law²⁹; however, his security of tenure is not guaranteed as he is appointed by the president and regardless of the president who has the power to do otherwise.³⁰

Unfortunately, in Kenya, the lack of robust safeguards for tenure can lead to various negative consequences that directly impact DPA functions. In Kenya, data protection authorities often face challenges due to the lack of security of tenure; such reasons include political Influence, insecure tenure leaves data protection authorities susceptible to political pressure, leading to compromises in their decision-making processes. Political interference may prevent these authorities from taking strong stances against data breaches or holding powerful entities accountable for violations as per the Kenya Data Protection Act³¹. This act may lead to reduced Institutional Autonomy as Insecure tenure may deter talented professionals from joining data protection authorities, as they perceive potential instability and lack of job security.

Consequently, these institutions may struggle to attract and retain skilled personnel, impeding their effectiveness in handling complex data protection issues.³² Not only that, but also a lack of security of tenure may lead to Inefficient Decision-making as fear of reprisals can lead data protection authorities to adopt a cautious approach, resulting in delayed or inadequate responses to data breaches and violations. This lack of decisive action could erode public trust in the authority's ability to safeguard their data, which results in a weakening Legal Framework; the lack of secure tenure can lead to frequent changes in leadership within data protection authorities. This creates inconsistency and uncertainty in implementing and interpreting data protection laws, undermining the overall effectiveness of the regulatory framework³³.

2.4 Appointments of Data Protection Commissioner.

The Personal Data Protection Law in Tanzania³⁴In response to the increasing concern over data privacy and security, the Tanzanian government took a significant step in fortifying its citizens' rights by establishing the position of Data Protection Commissioner. This decision came as a vital measure to uphold the principles of data protection, ensure the responsible handling of personal information, and align the nation with international data protection standards. The appointment of a Data Protection Commissioner signals Tanzania's commitment to safeguarding the personal data of its citizens. The role of the commissioner is crucial in overseeing the enforcement of data protection regulations, advocating for citizen's privacy rights, and ensuring compliance with relevant data protection laws and frameworks of the board.³⁵

The establishment of a Data Protection Commissioner in Tanzania reflects the government's recognition of the significance of data protection and privacy rights in the digital era. This appointment signifies a commitment to safeguarding personal data and ensuring responsible data management practices across the nation. With the commissioner's oversight, however, in this case, the

²⁵ See Tanzania Personal Data Protection Act Dec 2022 S. 51

²⁶ Ibid

²⁷ Available at <https://car.dole.gov.ph> security of tenure and causes of termination Regional Office CAR August 2 2023

²⁸ Ibid pg 44

²⁹ Tanzania Personal Data Protection Act 2022 section No 11

³⁰ Ibid

³¹ See Section 12 of Kenya data protection Act No 24 Of 2019

³² Ibid

³³ Available at www.accessnow.org Data Protection in Kenya How is this right protected part II analyzing the Kenyan Data Protection Act 2019; THE BAD oct 2021

³⁴ Ibid pg 41

³⁵ See Tanzania Personal Data Protection Act Dec 2022 S. 8

DPC is appointed by the president³⁶, which suggests the political interference that once the president or the minister of the ministry where the DPAs are under, they cannot hold these political leaders since they already have the influence in the board of DPAs.

One of the primary concerns surrounding the appointment of the Data Protection Commissioner in Kenya is the potential for political influence. The Act empowers the President to appoint the Commissioner,³⁷ which raises questions about the objectivity and impartiality of the selection process. An appointment directly made by the President might give rise to conflicts of interest or the perception that the Commissioner may prioritize political interests over data protection concerns. The appointment of the Data Protection Commissioner by the President may pose several threats to the independence of the Office of the Data Protection Commissioner in Kenya, including Political Affiliation, as the Commissioner's potential political ties may lead to decisions that favor the ruling party's interests or powerful stakeholders, rather than focusing on the protection of individual's data rights.

In addition to that influence on regulatory decisions contrary to the act,³⁸ political pressure could influence the regulatory agenda and enforcement priorities of the Data Protection Commissioner, potentially undermining the protection of citizen's data rights, which leads to reduced Public trust as the perception of political interference may erode public trust in the data protection authority, leading to a diminished willingness among citizens to report data breaches or seek redress for privacy violations.³⁹

3. Assessment of Regulatory Structures in Kenya and Tanzania

3.1 Data Presentation and Analysis

The study was conducted through doctrinal legal research, which analyses law in the form of legislation, case law, and international instruments as comparative legal research was done to gather responses from the research questions: Do the structures of data protection authorities in Kenya and Tanzania affect their independence? Are the data protection authorities in Kenya and Tanzania sufficiently funded to run their duties? Are the tenures of Commissioners of data protection authorities in Kenya and Tanzania secured?

