# DATA SOVEREIGNTY AND ITS IMPINGEMENT UPON THE INDO-US RELATIONS

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*Abstract*

In today's world, data is deciding our social interactions, choices as well as playing an intrusive role in shaping the democratic polities. It has this incisive capability to alter the dynamics vis-a-vis states and citizens. For some time now, it has been referred to as the new oil as it is already handing significant benefits for organizations, employing analytics and artificial intelligence in their operations. The criticality of data has gained significant weight in economic, strategic as well as political terms. The US' 2016 presidential polls and the Brexit phenomena to a great extent were influenced adversely the by Cambridge Analytica saga. During President Donald Trump's tenure, he was quite vocal about the sensitive US data being illegally stolen by Chinese 5G networks on a grand scale. As regards the regulations mooted upon by the Indian side on data flows, the US side insists that the extant market constraints in the face of lingual differences as well as infrastructural lacunas hinder the tech companies in effectively penetrating the mass culture. They assert that a custom-made data protection architecture bodes ill for the future bilateral engagement projects as the cost of logistics will get increasingly high and erode market intimacy between the two natural partners. This paper seeks to shed light on the debates involved with the whole premise of data sovereignty, in the context of Indo-Us relations and the associated issues.

*Keywords***:** Data colonialism, digital trade, data protection, operational cost, sovereignty

## Introduction

The issue has tested the robustness of the Indo-Us relationship, especially in the last 3-4 years. India has the highest rate of adoption of digital technologies. USA will be upended by Asia, accounting for the largest consumer market by the end of 2022, with China, India and Indonesia making nearly 40% of total global consumer spending by 2040. India has been a vanguard in the fight against **Data Colonialism** and its engagement with the developed world largely led by the USA, hinges basically on the grounds that its own national development should be the sole

purpose for which the data originating from within its boundaries, should be used as **data is the cornerstone of societal and economic advancement**. Unbridled profit-making is a thing, the West swears by. Further, the cross-border data flows should be regulated and data-localization be institutionalized. It is also incumbent upon the government to protect the data of its citizens from the risks of external espionage and theft, as posited by Chinese apps.

The major hurdle imposed by the India's **Personal Data Protection Bill** is that it allegedly **impedes digital trade with the US** as their companies would be hard pressed to make adjustments to the newly laid compliant mechanisms and will considerably **enhance the operational costs**. The United States may aggressively push for bilateral data sharing mechanisms. The bill's ramifications were decoded by the US stakeholders as a supra-national push to forge the ambivalent future of the twin pillars of data governance and cyber security.

**James A. Lewis** in an expert speak "Digital Sovereignty in a Time of Conflict", dated 26.10.2020, with the Observer Research Foundation emphasizes upon the need to create a strong, formal framework for collaboration among like-minded democracies and utilize it as a platform to negotiate to avoid the risks of Internet balkanization due to over-regulation of data, while also addressing valid issues that are transforming the internet. However, the mechanism cannot be a global endeavor as for the foreseeable future, the globe seems divided along political lines, and the internet will reflect this. He further contends that anyone who doesn't swear by the sanctity of fundamental rights must be excluded from any new system. Trying to reach an agreement with authoritarians would be a waste of time. The internet's early ideology was based on the notion of personal freedom, making it the ultimate offspring of the Enlightenment and its emphasis on individual rights. The alternative before us is not to prevent, but to manage, balkanisation in order to collectively defend the internet as a space for individual action—in speech, data, and invention.

**Arindrajit Basu** in his issue brief "Sovereignty in a Datafied World" published for ORF dated 18.10.2021, evaluates that data governance debates revolve around the nature and scope of sovereignty in the digital world, both in terms of legislative impositions and statements of strategic autonomy. India will surely be a prominent player, and New Delhi must recognize the importance of framing these debates for the country's strategic objectives. Configuring data for development, establishing sovereign writ over cross-border data flows, and employing data as a strategic tool have all been foundations of Indian diplomacy. India has made its positions on various topics plain, owing to a strong strategic interest in crafting norms on all three pillars. The next stage is to create a universal theory that embodies these objectives. Foreign policy debates can only be as good as the examples set at home. The acts of New Delhi must demonstrate a clear commitment to the rule of law and democratic principles—a policy that will set it apart from strategic enemies such as China. It would also allow for the formation of partnerships, which may necessitate some compromise but will ultimately benefit India's basic interests. Over two years ago, India was labeled a global digital decider, with analysts hesitant to place India clearly in either of the existing camps. Instead of getting caught up in stale old maneuvers, New Delhi must define a new route for itself that prioritizes Indian

strategic interests in this government. With a network of partners and a clearly defined and constitutionally sound strategy, India might establish a fair and equitable global vision of sovereignty in a datafied world.

