Challenges in regulating Big Data: an international perspective

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• Rise in investments & use of Big Data by governments

• Several goals & possibilities for governments (to be discussed later)
• 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 ≠ causality
• 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 amendments

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

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?