Based on the questions, this study aimed at showing the lack of total independence, which exclusively differentiates the government from data protection authorities, hence proving that the data regulatory authorities in Kenya and Tanzania are not independent, leading to inferior in performing their duties. Data protection is a fundamental human right that guarantees the privacy and security of personal information in the digital era. To ensure effective implementation and enforcement of data protection laws, independent and autonomous data protection authorities play a crucial role. The findings on the independence of data protection authorities in Kenya and Tanzania, examining their establishment, legal frameworks, operational mechanisms, challenges, and implications for data privacy and security in the two countries, leave room for government interest.

3.2 Operational Mechanisms and Resources

The operational mechanisms and available resources significantly impact the effectiveness of data protection authorities. In Kenya, the DPC has been operational since the enactment of the Personal Data Protection Act, allowing it to build capacity, develop expertise, and establish partnerships with stakeholders. Adequate resources, including funding and staff, are essential for the DPC to execute its mandate effectively. In contrast, Tanzania's lack of a dedicated data protection authority limits the effective implementation and enforcement of data protection laws. Without the appropriate organizational structure, resources, and expertise, data protection enforcement may suffer, leaving citizens vulnerable to potential data breaches and privacy violations.

3.3 Comparative Analysis of Independency of DPAs in Kenya and Tanzania

In analyzing the assessment of the independence of regulatory structures governing data protection and privacy in East Africa, specifically in Kenya and Tanzania, it is vital to consider the various challenges and limitations faced by these nations. These include issues related to inadequate legislation, lack of resources for effective implementation, the influence of political factors, and limited public awareness about data protection. Studying the experiences of East African countries that have made significant progress in establishing independent DPAs, such as Kenya, can highlight best practices and identify strategies that have been successful in ensuring the autonomy and effectiveness of these regulatory bodies, unlike a country like Tanzania, which is not yet matured in the data protection and Privacy field⁴⁰.

The Regulatory Authority might be a single government official with several members, or it might be a private body; however, the independence of such an authority is a key factor, and therefore, in assessing their independence, factors like the structural

³⁶ See Tanzania Personal Data Protection Act Dec 2022 S. 8

³⁷ See S.6 (4) Of Kenya Data Protection Act No 24 of 2019

³⁸ Explained under section 26 of Data Protection Act No 24 of 2019

³⁹ Ibid pg 48

⁴⁰ Tanzanian Personal Data Protection Act 2022

composition of the body, method of appointment of the Commissioner, security of tenure and budget to run the office without depending on the other Organ⁴¹. In Kenya, the Data Protection Act was enacted in November 2019, providing the legal basis for the establishment of the Data Protection Commissioner (DPC). The DPC is tasked with overseeing and regulating the processing of personal data and ensuring compliance with the law. In Tanzania, the journey toward data protection took a significant step forward with the passage of the Cybercrimes Act in 2015. However, in Dec 2022, Tanzania passed the law of data protection and privacy.

The GDPR⁴² advocates for the total independence of the Data Protection and Privacy Regulatory Authorities that the members of the authority shall work freely and will not take any instructions from external forces, whether direct or indirect, so that interference from other sources will not lead to the destruction of their decisions. Based on legislation provisions, supervisory Authorities in Kenya and Tanzania structures of data protection authorities in Kenya and Tanzania affect their independence. The EAC Countries' data regulatory authorities are much instituted and affiliated with the government⁴³, and even the supervisors are appointed by top leaders like the President⁴⁴; this whole process limits the freedom of supervisory authorities in performing their day-to-day duties since they will find it difficult to hold the government accountable once it's accused of using personal data wrongly⁴⁵ a lack of independence may result in biased enforcement of data protection laws. Data protection authorities should be impartial and able to take action against both private and public organizations when data breaches occur. However, government affiliation might prioritize shielding government agencies from scrutiny, undermining the impartiality of the authorities. In contrast, government affiliation might lead to reduced transparency, as sensitive information could be withheld or manipulated for political reasons. To ensure robust data protection, it is vital to maintain the autonomy of these authorities and insulate them from undue government influence.

In the question of whether data protection authorities in Kenya and Tanzania are sufficiently funded to run their duties⁴⁶, Kenya and Tanzania countries budgets concerning the Department of Data Protection and Privacy are handled by the Ministries which are under the executive of the government. Kenya Data Protection Act⁴⁷ S. 67 (a) states that the money to run the office of the Data Protection Commissioner will be given to the office after the money is approved by the National Assembly. On the other hand, Tanzania Personal Data Protection 2022 S.51⁴⁸ also advocates that the money to run the data protection and privacy office will be the money that is approved by the general assembly. Now, it's a no-brainer that these supervisory authorities are built within the ICT Ministries; therefore, the money is not given directly to the regulatory authority commissioner; rather, they are under the Minister of ICT of each country. The financial interference of the government in Tanzania poses a grave threat to the independence of data protection authorities. As guardians of citizen's privacy rights, these authorities must remain impartial and autonomous. However, when the government exerts control over its funding and resources, its ability to act without bias is compromised. This interference undermines their capacity to hold powerful entities accountable, allowing for the potential abuse of personal information. With weakened data protection authorities, the citizen's right to privacy becomes vulnerable to exploitation, eroding trust in the digital landscape. Preserving the autonomy of these agencies is essential to safeguarding citizen's privacy and upholding democratic principles in Tanzania.

