

Data as a national asset
What does seeing data in terms of an asset
reveal about the postcolonial state in India?

Kushang Mishra

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The Indian state has tried to project an image of data sovereignty, seeing data in terms of a national asset that needs to be protected against the data colonialism of Western Big Tech through various policy documents and rhetoric. In this paper, I have tried to analyse this claim and tried to unravel how it sees data and defines data colonialism, unravelling the role which the Indian private sector plays in supporting that vision. I have then compared it with the work of the scholars of critical data studies who have critically examined the impact of Big Data from the lens of data colonialism to argue how it fails to challenge the epistemological basis of data colonialism even as it projects to fight it.

kushang.mishra@auckland.ac.nz

There is a particular way in which the Indian state sees data. It is driven by an idea of *Data Sovereignty* that has its basis in a much older idea of *State Sovereignty*, where the state has an authority over a *territory*. According to DB Hollis, this territory

should not only be restricted to landmass but also to resources in the bounded space such as human infrastructures, air space, or minerals (or oil) below the surface or in its adjacent sea.¹

Various government policy documents by the Indian state use the rhetoric of *data as an asset* that needs to be used for the public good.² Data are imagined as a *national resource* that should only be accessible to Indians, comparing it to a resource like 'coal' upon which 'non-Indians do not have any prima-facie right or claim'.³ The peculiar thing about this rhetoric is its focus on the Indian private sector when

it comes to accessing this 'national asset'.⁴ Here the Indian state seeks to disrupt the 'free flow of data' built to protect the 'Silicon Valley Consensus' that favours US tech companies.⁵ The rationale behind this seems to be that these so called 'Big Tech' corporations based outside the country (mainly the US) have had a 'first mover advantage' in terms of profiting from the 'data that would be generated within India' – leaving the Indian private sector with no opportunity for 'creating high value digital products'.⁶ Therefore, through various laws and policy documents, the Indian state seeks to give the Indian private sector the priority over the monetisation of this data.⁷

This approach towards data decolonisation⁸ seems to be at odds with the larger decolonial discourse in critical technology and data studies: in the latter, the very idea of data as an 'asset' is critiqued and is seen as the basis of data colonialism.⁹ Scholars who form part of this discourse see the trend of 'datafication' increasing in various

- Hollis DB, 'Stewardship versus Sovereignty? International Law and the Apportionment of Cyberspace' (19 March 2012) <https://papers.ssrn.com/abstract=2038523> accessed 30 April 2023; Stephane Couture and Sophie Toupin, 'What Does The Notion Of "Sovereignty" Mean When Referring To The Digital?' (2019) 21 *New Media & Society* <https://journals.sagepub.com/doi/10.1177/1461444819865984> accessed 12 August 2023.
- Amber Sinha and Arindrajit Basu, 'The Politics Of India's Data Protection Ecosystem' (2019) 54 *Economic and Political Weekly* <https://www.epw.in/engage/article/politics-indias-data-protection-ecosystem> accessed 20th August 2020.
- Government of India, Ministry of Commerce and Industry, Department for Promotion of Industry and Internal Trade, 'Draft National E-Commerce Policy: India's Data For India's Development' (2019) 14 <https://static.investindia.gov.in/s3fs-public/2021-09/Draft%20National%20e-Commerce%20Policy.pdf> accessed 12th August 2023.

- Amba Kak, 'The Global South Is Everywhere, But Also Always Somewhere' [2020] *Proceedings of the AAAI/ACM Conference on AI, Ethics, and Society* <https://dl.acm.org/doi/abs/10.1145/3375627.3375859> accessed 18 August 2020 309.
- Thomas Streinz, 'Digital Megaregulation Uncontested? TPP's Model For The Global Digital Economy' in Benedict Kingsbury and others (eds), *Megaregulation Contested: Global Economic Ordering After TPP* (Oxford University Press 2019); Shoshana Zuboff, *The Age Of Surveillance Capitalism: The Fight For A Human Future At The New Frontier Of Power* (1st edn, Public Affairs 2019); Kak (n 4).
- Government of India (n 3) 15.
- Kak (n 4).
- While the Indian government does not explicitly use the term 'decolonisation', its rhetoric of *data sovereignty* (which I will explicate in the paper later), does seek to oppose the *colonisation of data* by Big Tech companies, which I will demonstrate both through policy documents and speeches by key government officials.
- Nick Couldry & Ulises Ali Mejias, 'The decolonial turn in data and technology research: what is at stake and where is it heading?' (2021) *Information, Communication & Society* <https://doi.org/10.1080/1369118X.2021.1986102> accessed 19 May 2022.

