



POLICY TAKEAWAYS

DAY 1 SESSION 2.3: DIGITAL TRANSACTIONS IN INDIA OCTOBER 2021

Big Tech and Platform Regulation

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The political will to formulate a Personal Data Protection Bill has grown gradually in India. The scandal raised by the “Cambridge Analytica” case, however, made evident the need to regulate Big Tech. The aim of protecting the privacy of personal data was then subdued to economic and sovereignty objectives, as well as a national ambition to turn India into an international business hub. The future enactment of any legislation in this space may need judicial intervention due to the complexity of the sectors involved.



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Key Takeaways

- 1** **India’s Personal Data Protection Bill, currently under review, views data as a national resource.**

In 2017, the central government recognized its obligation to protect the privacy of its citizens. With this recognition digital technologies, along with the data produced, acquired a strategic meaning. This approach viewed data as a national resource and right of the sovereign state, as well as considered privacy a matter important to both individuals and communities.
- 2** **A mandate for data sovereignty demands local storage and ensures accessibility and protection of this resource.**

Data located in foreign jurisdictions poses access issues for Indian law enforcement agencies. It also raises questions as to how India can counter “data colonialism,” which, like historic colonialism, acts to acquire large-scale resources (in this case data) from which economic value can be extracted’ (van der Spuy, LSE, 2020)¹. A localisation mandate has gained momentum prompting Indian companies to develop their own data centres. The has, in turn, has positioned India as a business hub and data centre for major international companies.
- 3** **The Indian government’s intentions vis-a-vis the Personal Data Protection Bill**

The government is now attempting to set a strong regulatory framework for Big Tech in India. This is shifting the power from foreign Big Tech to local companies. Such a nationalistic approach, Amber says however, ignores the “symmetry that exists between consumers and large-scale companies” and impacts transparency mandates and the instruments that can be regulated.
- 4** **The way forward for the Personal Data Protection Bill**

If enacted, the Bill will need to address multiple objectives and policies originating from different ministries, as well as a myriad of private and public interests to achieve its aims. As it stands today, the Bill’s implementation will likely see the judiciary taking an active role in the future.

¹ Anri van der Spuy, March 19th, 2020. Colonising ourselves? An introduction to data colonialism. LSE. <https://blogs.lse.ac.uk/medialse/2020/03/19/colonising-ourselves-an-introduction-to-data-colonialism/>

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