



Challenges in regulating Big Data: an international perspective

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Topic of today I

- Rise in investments & use of Big Data by governments
- Several goals & possibilities for governments (to be discussed later)

Topic of today II

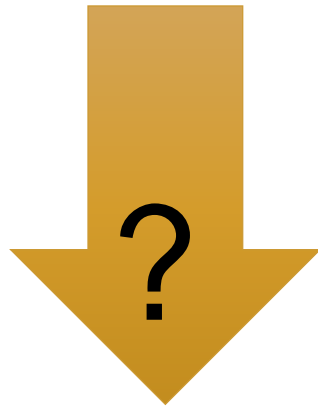
- Obviously also a lot of risks
 - Protection of privacy and personal data in large databases
 - Errors in data -> data analysis -> data based decision making
 - Bias in data, data analysis not so neutral as it seems -> discrimination
 - Lack of transparency in the process & decision making hinders detection of errors and due process
 - Chilling effects
 - Correlation \neq causality

Topic of today III

- International perspective to give insight & regulation in broad sense
- Examples & raising questions
- So...suppose we were to regulate (aspects of) Big Data? How?

Big Data by governments

- Advisory reports (USA, France, NL)
- Investments (Most prominently in USA, UK)
- Setting up collaborations (South-Africa, Australia)
- Pilots (USA, UK, Australia, Belgium, NL)



- Implementation of Big Data use

Big Data according to governments

- Overuse of the term Big Data
- Examples of practices labeled as Big Data:
 - Use of large data sets
 - Use of (smart) algorithms
 - Use of predictive analysis
 - Digitalizing government
 - Identification for citizens based on biometric & demographical data
 - Combining different sources

Purposes & goals of Big Data

- Improve government services
 - Aadhaar – India
 - UK & Australia
- Fighting crime/national security
 - Detecta – Brazil CAS – The Netherlands BRIS - Australia
 - Crystal Ball – Israel US & UK – Software to predict crime
- Enhancing business & stimulating economic growth
 - DataViva – Brazil
 - SKA – South-Africa
 - France, Germany, Japan, China

Legislative basis for Big Data

- Countries that change legislation
 - China – facilitate use of personal data
 - Australia – facilitate use of tax data collected by private actors
 - Other amendmends
- Act within existing legislation
 - Privacy & data protection legislation
 - Specific legislation to the domain (tax law, criminal law, administrative law)

Obstacles to Big Data Regulation

- What to regulate? And who decides?
- Differentiate protection in connection to purpose?
- What is the right way to go about legislation?
- Missing...accountability? And what is the role of private actors in all this?

Elements of regulation – Accountability & redress

- Governments put less focus on this in public statements, policy documents etc.
- There are examples
 - Australia – Data Matching Protocol
 - France – Open up algorithms & decision making

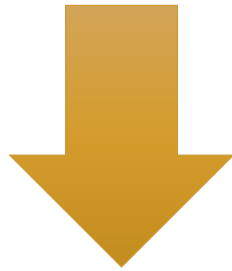


Australian Government
Australian Taxation Office



Elements of regulation - Role of private actors

- Governments use data collected by private actors
- Governments share data with private actors
- Governments participate in networks for BDA with private actors
- Private actors develop/supply software & infrastructure



- How to regulate this interaction? Again Data Matching ?

Elements of regulation - Purpose

- Different government goals & purposes
- In several countries, different laws relevant -> create protection there?

Background



- Drawn from WRR study and follow up paper together with Bart van der Sloot.
- See WRR study for links to cases, policy documents, etc.

<https://www.wrr.nl/publicaties/publicaties/2016/04/28/international-and-comparative-legal-study-on-big-data>

Discussion

- Just proposing some possible statements/questions for discussion:
 - Does it matter whether something is labeled as Big Data?
 - Does it matter for which purpose Big Data is used? If yes, where is the line between OK and no go?
 - Should there be changes made to current law? Should current law be interpreted differently in terms of Big Data?
 - What are good ways of making governments accountable?
 - How should we view the role of private actors in all of this?