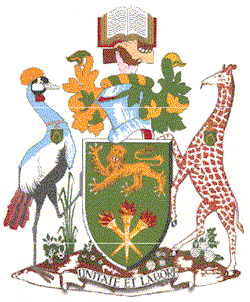
UNIVERSITY OF NAIROBI

School of Business



NAME: ROBERT SIMIYU WANG’UNDA

REG NO: D33/45965/2017

UNIT: INFORMATION SYSTEMS SECURITY AND AUDIT

COURSE CODE: DIS 402

LECTURER: DR. J.T. KARIUKI

Question: criticize the Data Protection Act of 2019.

Data protection Act, 2019

The Data Protection Act, 2019 was passed into law on 8 November 2019 when the President of the Republic of Kenya assented to it. The Act was enacted with the goal of upholding the Article 31(c) of the Constitution that contain the right to privacy.

Below are the major criticisms from the Act.

1. The Act requires the Data Controllers and Processors to process data lawfully and they must be registered with the Data commissioner. Data Controllers are given mandate to process and transfer personal data another country during contracting when necessary and that infringes the privacy because the other country to which data is being transferred to may not have appropriate measures in place to protect the Integrity and Confidentiality of data.
2. Threshold for national security as an exemption this makes it prone to abuse thus hindering the proper application of the Act.
3. There is need to create adequate time for the implementation and publishing the new law.
4. Members of the public did not participate in the formulation of the Act and there was no such public consultations.
5. It’s not explicitly defined in the Act when certain data will be classified as personal data and the subject to which requirements.
6. There Act states that organizations must appoint an independent and highly qualified Data Protection Officers and yet there is shortage of cybersecurity skills in the country. Most of the Kenyan institutions they don’t offer cybersecurity courses degree programs.
7. The Act has implicitly prescribed the durations of data storage by Data Controllers and Processors and that makes the storage data vulnerable to cyber threats.
8. The Act provides blanket provisions allowing data collectors to share personal information with third parties without their consents.
9. Data Controllers need to be sensitized and equipped with skills required to comply with the Data Protection law.
10. The Act was not formulated to regulate research data such that the data needs to be anonymized in order to protect personal data and this means the researchers needs to adopt new policies that are in line with the Act.
11. Data Controllers are given green lights to determine the purposes for which the personal data is processed, so your company can decide why and how your data is processed without you consenting to the idea.
12. The commissioner need to implement thresholds for mandatory registration of Controllers and Processors.