Kushang Mishra is a PhD candidate at the Department of Sociology, Faculty of Arts, University of Auckland

aspects of life and the consequent need to extract and modify data as a new form of colonialism akin to historical forms of colonialism. Their definition of decolonisation (something which I will elaborate on in the following section) critiques the idea of ‘data as oil’ which, according to them, forms the epistemological basis of data colonialism. But the Indian state has a very different understanding of data colonialism, which I would argue is a diametrically opposite definition of data colonialism, for it is based on control over data as an asset by *Indians*, and by extension, the private sector based in India. Why does the Indian state define decolonisation in terms of the narrow interests of the Indian industry? Why does the Indian state conflate domestic business interests in data access with *national interest* or *public good*?

In order to answer these questions, the first section of the paper will explore the underlying *colonial* ideology that sees data as an *asset* or a *resource* and what it means to *decolonise* by exploring the literature involving *datafication* and *Big Data* from the perspective of data colonialism.¹⁰ The second section will look at the concept of data sovereignty and the way in which the Indian state projects it as well as its *decolonial* effort through various policy documents and frameworks related to privacy of data, access to data held by companies and state actors and data flows, to see how the Indian state sees data and how it uses the term *data colonialism*. The third section explores the centrality of the Indian private sector in this understanding of data colonialism through the *Aadhaar* and the *India Stack* project. Using speeches by government and private actors, the next section explores the Indian state’s belief in the local private sector as the champion for fighting the data colonialism of the West and the way in which certain companies play into that rhetoric using the concept of *techno-nationalism*, even as they replicate the same exploitative business models for which the western Big Tech has been criticised. Finally, I contrast the two conceptualizations of *decolonisation* and argue how the Indian state, even as it fights data colonisation by the Big Tech, falls within the same value system that it seeks to fight. It does not, as Ricaurte shows in her paper, imagine other alternative data epistemologies that do not exploit the vulnerable populations within the society.¹¹

1. Data is the new oil: Big Data as a new form of colonisation

The emergence of Big Data or ‘datafication’ in various spheres of life is increasingly being seen by many scholars as the newest manifestation of colonialism.¹² The argument put forward by these scholars

is that this form of ‘data colonialism’ has many features in common with historical colonialism.

Data colonialism mirrors the ‘predatory extractive practices of historical colonialism’.¹³ Just as historical colonialism seeks to extract and process *raw* resources that are *lying out there in nature* like timber, oil, or coal for it to be made useful, in data colonialism, data are seen as an entity that needs to be extracted and processed for it to be made useful. According to Kovacs and Ranganathan, the idea that data are something that are *out there* has its origins in cybernetics wherein data are considered to be a layer that is everywhere as well as something that has its own independent existence.¹⁴ Moreover, this independently existing entity has been accorded so much power that it has become the ‘ultimate truth teller’.¹⁵

It is also based on the doctrine of *terra nullius* (or no man’s land) which was used as a legal fiction to justify historical colonialism, as it signified that the land is ‘unowned’ and therefore available for occupation’ due to ‘the absence of prior claims’.¹⁶ Similarly, data are considered to be the new ‘unexplored frontier’ or *terra nullius* in data colonialism; one that needs to be ‘to be staked out, mapped, and colonized’.¹⁷ Thus, the very logic of data production which sees data as an *asset* or a *resource* that needs to be *extracted* and *processed* to make it useful is seen as an expression of ‘the coloniality of power’.¹⁸

Unlike historical colonialism, however, in data colonialism there is not only an exploitation of land, bodies, and natural resources, but an appropriation of all areas of social activity for profit.¹⁹ And unlike the former, data colonialism is not restricted by geography as it works both externally on a global scale, as well as internally.²⁰ This ‘annexation of life to capital’ is done with the help of digital platforms provided by *Big Tech* corporations.²¹ While railways and maritime trade served as the ‘technical architecture of profit and plunder’ for historical colonialism, today Big Tech corporations monopolise the digital infrastructure for extracting and processing user data.²² For instance, Microsoft’s operating software *Windows* became a monopoly in the operating system market, with their *Office* software

