

Collaborative Data Protection Impact Assessment

Introduction: The project is funded by Elite Network of Bavaria under the International Doctorate Programme: Business and Human rights project. With its focus on the digital field, the project delves into the largely unexplored area of the place of the data subjects and other stakeholders in the data protection impact assessment (DPIA) process. It uses Kenya as a case study to make case for DPIA to be available for meaningful scrutiny by stakeholders if it is to be an effective safeguard measure against high risks to rights and fundamental freedoms of data subjects. It then proposes collaborative DPIA as an ideal for rethinking both the design and practice of DPIA considering the social contexts and lived experiences of the stakeholders.

Key words: Collaborative DPIA, Data Justice, Business and Human Rights, Kenya

Theoretical Background: Framings and dimensions of data justice which anchor retooling and reimagining current design and practice of DPIAs towards collaborative approaches

Main objective and Contribution

1. Understand unique contexts that define justness of the data systems and safeguard measures as well as appreciate the sources of the clamour for collaborative approaches to DPIA.
2. Assess legal strengths, weaknesses and gaps of existing Africa regional and Kenyan domestic models for collaborative DPIA.
3. Identify how business and human rights frameworks could address the existing legal gaps and weaknesses in the existing models and drive the movement towards an ideal collaborative DPIA.

Contribution:

The research contributes to scholarly discourse on embedding scrutiny in the DPIA process, explains elements of the scrutiny and develops a tool for an ideal collaborative DPIA that CSOs can use to guide digital activism and court actions that enforce protection of rights and fundamental freedom through DPIAs.

Significance to the Field:

This is a novel research which addresses collaborative DPIA, for the first time in a scholarly piece. With this, it breaks ground on rethinking the DPIA process and practice in a fashion that allows for meaningful scrutiny by the data subjects, rightsholders and other relevant stakeholders in Kenyan context. The comprehensive findings on collaborative DPIA shall influence policy, legislation, ongoing and future court cases, practice by data controllers, regulator's approaches, and activism around DPIA. It is relevant for Kenya, Africa and beyond.

Methodology & Outcome Overview:

1. Doctrinal legal research: Analysis of data protection and human rights instruments and case law.
2. Review of literature: Review of reports such as public and CSO reports concerning DPIA
3. Primary research:
 - a) Survey with 80 randomly selected citizens to understand the, reasons behind and the nature of the clamour for collaborative approaches to DPIA; and
 - b) Physical and virtual interview with 40 carefully selected respondents including affected community members, civil society organizations, scholars, and practitioners, and the regulator.

Expected Outcome:

- Novel concept of collaborative DPIA.
- PhD Thesis: Contain body of discussions, finding and recommendations to key actors