

Kenya

RestoreDataRights: Mapping Declaration Principles to National Laws and Practices

As part of the RestoreDataRights project, Open Institute and DataReady are compiling a set of research briefs that explore how key provisions of the RestoreDataRights Declaration are translated into law and practice across four jurisdictions: Kenya, Ghana, South Africa and Nigeria. The purpose of this series of briefs is to establish an evidence-base of current data governance and use practices and to identify where advocacy opportunities may arise for civil society to improve the transparency, inclusiveness and accountability of governments' pandemic response.

This brief explores data governance and protection issues as they relate to the pandemic response in Kenya. This analysis is based on independent qualitative research, complemented where relevant by a comparative legal analytical lens. This involved the collection of data from a diverse set of online resources including, among others, law reports, case law databases, news reports, publications by international organisations, government publications, government policy statements, and academic journal articles. The findings of this research are set out in Annex I below, with a list of the sources explored at Annex II. For certain analytical fields, no relevant online information was identified despite an extensive desk search of online information having been conducted. The desk search primarily relied on general and legal search engines, and derivative sources.

Summary of powers that the Kenyan government has to use data as part of the pandemic response

Parliament enjoys a constitutional mandate over the exercise of emergency power as declared by the President for emergencies which persist over 14 days. Under the Twelfth Parliament, The Senate (the upper house of Parliament) has established an Ad Hoc Committee on the COVID-19 Situation. The Committee is mandated to exercise parliamentary oversight over actions taken by the national and county governments in addressing the spread and effects of

COVID-19 in Kenya. Although the Committee has noted the need to develop a legislative framework regarding the management of the COVID-19 pandemic and future emergencies, there has been limited proactive oversight over COVID-19 related data collection and processing activities. Nevertheless, the Senate's Ad Hoc Committee on the COVID-19 pandemic, the Senate Health Committee and the Public Investments Committee of the National Assembly (the lower house) all requested the Office of the Auditor General to conduct special audits on the use of COVID-19 funds¹.

The Kenyan Government has employed digital surveillance tools to enhance its capacity to manage the COVID-19 pandemic. The authorities have, for example, tracked the mobile phones of people suspected to have COVID-19 as a way of enforcing the prescribed mandatory isolation period.² This real-time collection of data may be legally authorised by the Computer Misuse and Cybercrimes Act No. 5 of 2018 which empowers police to the use of this technique for the purposes of a specific criminal investigation, including a contravention of the COVID-19 related laws.³ Police officers or authorised persons may also compel service providers to collect or record traffic data associated with specified communications by means of a computer system. Kenya has also implemented an online system based on the Africa CDC Trusted Travel platform to authenticate laboratory test certificates for travellers.⁴ Besides this, there is data collected for domestic air travellers who have to declare that they have not symptoms and give details of next of kin and where they are going to be staying. Data regarding COVID-19 has also been collected

¹ So far, two (2) audit reports have been completed; 1) The special audit on utilization of COVID-19 funds by Kenya Medical Supplies Agency (released in September 2020); 2) The special audit of utilization of COVID-19 funds by County Governments (released in December 2020).

² Olewe "Coronavirus in Africa: Whipping, shooting and snooping", BBC (9 April 2020).

³ 5 of 2018.

⁴ African Union, Africa CDC, "Kenya adopts Trusted Travel digital tool for COVID-19 test result verification" available at

<https://africacdc.org/news-item/kenya-adopts-trusted-travel-digital-tool-for-COVID-19-test-result-verification/>.

from landowners, occupiers of premises and heads of households.⁵ Any such persons who suspects that a person who is residing at their premises is infected with COVID-19 is obliged to notify a medical officer, public health officer or medical practitioner or take that person to a health facility for treatment.⁶ Employers are also required to notify a medical officer, public health officer, a medical practitioner or the nearest administrator of any employee who is suffering from COVID-19.