**Deepak Thakur** in an opinion piece in The Economic Times, dated 10.10.2022, titled "Data Sovereignty: Here's how critical it is for India's digital roadmap", voices that Data plays a critical role in a country's overall development. Along with a plethora of opportunities, it also creates grave implications for national as well as personal security. India has put a premium over data security by placing the cause of sovereignty at the forefront. While sticking to its constitutional ethos, India can forge a more balanced conception of sovereignty in a data-driven world. In contrast to the frantic profit-making of western enterprises, data is the foundation of India's socioeconomic future. India has been an active participant in the continuing discussion over regulating cross-border data flows and advocating for data localization. It is also critical to protect people' data from external attacks as a separation between the worlds of security and economy. Similarly, India had banned roughly 2000 Chinese apps.

**Karthik Nachiappan** in an expert speak with ORF titled "The international politics of data: When control trumps protection", dated 26.10.2022, has studied that This emerging trend has far-reaching ramifications for global governance, international trade, and internet governance. If this tendency continues, it will be difficult for countries and existing multilateral frameworks to develop global data norms and rules, since countries prioritize data extraction over data protection and transfer via safe and accessible paths. The EU is enacting legislation and directives in order to reclaim sovereignty over its data and regain some digital independence. China's Personal Information Protection Law (PIPL) has a stringent data localisation requirement that requires personal information to be stored in China and transferred only after a prior evaluation by the cyber-security administration. The Personal Information Protection Act, in particular, binds any corporation or government body wishing to export personal data outside of South Korea. As data becomes increasingly managed by complicated national regimes, and potentially byzantine regulatory systems, the ability to uncover and exploit trade-offs that may be coordinated through mutually acceptable standards is expected to dwindle. As the internal politics of data swing dramatically inward, achieving data interoperability through a multilateral instrument may become difficult. Countries will negotiate digital commerce bilaterally or minilaterally through like-minded institutions such as the Quad, IPEF, or CP-TPP, where the prospects for finalizing and syncing frictionless standards are high. Policies that strengthen data control may result in new kinds of digital statism, in which the state becomes the dominant, and possibly central, force driving digitalisation through the establishment of laws, regulators, institutions, and infrastructures managing the digital. We could be on the verge of a digital leviathan age. The United States (US) and significant US technology businesses were publicly critical of Delhi's obstinate stance on data sovereignty, branding it a "overreach" that hampered digital trade, endangered privacy, and challenged intellectual property rights.

In an editorial published in The Hindu, New Delhi, by **Ingrid Schneider and Krishna Ravi** Srinivas titled "A chance for India to shape a data governance regime", dated 14.03.2023, it is suggested that the India Stack be designed and deployed in accordance with India's largest development strategies. It will also guarantee that data governance is consistent with the priorities and values of the country. The creation of a secure, egalitarian, and trustworthy digital future for everybody should not stand contested. India has a once-in-a-lifetime opportunity to create and implement a data governance framework that can serve as an example for other countries. It is critical for India to find a happy medium between limiting data sovereignty and boundless data flow, as well as to specify the purposes for which it can be shared and who would be authorized to do so. Transparent and responsible data governance regulations, as well as investment in critical digital infrastructure and talent development, must be ensured.

On these accounts, a few gaps were observed in the present corpus of literature and commentaries around the theme of data sovereignty. This paper endeavours to analyze the emergent developments around this theme which has ramifications for future Indo-US collaboration along a range of novel sectors including the critical and emerging technologies. The nature of intensified relations would dictate the contours of the global power dynamics of the 21$^{st}$ century. Through the blended lenses of the Realist, Neo-Realist, as well as the Constructivist approach to the International relations, the paper has been attempted. While going through the extant reference points on the literature available on the topic, it was adduced that the aforementioned theories needed better application in understanding the intrinsic strategic interests of both India and the US, when it comes to how data is being controlled and transacted upon.

