

Data-sovereignty: Indian perspective

Abhijan Bhattacharyya,

Internet protocol expert – volunteer for Internet Standards revolution in India – author of India's first indigenous Internet Standard – IETF fellow for next generation leadership – Scientist in TCS research by profession

Topics covered

- ✓ Data sovereignty – what is the issue?
- ✓ India's own data centers – what is the impact?
- ✓ About Justice Srikrishna Committee's views
- ✓ European Commission's response in a nutshell

Data sovereignty – what we mean?

- Data generated in India are stored in clouds / servers/ data-centers which are located in foreign geographies
- Many a times data originating and terminating within India are also routed through intermediate nodes in foreign geographies
 - Reason: Lack of inhouse Internet Exchange Point (IXP) usage + Internet routing principles + business policies of our ISPs
- India's data
 - Enriching foreign data-repository
 - Subject to foreign “sniper” surveillance
 - Authorities in foreign geographies may have legislations to force the owners of the data centers in there geography to share data with the state
 - Many of the data centers/ clouds are physically hosted in USA or powerful economies in Europe
 - This helps the cause of the individual hosting countries
 - Matter of concern for India! India generates a huge share of world's Internet traffic containing plenty of personal/ sensitive information

Sovereignty on our data at stake!

Data sovereignty – what we mean? (Contd.)

- Goal:
 - Critical data should ideally be processed in India itself
 - India should have control over her Internet data
 - Storage
 - Access
 - Security
 - Privacy

India's own data centers – what is the impact?

- Data centers – essential to store huge volume of data being generated
 - Consider the massive possibilities from IoT
- Do we have enough infrastructure to house the data within our land?
- Not possible to set up by medium scale enterprises offering services on Internet
 - They use cloud services from foreign market leaders to remain cost-effective*

**About Facebook's data centre (link retrieved from Justice Srikrishna committee's draft report) :
<https://www.datacenterknowledge.com/data-center-faqs/facebook-data-center-faq>*

India's own data centers – what is the impact? (Contd.)

- Economic factors
 - Cons: Additional cost of storing data in India
 - Pros:
 - A huge opportunity to create a data-centre driven economy – a lot of investments can flow in – Can Govts. In the country play a role?
 - In house data-centers may help lowering the Internet latency in a 5G era – may also be bandwidth efficient due to short-haul
- Social factors
 - Govt. has more control on data
 - Remember: “Data is the new Oil”
 - Success of AI depends on availability of data
 - Researchers lack getting enough access to data in foreign geographies
 - We can turn the wheel round.

About Justice Srikrishna Committee's views

- Link to draft:
[http://meity.gov.in/writereaddata/files/Data Protection Committee Report-comp.pdf](http://meity.gov.in/writereaddata/files/Data_Protection_Committee_Report-comp.pdf)
- India's data should be protected in India and should be accessible to Indian Authorities when needed
 - Abuse, terrorism
- Policy must be aligned to the principle of “undivided” Internet – but with India's circumstances in view
- Copy of Internet data must be kept in India – many other geographies may not specifically tell this but the data is naturally stored in their geography and Govt. has access
- Will be boost for AI and Big-data related services
- Investment flow in data-centre infrastructure

European Commission's response to the draft in a nutshell

- Interoperable Data Protection Regimes facilitate Cross Border Data Flows: In the draft bill, India has opted for the "Adequacy model" deemed as valid basis for cross border data transfers
- Urging India not to adopt Mandated Data Localization policy as it increases cost of compliance for businesses & is a potential trade barrier
- Suggesting India to reconsider joining the Council of Europe's Cybercrime Convention or simply Budapest convention (which is under review) so that law enforcement authorities are enabled to obtain (legitimate) access to electronic evidence
- Ensuring Independence of the proposed Data Protection Authority (DPA) under the draft bill and importance of having a more predictable regime by reducing discretion vested with Govt. & DPA
- Augmenting Rights framework to reflect Right to object to processing and challenging automated decision making if individuals are subject to bias
- Reducing broad scope of exemptions and what reasonable processing entails
- Using a risk based approach to let organizations self-assess whether they are 'Significant Data Fiduciaries'

Full response from European Commission is available at:

https://eeas.europa.eu/delegations/india/53963/submission-draft-personal-data-protection-bill-india-2018-directorate-general-justice_en

European Commission stressing on bilateral legislations to ease out sharing of data when needed, rather than explicit localization of data by India.

THANK YOU