The extent and nature of the data gathering practices adopted by the Kenyan Government in response to COVID-19 are, however, opaque. There also appears to be limited oversight over the use and governance of digital surveillance tools. The right to privacy in Kenya, however, is protected by an extensive Data Protection Act 2019 which is the primary source of law which regulates data protection in the context of COVID-19. This Act governs the use of personal data relating to a person's health status and places onerous restrictions on the transfer of data.⁷

The Act promotes the right to privacy by requiring that the processing of any such data is subjected to professional secrecy. All personal data may only be collected for explicit, specified and legitimate purposes and must also be processed lawfully, fairly and in a transparent manner in relation to any data subject. The Act further established the Office of the Data Protection Commissioner who has issued an important draft guidance note regarding COVID-19.⁸ This guidance note provides that the collection of personal data must be adequate, relevant and limited to what is necessary. Personal data shall also not be kept for longer periods than is

⁵ World Bank. Monitoring COVID-19 Impact on Households in Kenya. Available at <https://www.worldbank.org/en/country/kenya/brief/monitoring-COVID-19-impact-on-households-and-firms-in-kenya>. See also Item 2 of Legal Notice 49 of 2020 issued under the Public Health (Prevention, Control and Suppression of COVID-19) Rules 2020 on 17 April 2020. A copy of the legal notice is available at <https://africanlii.org/sites/default/files/regulations/9179/media/9179.pdf>.

⁶ The Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020.

⁷ 24 of 2019.

⁸ Office of the Data Protection Commissioner. Draft Guidance Note on Access to Personal Data During COVID-19 Pandemic. Available at <https://ict.go.ke/wp-content/uploads/2021/01/Draft-Data-Request-Review-Framework-Jan-2021.pdf>

necessary to achieve the purpose for which it was collected and processed, and the identifiable data must thereafter be destroyed. Personal data must also be processed securely to retain confidentiality and integrity in consistency, accuracy, and trustworthiness over its entire life cycle. Importantly, any person who has access to personal data shall be responsible for its protection and must demonstrate that they have put in place proactive mechanisms to appropriately safeguard the personal data. Additionally the act stipulates that data collected should not be transferred across borders; further, data collected is not to be transferred outside Kenya, unless there is proof of adequate data protection safeguards or consent from the data subjects or commensurate data protection laws.

Kenyan law imposes strict requirements associated with informed consent on the gathering of personal data. To the extent possible, personal data must be collected directly from individuals subject to their express consent.⁹ This consent should be obtained in the prescribed form. In this regard, the Data Protection Act requires that consent to the processing of personal data by a data subject must be an express, unequivocal, free, specific and informed indication of the data subject's wishes by a statement or by a clear affirmative action.

Any personal data sharing between parties should also be approved by the Office of the Data Protection Commissioner and has to be guided by a valid agreement with the data subject.

Innovative privacy protecting mechanisms prescribed by guidance note include the requirements that the agreement must contain a data protection impact statement based and a data responsibility matrix. At the very least, these obligations will heighten awareness in the public and private sector about the importance of data governance. The degree of compliance with these obligations is, however, unclear.

⁹ Id.

In order to facilitate remote learning and work during the COVID-19 pandemic, the President of Kenya has also approved Alphabet Inc's Loon services to enable universal 4G data coverage in Kenya.¹⁰ In this regard, the Kenya Civil Aviation Authority has signed an agreement with Google Loon that allows Loon Balloons to fly in the stratosphere over Kenyan airspace to provide direct-to-handset connectivity services. Alphabet Inc has, however, recently announced that it is shutting down Loon after concluding the business is not commercially viable.¹¹ It has been suggested that surging global demand for mobile connectivity has made towers more cost-effective.¹² This highlights the difficulty of predicting the evolution of communications technologies and the need to diversify reliance on private sector actors.

The important role played by online expression on social media in enhancing government accountability was demonstrated by the online sharing of a video of a China Southern Airlines plane landing with 239 passengers at the Jomo Kenyatta International Airport in late February 2020.¹³ Pursuant to the video, the Law Society of Kenya, two doctors and a lawyer successfully launched a court application to suspend flights from China because of the concerns associated with COVID-19 transmission.

(Preliminary) Key Findings

- The Kenyan Government has employed digital surveillance tools, including mobile phone tracking technologies, to enhance its capacity to limit the management of the COVID-19 pandemic.

