A GLOBAL ORDER AS TECHNOLOGY'S MUCH NEEDED POLE STAR

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'Geography-based rules are no longer easily enforceable simply because of the declining significance of conventional geographical borders in the era of high technology' | Photo Credit: Getty Images/iStockphoto

Ever since the Dot-com bubble burst in 2000, the rapid scale and pace of development of technology have, radically and disruptively transformed our societies and daily lives. While there is no denying that this has made life easier, it has also thrown up complex challenges that call for a revisit of some fundamental notions in polity and governance.

First, as defined by political theorists, a nation-state is a territorially-bounded sovereign polity. However, this fundamental notion of a nation-state of a geographical unit in which citizens live is undergoing a massive change because of technology. While geographical boundaries are still essential to be safeguarded against physical aggression/invasion, there are now several externalities occurring across the borders of nation-states, i.e. cyber-attacks, which have a ripple effect on the physical boundaries to challenge their socio-economic and political existence. The advent of Web3, massive peer-to-peer networks and blockchains has allowed actors, both state and non-state, to influence areas such as trade, commerce, health and education even while remaining outside of financial and judicial scope.

Second, geography-based rules are no longer easily enforceable simply because of the declining significance of conventional geographical borders in the era of high technology. Now, any form of "virtual activity" is not confined to the realms of the borders of a country; data travel on the chain of the world wide web and spread across the world at speed hitherto unimaginable. More importantly, when such activities fall foul of the laws of a particular geographically-determined nation-state, it is extremely difficult in the absence of a globally-accepted norm, to enforce the law in that particular geography and book the recalcitrant actors under the laws of the nation-state. It is difficult to collect incontrovertible evidence without cooperation from other geographies. So, when the national sovereignty of countries is challenged by activities beyond their physical boundaries, their existing constitutionally set-up institutions comprising the executive, legislature and judiciary will prove inadequate in tackling them. Further, it is also difficult to establish applicability of any country-specific legislation due to the universal nature of technology, leading to problems in enforceability.

Third, the emergence of newer technologies has exposed the incapacity and inability of the

government of the nation-state to administer and regulate these technologies. No longer is the nation-state the only conduit through which multinational corporations, non-governmental organisations and supranational organisations, both legitimate and illegitimate, state and non-state actors, need to operate. These entities have transcended physical boundaries to collaborate with the rest of the world, independent of traditional administrative and regulatory institutions. For instance, topographical maps, which used to be produced by public and military institutions, are now available entirely by private non-state actors, such as Apple or Google Maps.

On the economic side, "with a valuation of more than $4,100 billion, the five largest American tech companies (Google, Amazon, Facebook, Apple, and Microsoft) have symbolically surpassed Germany's GDP (the world's fourth largest economy) in terms of valuation". One of the most important levers of these companies is data and their use.

This means that data "have become the most important raw material of our times, and only a handful of companies now hold unparalleled economic power and influence over it. These are the meta-platforms: their huge size allows them to constantly increase the amount of information they analyse and refine the algorithms they use to influence, if not control, us and our activities". Thus, as reiterated by India in the past at various international fora, "the borderless nature of technology, and, more importantly, anonymity of actors involved, have challenged the traditionally accepted concepts of sovereignty, jurisdiction/regulation, and privacy". In such a scenario, a principle-based global order for technology would help in streamlining the enforceability challenges in the adoption and diffusion of technology and providing guidance to emerging economies on how to deal with the evolving definitions of their sovereignty. Further, as we have seen in case of the COVID-19 pandemic, the way forward in managing future global pandemics is probably by the adoption of digital health. But what will the meaning of this digital health framework be if we cannot have a data-sharing ecosystem based on privacy, free flow of data, and a global regulatory system trusted by all countries/nation-states, particularly developing countries? Therefore, India needs a data transfer and data privacy law. But these laws, in isolation, will only be able to do so much unless a global principle-based regulation architecture trusted by all countries facilitates it.

I espoused this approach in Parliament (on the need for a global order for the deep Web, crypto, or regulations for cross-border data flow). Even the Finance Minister while addressing a meeting with the International Monetary Fund on the guidelines of a G-20 event on virtual private digital assets, emphasised the need to have a globally-coordinated approach to the regulation of digital assets such as crypto-currencies, given the potential risks they pose to the world's financial ecosystem.

With India, as the current chair of the G-20, this is the perfect opportunity to take leadership in this as it has done earlier in green initiatives such as the International Solar Alliance or the Coalition for Disaster Resilient Infrastructure.

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