### *Methodology*

So far as the methodology of the study is concerned, Qualitative research method has been used. Primarily, secondary data from a few well-researched newspaper columns and articles, expert speaks and books having relevance to the chosen research paper's topic has been referred to in close details. Analytical and explanatory approach resonated aptly with the scope and objective of the paper.

### *Conclusion*

Data sovereignty has grown in importance as it relates to the notion that a government has the right to control the collection, storage, and use of data inside its borders, as well as citizens' informational self-determination over their data. The establishment of an India Data Management Office (IDMO) in India is a significant step forward in the country's march toward data sharing and governance. The IDMO will be responsible for overseeing and coordinating the implementation of India's digital initiatives and data governance framework, as well as ensuring that these efforts are consistent with the country's values and priorities. It will also seek to support the development and deployment of open source solutions that will help to ensure that underlying data architectures are a

social public good and that digital technologies are accessible and inexpensive to all. Once again, India has a fantastic potential to produce solutions that can be taken and adapted in other countries. Open source and open innovation methods can be valuable alternatives to private proprietary solutions managed by large technology corporations. Many observers in this context have advocated for the dismantling of data silos in order to capitalize on the potential riches of data sharing between government agencies, corporations, and citizens. While certain data silos may be beneficial in terms of enhancing citizen engagement and access to information, others may jeopardize trust and security.

As the world is going through incessant polarisation and divisiveness, India along with the US, may in the near future, come even more closer to one another if the Chinese assertiveness and its sabre-rattling along India's borders don't come to a halt. In this backdrop, there is no question about the reinforced commitment of both the democracies to weed out the impediments coming along the data protection and sustainability issue. It is certain that the big American Trans-national giants hold considerable leverage, vis-à-vis lobbying and financing the politicians, the way the US President recently reiterated his call for the private players in his country to work with more purpose and understanding when it comes to investment in India, the chances of converging of multitudes of stakeholders for a common cause, though seems a tad too far-fetched, but its promise can't be ruled out.

*Reference*

Lewis, J. A. (2020, October 26). Digital Sovereignty in a Time of Conflict. orfonline.org. https://www.orfonline.org/expert-speak/digital-sovereignty-in-a-time-of-conflict/

Basu, A. (2021). Sovereignty in a 'Datafied' World (501). Observer Research Foundation. https://www.orfonline.org/research/sovereignty-in-a-datafied-world/

Thakur, D. (2022, October 10). Data sovereignty: Here's how critical it is for India's digital roadmap. https://cio.economictimes.indiatimes.com/news/strategy-and-management/data-sovereignty-heres-how-critical-it-is-for-indias-digital-roadmap/94750605

Nachiappan, K. (2022, October 26). The international politics of data: When control trumps protection. orfonline.org. https://www.orfonline.org/expert-speak/the-international-politics-of-data/

Schneider, I., & Srinivas, K. R. (2023, March 14). A chance for India to shape a data governance regime. https://www.thehindu.com/opinion/lead/a-chance-for-india-to-shape-a-data-governance-regime/article66615759.ece

Grover, J. (2023, March 19). Norms for non-personal data sharing in the works. msn.com. https://www.msn.com/en-in/money/news/norms-for-non-personal-data-sharing-in-the-works/ar-AA18PdmJ

'Negative list' for data transfer in works: MoS IT Rajeev chandrasekhar. (2023, March 21). The Economic Times. https://economictimes.indiatimes.com/tech/technology/india-may-blacklist-some-nations-to-stop-data-flow-mos-it/articleshow/98829328.cms

Desai, A. N. (2023, March 21). India To Restrict Information Outflow: Countries On "Negative List" Barred From Indian User Data Transfers. gizbot.com. https://www.gizbot.com/internet/news/india-to-restrict-information-outflow-some-countries-may-be-put-on-negative-list-084723.html