¹⁰ The Presidency of Kenya. "Kenya Approves Roll Out Of Google Loon 4G To Mitigate Coronavirus Work Disruptions." Available at <https://www.president.go.ke/2020/03/23/kenya-approves-roll-out-of-google-loon-4g-to-mitigate-coronavirus-work-disruptions/>.

¹¹ Westgarth, "Saying goodbye to Loon" available at <https://medium.com/loon-for-all/loon-draft-c3fceb11f3f>.

¹² Dave, "Alphabet shutting Loon, which used balloon alternative to cell towers" Reuters (22 January 2021).

¹³ Wangui, J. (2020, 18 March). Coronavirus: Suspended KQ employee eyes court. Daily Nation. <https://www.nation.co.ke/kenya/news/coronavirus-suspended-kq-employee-eyes-court-255684>

- The extent and nature of the data gathering practices adopted by the Kenyan Government in response to COVID-19 are opaque. There also appears to be limited oversight over the use and governance of digital surveillance tools and COVID-19 related data.
- The right to privacy in Kenya, however, is protected by an extensive Data Protection Act which governs the use of personal data relating to a person's health status and imposes strong safeguards on the sharing of data. There is, however, a need to explore whether public and private entities are complying with their obligations under the Data Protection Act.
- Kenyan law imposes strict requirements associated with informed consent on the gathering of personal data.

Annex I: Kenyan COVID-19 laws and practices mapped to the RDR Declaration

Country	RDR Declaration Principle	RDR Declaration Principle components	Findings
Kenya	Transparency	Aggregated data and metadata are open to the public	<p>The Ministry of Health publishes daily COVID-19 related aggregate statistics on its website and on various social media platforms. This information includes the reported number of COVID-19 tests conducted each day; the reported number of confirmed COVID-19 positive cases; the reported number of persons who test positive for COVID-19 who are foreigners, males and females, the minimum and maximum age of persons who reportedly tested positive for COVID-19 on that particular day; the number of persons who have reportedly recovered from COVID-19; the number of persons who have died from COVID-19; the number of patients who have been admitted nationally to health facilities; the number of patients who are on home based isolation case; the number of patients on ventilatory support; and the number of patients on supplemental oxygen. The aggregate number of new COVID-19 cases is also reported for each Kenyan County.</p> <p>In terms of the Ministry of Health's Guidelines for Submission of COVID-19 Testing Data to the National Data Compilation Centre, testing laboratories are required to submit daily aggregate test results using an online platform operated by the National Public Health Laboratories. The Targeted Testing Strategy for Corona Virus Disease 2019 (COVID-19) in Kenya requires that all test results, whether positive or negative, should be reported to the head of the National Public Health Laboratories using the prescribed submission template as per the laboratory testing algorithm. Automated reporting systems must also be used by laboratories when they become available. A technical team then verifies the results, which are then reported by the head of the National Public Health Laboratories to the Director General of Health, who then reports to the Cabinet Secretary of Health.</p>
		Open source software and algorithms are used to analyse data	No information found
		Information on what entities are collecting data, from what communities and for what purposes are made available to the public	<p>The Kenyan government has stated that it has been tracking mobile phones of people suspected to have COVID-19 as a way of enforcing the prescribed mandatory isolation period. In this regard, Section 52 of the Computer Misuse and Cybercrimes Act 5 of 2018 governs the real-time collection of data by police officers or authorised persons when there are reasonable grounds to believe that such data is required for the purposes of a specific criminal investigation, including a contravention of the COVID-19 related laws. Such persons may compel a service provider, within its existing technical capability, to collect or record through application of technical means traffic data in real time or cooperate and assist a police officer or an authorised person in the collection or recording of traffic data, in real-time, associated with specified communications in its jurisdiction transmitted by means of a</p>