- 10 Nick Couldry and Ulises A. Mejias, ‘Data Colonialism: Rethinking Big Data’s Relation To The Contemporary Subject’ (2018) 20 *Television & New Media* <https://journals.sagepub.com/doi/10.1177/1527476418796632> accessed 12th August 2023; Nick Couldry and Ulises A. Mejias, *The Costs Of Connection: How Data Is Colonising Human Life And Appropriating It For Capitalism* (1st edn, Stanford University Press 2019); Paola Ricaurte, ‘Data Epistemologies, The Coloniality Of Power, And Resistance’ (2019) 20 (4) *Television & New Media* <https://doi.org/10.1177/1527476419831640> accessed 29 February 2020.
- 11 Ricaurte (n 10).
- 12 Jim Thatcher, David O’Sullivan and Dillon Mahmoudi, ‘Data Colonialism Through Accumulation By Dispossession: New Metaphors For Daily Data’ (2016) 34 *Environment and Planning D: Society and Space* <https://journals.sagepub.com/doi/10.1177/0263775816633195> accessed 15 December 2021; Couldry and Mejias, ‘Data Colonialism: Rethinking Big Data’s Relation To The Contemporary Subject’ (n 10); Monique Mann and Angela Daly, ‘(Big) Data And The North-In-South: Australia’s Informational Imperialism And Digital Colonialism’ (2018) 20 *Television & New Media* <https://journals.sagepub.com/doi/abs/10.1177/1527476418806091?journalCode=tvna> accessed 14 December 2021; Stefania Milan and Emiliano Treré, ‘Big Data From The South(S): Beyond Data Universalism’ (2019) 20 (4) *Television & New Media* <https://journals.sagepub.com/doi/pdf/10.1177/1527476419837739> accessed 4 October 2021.

- 13 Couldry and Mejias (n 10) 2.
- 14 Anja Kovacs and Nayantara Ranganathan, ‘DGN Policy Brief 03 - Data Sovereignty, Of Whom? Limits And Suitability Of Sovereignty Frameworks For Data In India’ (Data Governance Network 2020) <https://www.datagovernance.org/files/research/1606371623.pdf> accessed 12 August 2023.
- 15 Kovacs and Ranganathan (n 14) 3.
- 16 Julie E. Cohen, ‘The Biopolitical Public Domain: The Legal Construction Of The Surveillance Economy’ (2017) 31 *Philosophy & Technology*, 215.
- 17 Cohen (n 16) 216.
- 18 Anibal Quijano, ‘Coloniality Of Power And Eurocentrism In Latin America’ (2000) 15 *International Sociology* <https://journals.sagepub.com/doi/abs/10.1177/0268580900015002005> accessed 20th October 2021; accessed 20th October 2021; Anibal Quijano, ‘COLONIALITY AND MODERNITY/RATIONALITY’ (2007) 21 *Cultural Studies* <https://doi.org/10.1080/09502380601164353> accessed 3 February 2022; Walter Mignolo, *Desobediencia Epistemica: Retorica De La Modernidad, Logica De La Colonialidad Y Gramatica De La Descolonialidad* (Ediciones del Siglo 2014); Ricaurte (n 10) 1.
- 19 Thatcher, Sullivan and Mahmoudi (n 12); Couldry and Mejias (n 10).
- 20 Couldry and Mejias, ‘Data Colonialism: Rethinking Big Data’s Relation To The Contemporary Subject’ (n 10); Ricaurte (n 10); Mann and Daly (n 12).
- 21 Couldry and Mejias, ‘Data Colonialism: Rethinking Big Data’s Relation To The Contemporary Subject’ (n 10) 6.
- 22 Michael Kwet, ‘Digital Colonialism Is Threatening The Global South’ (*Aljazeera.com*, 2019) <https://www.aljazeera.com/opinions/2019/3/13/digital-colonialism-is-threatening-the-global-south/> accessed 4 January 2022.

becoming an irreplaceable part of any office in the world.²³ As a search engine, Google became a monopoly to such an extent that ‘Googling’ became synonymous with performing a search on the internet.²⁴ Facebook (which later acquired Instagram and WhatsApp as well) had a similar hold over social media.²⁵ Along with Twitter (now known as X), it became a source for accessing news around the world for many people, especially the younger generation. These platforms create a different type of ‘social’ in the form of ‘data’ that can be tracked, captured, sorted and counted’ for capital appropriation, as [it seems] life itself can now be caught in the ‘net of marketization’.²⁶