Security of tenure is another key factor in assessing the independence of data protection regulatory authorities in EAC⁴⁹. The concept is whether the appointed leaders of the regulatory Authorities in EAC have security of tenure and whether they have the immunity to be not easily removed from office⁵⁰. The security of the tenure of data protection authorities is vital for safeguarding individual rights, promoting transparency, and fostering public trust in the handling of personal data. In East Africa, both Kenya and Tanzania have the same procedures for appointing the data protection commissioner⁵¹. After every procedure followed, the name of a commissioner for a vacant position shall be given out by the president with the approval from the national assembly⁵². The independence of data protection authorities in Tanzania and Kenya is crucial for ensuring the effective and fair enforcement of data protection laws in these countries therefore data protection has a great importance to the public as explained below.

⁴¹ Data Protection and Privacy Laws Identification For Development ID4D <https://id4d.worldbank.org>

⁴² See The General Data Protection Act 2008 Article 52 (1-6) and recital 121

⁴³ Tanzania Communication Regulatory Authority Act 2003 part 1v (28)

⁴⁴ Ibid pg 46

⁴⁵ www.jamiiForums.com 13 July 2023

⁴⁶ Ibid pg 29

⁴⁷ The Kenya Data Protection Act Nov 2019 Kenya Gazette Supplements No.181 (Act No. 24

⁴⁸ Tanzania Personal Data Protection Act Dec 2022 S.51 (a)

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ The Kenya Data Protection Act Nov 2019 Kenya Gazette Supplements No.181 (Act No. 24 section 6(4)

⁵² See Tanzania data protection act Dec 2022 S.11(1)

In comparing the regulatory structures governing data protection and privacy in Kenya and Tanzania, it becomes evident that there are significant differences between the two countries. While Kenya has established comprehensive data protection laws and an independent regulatory body, Tanzania lags behind with weak legislation and a lack of an independent authority. These disparities highlight the need for Tanzania to strengthen its regulatory framework to ensure the efficient protection of data and privacy rights. Evaluation of similarities and differences in the independence of data protection authorities in Kenya and Tanzania. It is evident that there are distinct similarities and differences in the independence of data protection authorities in Kenya and Tanzania. Both countries have established regulatory structures to oversee data protection and privacy, although Kenya's authority demonstrates a higher level of autonomy. However, both authorities face challenges in terms of funding, resource allocation, and political interference, which can hinder their ability to effectively protect citizens' data privacy. Overall, there is room for improvement in ensuring the complete independence of these authorities to enhance data protection and privacy in East Africa.

4. Conclusions

The independence of data protection authorities in Kenya and Tanzania plays a pivotal role in upholding citizen's data privacy and security rights. This study has assessed the independence of the regulatory structures governing data protection and privacy in Kenya and Tanzania. The formal way of assessing the data protection Authorities' (DPA's) independence was done by assessing the textual provision of the Kenyan and Tanzanian Personal Data Protection Act. A comparative study between powers of data protection and privacy authorities under the Data Protection and Privacy Act in East African countries was critically made referring to both laws in the particular countries. The assessment under the Act involves evaluating the degree to which the data protection regulations are enforced by closely examining the principles of data protection and privacy. These Acts seem to allow for potential interference from external bodies due to the absence of proper safeguards in the decision-making process of these authorities. It is important to note that without adequate oversight, these bodies may not be able to ensure their independence. This issue was explored further in this study, as the specific Acts vary between countries (Kenya and Tanzania), leading to differences in their application as well. According to the Tanzania Personal Data Protection of 2022, the office's funding will come from the parliament's budget and other grants and gifts. However, there are concerns about the independence of these authorities. The Kenya Data Protection Act 2021 has provisions for the powers of the data commissioner to conduct investigations on data subject complaints. The commissioner can also seek professional assistance and depend on the national assembly for funds. This limits the independence of the data protection authorities. These findings indicate that while both countries have made efforts to establish regulatory frameworks, there exist significant challenges in maintaining adequate independence. Factors such as political influence, limited financial resources, and inadequate enforcement mechanisms undermine the effectiveness of these regulatory bodies. It is, therefore, crucial for policymakers to strengthen the independence of these institutions to ensure the protection of data and privacy in East Africa. Both countries must continuously work towards strengthening the autonomy of their DPAs, ensuring adequate resources, and promoting public awareness to safeguard individuals' data rights in the digital age.

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