		<p>computer system.</p> <p>Under the Data Protection Act 24 of 2019, personal data relating to a person’s health status is also classified as sensitive personal data. Section 46 of the Act provides that such data may only be processed by or under the responsibility of a healthcare provider or by a person subject to the obligations of professional secrecy under any law. The processing of the data must be necessary for reasons of public interest in the area of public health or be carried out by a person who, in the circumstances, owes a legal duty of confidentiality. All personal data may only be collected for explicit, specified and legitimate purposes and must also be processed lawfully, fairly and in a transparent manner in relation to any data subject.</p> <p>According to the draft guidance note issued by the Office of the Data Protection Commissioner regarding COVID-19, responsible parties must collect personal information of an individual for a specific purpose, which in this context is to detect, contain and prevent the spread of COVID19. Any personal Data that is requested must also only be that which is adequate, relevant and limited to what is necessary in relation to the purpose for which it is requested. Personal data shall not be kept for longer periods than is necessary to achieve the purpose for which it was collected and processed, and the data must thereafter be destroyed. The person responsible shall ensure that the personal data is de-identifiable. Personal data must be processed securely to retain confidentiality and integrity in consistency, accuracy, and trustworthiness over its entire life cycle. Any person who has access to personal data shall be responsible for its protection and must demonstrate that they have put in place a proactive mechanism to appropriately safeguard the personal data.</p> <p>The Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020 further oblige every owner, occupier of premises, and head of a household, who suspects that any person who is residing at his or her premises is suffering from COVID-19, to notify a medical officer, public health officer or medical practitioner or take that person to a health facility for treatment. Employers are also required to notify a medical officer, public health officer, a medical practitioner or the nearest administrator of any employee suffering from COVID-19.</p> <p>Motivated in part by the need to facilitate remote learning and work, the President of Kenya has also approved Google Loon services to enable universal 4G data coverage. The Kenya Civil Aviation Authority has signed an agreement with Google Loon that allows Loon Balloons to fly over Kenyan airspace.</p> <p>The World Bank, in collaboration with the Kenya National Bureau of Statistics and the University of California Berkeley, is also conducting the Kenya COVID-19 Rapid Response Phone Survey to track the socioeconomic impacts of the COVID-19 pandemic and provide timely data to inform a targeted response.</p>	<p>computer system.</p> <p>Under the Data Protection Act 24 of 2019, personal data relating to a person’s health status is also classified as sensitive personal data. Section 46 of the Act provides that such data may only be processed by or under the responsibility of a healthcare provider or by a person subject to the obligations of professional secrecy under any law. The processing of the data must be necessary for reasons of public interest in the area of public health or be carried out by a person who, in the circumstances, owes a legal duty of confidentiality. All personal data may only be collected for explicit, specified and legitimate purposes and must also be processed lawfully, fairly and in a transparent manner in relation to any data subject.</p> <p>According to the draft guidance note issued by the Office of the Data Protection Commissioner regarding COVID-19, responsible parties must collect personal information of an individual for a specific purpose, which in this context is to detect, contain and prevent the spread of COVID19. 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Any person who has access to personal data shall be responsible for its protection and must demonstrate that they have put in place a proactive mechanism to appropriately safeguard the personal data.</p> <p>The Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020 further oblige every owner, occupier of premises, and head of a household, who suspects that any person who is residing at his or her premises is suffering from COVID-19, to notify a medical officer, public health officer or medical practitioner or take that person to a health facility for treatment. Employers are also required to notify a medical officer, public health officer, a medical practitioner or the nearest administrator of any employee suffering from COVID-19.</p> <p>Motivated in part by the need to facilitate remote learning and work, the President of Kenya has also approved Google Loon services to enable universal 4G data coverage. The Kenya Civil Aviation Authority has signed an agreement with Google Loon that allows Loon Balloons to fly over Kenyan airspace.</p> <p>The World Bank, in collaboration with the Kenya National Bureau of Statistics and the University of California Berkeley, is also conducting the Kenya COVID-19 Rapid Response Phone Survey to track the socioeconomic impacts of the COVID-19 pandemic and provide timely data to inform a targeted response.</p>
	<p>Data sharing agreements and related documents are openly published</p>		<p>The draft guidance note issued by the Office of the Data Protection Commissioner provides that, to the extent possible, personal data must be collected directly from individuals subject to their express consent. This consent should be obtained in a prescribed form. In this regard, the Data Protection Act requires that consent to the processing of</p>