Historical colonialism established a ‘eurocentric’ worldview that sought to impose ‘a single universalizing narrative of values, beliefs and politics’.²⁷ Similarly, data colonialism legitimises a ‘regime of knowledge production’ that is considered universal and that excludes alternative forms of ‘data epistemologies that are respectful of populations, cultural diversity, and environments’.²⁸ Here, a ‘Data Universalism’ based on certain ‘Silicon Valley principles’ is imposed which undercuts alternate forms of understanding data emerging from the Global South.²⁹ It also homogenises different contexts that have their own particular characteristics and ‘cultural specificity’.³⁰

Therefore, to address data colonialism, the authors suggest ways to think outside of the data driven epistemology. *Decolonisation* in this sense would mean rejecting the idea that only quantitative methods that are based on Big Data methodologies will offer an accurate picture of reality.³¹ It also means conceptualising data outside of its extractive rationality. Milan and Treré call for an epistemological shift when it comes to thinking about data, a call for not just epistemological diversity, but an ‘*epistemic justice*’ that not only seeks to give voice to the ‘otherness’ but goes further, taking ‘affirmative action’ against inequality by ‘unleashing novel data imaginaries’.³² These new forms of *data imaginaries* could be found in ‘bottom-up data practices’ that form a resistance against datafication based upon oppression.³³ For instance, one can look at how indigenous people define data sovereignty that is different from the way corporations and national governments define it.³⁴ Ricaurte pushes against a sense of ‘ineluctability’ about datafication which

‘normalizes’ exploitation of data to such an extent that we cannot think beyond that.

For the purpose of this paper, I will draw upon the work of the scholars of critical data studies to define decolonisation, as their definition seeks to critique the very epistemological basis of data colonialism, insofar as it is based on an extractive rationality that sees data as *terra nullius*, or unexplored frontier that ‘needs’ to be colonised. This would be in opposition to a Silicon Valley mentality that promotes a singular ‘regime of knowledge production’ that excludes other forms of imagining data emerging from the Global South. The reason I would be using this definition is because it brings out the all-encompassing nature of data colonialism and does not restrict it to any north-south binary; moreover, it explores its adverse effects on the exploited, regardless of any geographical boundary. The coloniser and the colonised can and should also be seen from the lens of intersectionality wherein identities like caste and gender also define who is colonised and who is not. Doing that would mean exposing the exploitative nature of colonialism, which is not as simplistic as the *West* colonising the rest. As Svensson and Guillén argue, it also warrants thinking of data as ‘deeply cultural and infused with societal norms and values’; rather than being a phenomenon that arises naturally, ‘it is collected and manipulated by people, shaped by human decisions, interpretations and filters’.³⁵

But rather than fighting data colonialism in this manner, many countries in the Global South like India often try to oppose the data colonialism of the West (especially American Big Tech companies) by asserting sovereignty over the data, which they see as being ‘of’ and ‘produced by’ the people within their sovereign territory. As Mihir Kaulgud in his work on data governance in India argues, the policy stance of the Indian state paradoxically speaks against data colonialism and also seeks to perpetuate the data as a resource mindset restricting its meaning to only geopolitics.³⁶ In the next section, I will explore the concept of data sovereignty in general and how the Indian state manifests its stance on this through various laws and policy documents.

2. Sovereignty over data: Looking at data from the lens of the Indian state

At the Economic Times Startup Awards 2019, the then telecom, law, and IT (Information Technology) minister Ravi Shankar Prasad put it thus: ‘Let me make it very clear: Narendra Modi will never compromise on data sovereignty of India’.³⁷ This ideal of *Data Sovereignty* and the need to fight Big Tech is not unique to the Indian state. It has its origins in the *Peace of Westphalia Treaties*, wherein sovereignty is linked to a particular territory.³⁸ According to Polatin-Reuben and Wright, it has become a ‘catch-all term’ to describe the data approach of vari-

23 ‘Judge Calls Microsoft A “Monopoly”’ (CNET, 2002) <https://www.cnet.com/news/judge-calls-microsoft-a-monopoly/> accessed 4 January 2022.