			<p>personal data by a data subject must be an express, unequivocal, free, specific and informed indication of the data subject's wishes by a statement or by a clear affirmative action.</p> <p>Any personal data sharing between parties should also be approved by the Office of the Data Protection Commissioner and has to be guided by a valid agreement presumably with the data subject. The agreement should govern nondisclosure, data confidentiality, data protection (including the data destruction technique to be used), a data protection impact statement based, and a data responsibility matrix. Access to personal data must be limited to those who need the information to conduct treatment, research or other responses to address the crisis (or any other relevant exemption). For the applications requesting access to personal data, the concerned person shall publish policies on what information is being collected and with whom the information may be shared. Data that is collected may not be sold to third parties or transferred out of the country without the data subjects' consent to the transfer. The transfer of personal data to another country should also only take place where sufficient proof has been given to demonstrate that the safeguards with respect to the security and protection of the personal data are sufficient.</p>
		Data suppliers and other private sector actors are procured through open and competitive tender processes	<p>On 27 March 2020, the Public Procurement Regulatory Authority of Kenya issued a circular to provide guidance regarding the procurement activities related to the preventative measures on the spreading of COVID-19. Under Kenyan procurement law, procuring entities are required to submit mandatory reports to the Public Procurement Regulatory Authority. Executive order No. 2 of 2018 emphasizes publication of all procurement information including tender notices, contracts awarded, suppliers and their directors. In line with this order, the PPRA Public Procurement Regulatory Authority implemented a platform that would avail all this information in one place and made it possible for Procuring Entities to publish it regularly. The online platform is called The Public Procurement Information Portal. Under Kenyan procurement law, accounting officers must conduct all procurement processes with a view of ensuring realization of value for money and economy, and proper utilisation of public resources.</p>
		Government COVID-19 related data strategies and plans are made publicly available	<p>The Ministry of Health's COVID-19 related data management policy is published as part of the Targeted Testing Strategy for Coronavirus Disease 2019 (COVID-19) in Kenya.</p>
		Details of intra-governmental data sharing are made openly available and are subject to parliamentary, judicial and public scrutiny	<p>The draft guidance note issued by the Office of the Data Protection Commissioner requires public entities to channel requests for personal data through the relevant agencies. For example, health data shall be sourced from the Ministry of Health; telecommunications data from the Communications Authority of Kenya, transport data from the National Transport and Safety Authority, among others. A person requesting personal data is expected to enter into a data protection and sharing agreement with the entity or person having control of the personal data.</p>

	Inclusion	Decisions made around how COVID-19 data are used are taken through established democratic processes	<p>The Constitution provides Parliament with the mandate over the exercise of emergency power as declared by the President for emergencies which persist over 14 days. The Senate of the Twelfth Parliament has also established an Ad Hoc Committee on the COVID-19 Situation. The Committee is mandated to exercise parliamentary oversight over actions taken by the national and county government in addressing the spread and effects of COVID-19 in Kenya. Having considered the measures the Kenya government has taken to address the pandemic, the Committee has noted the need to develop a legislative framework regarding the management of the COVID-19 pandemic and future emergencies.</p> <p>The Supreme Court may also interrogate the validity of a declaration of a state of emergency, and High Courts enjoy original jurisdiction to uphold and enforce the Bill of Rights.</p> <p>The Data Protection Act of Kenya is the primary source of law which regulates data protection in the context of COVID-19. Data subjects are entitled to file complaints about the collection and processing of their data with the Data Commissioner. The Data Commissioner may make an adverse finding and serve an enforcement or penalty notice on a party in breach of their obligations under the Data Protection Act.</p>
		The public is consulted on how sensitive data (e.g. location data derived from mobile phones) are shared and used to tackle COVID-19, and their responses are used to inform policy interventions	No information found
		Any public-private data partnerships that are established to share and use COVID-19 related data should also include representatives from civil society and digital rights groups	No information found
		The needs of vulnerable groups are taken into account and steps taken to protect 'sensitive group data' are included alongside actions to protect individuals' data	No information found
	Accountability	Appropriate steps are taken to protect data that could, either alone or when combined with other data, result in the identification of individuals or vulnerable groups within datasets to tackle COVID-19	According to the draft guidance note issued by the Office of the Data Protection Commissioner regarding COVID-19, any person who has access to personal data shall be responsible for its protection and must demonstrate that they have put in place a proactive mechanism to appropriately safeguard the personal data. Any personal data sharing between parties should also be approved by the Office of the Data Protection Commissioner and has to be guided by a valid agreement presumably with the data subject. This agreement must govern data protection (including the data destruction technique to be used) and contain a data protection impact statement. The Data Protection Act further requires that the person responsible for the data shall ensure that the personal

			data is de-identifiable.
		Data collected for epidemiological purposes shall not be shared or used by other parts of government, such as policy forces or Ministries of Interior	The Data Protection Act 24 of 2019 requires that the processing of the data must be necessary for reasons of public interest in the area of public health or be carried out by a person who, in the circumstances, owes a legal duty of confidentiality. This may arguably include processing by persons in other parts of government
		Protocols shall be established to respond to potential data breaches of datasets containing sensitive data	When any breach occurs, the Data Protection Act of 2019 obliges data controllers to notify the Data Protection Commissioner within 72 hours of becoming aware of a breach and to notify the data subject without undue delay. Data processors are also required to inform data controllers of any breach within 48 hours of becoming aware of such a breach. The Act further empowers the Data Protection Commissioner to investigate data breaches, including powers of entry and search, and enables the Data Protection Commissioner to issue an administrative fine.
		Individuals or vulnerable groups who may be harmed by the misuse of their data in response to the COVID-19 epidemic - either intentionally or accidentally - shall have access to judicial redress and due process	No information found
		Governments and public bodies shall retain retain all intellectual property rights over databases and all derivative data outputs using African citizens' data as part of the COVID-19 response	No information found
		Governments, private companies and other entities shall commit to engaging with civil society organisations and digital rights defenders in order to identify responsible and practicable ways of winding-down any emergency data collection, processing and use at the end of the pandemic, in accordance with local laws and in line with international best practices	No information found
	Miscellaneous	Freedom of expression restrictions and anti-misinformation measures	In late February 2020, an employee of Kenya Airways shared a video online which showed China Southern Airlines plane landing with 239 passengers at the Jomo Kenyatta International Airport. This prompted the Law Society of Kenya, two doctors and a lawyer to successfully launch court applications to suspend flights from China because of the concerns associated with COVID-19 transmission. The

			employee from Kenya Airways was suspended for sharing the video.
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Annex II: Reading List

Transparency

The website on which the Kenyan Ministry of Health publishes COVID-19 related aggregate statistics is <https://www.health.go.ke/>

The social media platforms on which the Kenyan Ministry of Health publishes COVID-19 related aggregate statistics include Facebook and Twitter. See

<https://www.facebook.com/MinistryofHealthKE> and https://twitter.com/MOH_Kenya

The Kenyan Ministry of Health's Guidelines for Submission of COVID-19 Testing Data are available at

https://www.health.go.ke/wp-content/uploads/2020/12/COVID_Results_submission_guidelines-002.pdf

The Targeted Testing Strategy for CoronaVirus Disease 2019 (COVID-19) in Kenya is available at

<https://www.health.go.ke/wp-content/uploads/2020/07/Targeted-Testing-Strategy-for-COVID-19-in-Kenya.pdf>

Details about the Kenya COVID-19 Rapid Response Phone Survey are available at

<https://microdata.worldbank.org/index.php/catalog/3774>

For information about Google Loon's approval in Kenya, see

<https://www.president.go.ke/2020/03/23/kenya-approves-roll-out-of-google-loon-4g-to-mitigate-coronavirus-work-disruptions/> and

<https://www.mobileworldlive.com/featured-content/top-three/loon-kenya-launch-approved-to-aid-COVID-19-response>

Please note that it has recently been reported that Project Loon will be wound down by Google due to cost inefficiencies. See, for example,

<https://qz.com/africa/1961328/why-googles-loon-internet-balloon-project-crash-landed/> and

<https://www.bbc.com/news/business-55761172>

The draft guidance note issued by the Office of the Data Protection Commissioner is available at

<https://ict.go.ke/wp-content/uploads/2021/01/Draft-Data-Request-Review-Framework-Jan-2021.pdf>

For information on the statement on the tracking by the Kenyan government of mobile phones of people suspected to have COVID-19 as a way of enforcing a 14-day mandatory isolation period, see <https://www.bbc.com/news/world-africa-52214740>

Details about the online system implemented by Kenya to authenticate and verify laboratory test certificates for travellers are available at

<https://africacdc.org/news-item/kenya-adopts-trusted-travel-digital-tool-for-COVID-19-test-result-verification/> and <https://africacdc.org/trusted-travel/>

The Public Procurement Regulatory Authority explains the requirement to publish all procurement information at <http://ppra.go.ke/contract-awards/>

All contract awards for year 2018-2019 onwards are available on the Public Procurement Information Portal at <https://tenders.go.ke/website/contracts/Index>

Please note, however, that the data contained in this portal may not be fully extensive.

The Public Procurement Regulatory Authority's Circular regarding the contingency and management plan to mitigate COVID-19 is available at

<http://ppra.go.ke/download/ppra-COVID-19/>

For an analysis of the implications of the Data Protection Act, see

<https://www.bowmanslaw.com/insights/intellectual-property/snapshot-analysis-of-the-data-protection-act-2019/>

Mzalendo, which is a non-partisan entity that observes and reports on Kenyan Parliament, has a mission to facilitate public participation in Parliamentary processes through Information Sharing, Research and Networking. A number of valuable resources about the Kenyan Parliamentary process are available at <https://info.mzalendo.com/>

Inclusion

For an analysis of the Data Protection Act, see

<https://www.dlapiperdataprotection.com/index.html?t=law&c=KE> and

<https://africaevidencenetwork.org/en/learning-space/article/64/>

The first report by the Senate's Ad Hoc Committee on the COVID-19 Situation is available at

<http://www.parliament.go.ke/sites/default/files/2020-05/Senate%20Ad%20Hoc%20Committee%20on%20COVID19%20-%201st%20Progress%20Report%20%26%20Annexures.pdf>

This mode of parliamentary oversight and reporting is unique (when compared to the other jurisdictions that were assessed).

For an analysis of constitutionalism and COVID-19 in Africa, with a focus on Kenya, see

<https://ancl-radc.org.za/node/637>

Accountability

The draft guidance note issued by the Office of the Data Protection Commissioner is available at

<https://ict.go.ke/wp-content/uploads/2021/01/Draft-Data-Request-Review-Framework-Jan-2021.pdf>

DLA Piper's analysis of the breach notification requirements under Kenyan law is available at

<https://www.dlapiperdataprotection.com/index.html?t=breach-notification&c=KE>

For an analysis of the Data Protection Commission's powers to investigate and remedy breaches, see

<https://www.mondaq.com/data-protection/867010/data-protection-in-kenya-what-you-need-to-know>

Additional Resources

Safaricom, a Mobile network operator company, announced that all person-to-person transactions under 10 US\$ would be free for 90 days. The company has also allowed small and medium-sized enterprises to increase their daily M-Pesa mobile money transaction limits from

700 US\$ to 1,500 US\$. See

<https://africaninternetrights.org/sites/default/files/Francis%20Monyango.pdf>

For a description of the suspension of the employee of Kenya Airways who filmed and uploaded the video of the China Southern Airlines plane landing in late February 2020, see

<https://africaninternetrights.org/sites/default/files/Francis%20Monyango.pdf> and Wangui, J.

(2020, 18 March). Coronavirus: Suspended KQ employee eyes court. Daily Nation.

<https://www.nation.co.ke/kenya/news/coronavirus-suspended-kq-employee-eyes-court-255684>.

The Philips Foundation, in partnership with the Ministry of Health (Kenya), built a WhatsApp-based chatbot integrated to help citizens find reliable, trustworthy information about COVID-19. The information is processed and availed by the Ministry of Health

<https://www.philips-foundation.com/a-w/articles/kenyan-chatbot.html>