24 Virginia Heffernan, ‘Just Google It: A Short History Of A Newfound Verb’ (Wired, 2017) <https://www.wired.com/story/just-google-it-a-short-history-of-a-newfound-verb/> accessed 17 January 2022; Brier Dudley, ‘Understanding The Landscape Of Facebook’s Dominance’ Seattle Times (2020) <https://www.seattletimes.com/opinion/understanding-the-landscape-of-facebooks-dominance/> accessed 4 January 2022.

25 Brier Dudley, ‘Understanding The Landscape Of Facebook’s Dominance’ Seattle Times (2020) <https://www.seattletimes.com/opinion/understanding-the-landscape-of-facebooks-dominance/> accessed 4 January 2022.

26 Couldry and Mejias, ‘Data Colonialism: Rethinking Big Data’s Relation to the Contemporary Subject’ (n 10) 6.

27 Couldry and Mejias *The Costs of Connection: How Data Is Colonizing Human Life and Appropriating It for Capitalism* (n 10) 69.

28 Ricaurte (n 10) 1.

29 Milan and Treré (n 12) 324.

30 Ricaurte, (n 10) 324.

31 Couldry and Mejias, ‘Data Colonialism: Rethinking Big Data’s Relation to the Contemporary Subject’(n 10); Ricaurte (n 10).

32 Milan and Treré (n 12) 325.

33 Ricaurte (n 10) 328.

34 Maggie Walter, ‘Data Politics And Indigenous Representation In Australian Statistics’ in Tahu Kukutai and John Taylor (eds) *Indigenous Data Sovereignty: Toward an agenda* (ANU Press 2016) 80; Couture and Toupin (n 1).

35 Svensson J and Guillén OP, ‘What Is Data and What Can It Be Used For? Key Questions in the Age of Burgeoning Data-Essentialism’ (2020) 2 *Journal of Digital Social Research* 65 <https://www.jdsr.io/articles/2020/11/8/what-is-data-and-what-can-it-be-used-for-key-questions-in-the-age-of-burgeoning-data-essentialism> accessed 12 August 2023 ; Kaulgud M, ‘India’s Approach to Data decolonization: Moving Away from the ‘Data as Resource’ Metaphor’ (Social and Political Research Foundation) <https://sprf.in/wp-content/uploads/2022/10/data-decol-IB.pdf> accessed 12 August 2023.

36 Kaulgud (n 35).

37 Times News Network, ‘PM Modi Won’t Compromise On Data Sovereignty’ (2019) <https://timesofindia.indiatimes.com/business/india-business/pm-wont-compromise-on-data-sovereignty/articleshow/70812638.cms> accessed 19 January 2022.

38 Kovacs and Ranganathan (n 14).

ous countries wherein their governments want 'to subject data flows to national jurisdictions'.³⁹ For instance, China (which already did not allow tech giants like Twitter (now known as X), Google, and Facebook (now Meta) to operate in the country) has recently started cracking down on its own homegrown Big Tech.⁴⁰ It also sees data as a resource for economic development, as can be seen from a series of Big Data White Papers published by a think tank that was quite influential under the Ministry of Industry and Information Technology of the Chinese government, as well as the Big Data Strategy (2017) and the 13th Five Year Plan (2016–2020) of the Communist Party of China (CPC).⁴¹ While the European Union (EU) has always foregrounded data governance in terms of fundamental rights, especially right to privacy, lately it has also started making more of economic rationale in its policymaking, focussing on increasing the competitiveness of the data economy of the European region.⁴² It has therefore started putting regulatory pressure on Big Tech companies like Amazon, Apple, Google, and Meta, on matters of data privacy, online safety, free speech, and anti-competitive practices.⁴³ In December, 2020, it also proposed a Digital Markets Act, whereby these companies will be charged hefty fines if they continue with their monopolistic practices. They have also proposed the Digital Services Act, whereby companies must pay a fine if they do not comply with the content moderation rules laid down in the Act.⁴⁴ The uniqueness of the Indian state, however, comes from the trust that it seems to project in domestic industries to compete with the *Data Colonialism* of western companies like Google.⁴⁵

The rhetoric of *data sovereignty* and the need to fight *data colonialism* has been articulated in various government policy documents.⁴⁶ All of them see data as an *asset* which can be used for public good.⁴⁷ While addressing an Indian-American audience at NRG stadium in Houston along with then President of the United States Donald Trump, PM Modi talked about how

Data is the new gold... The focus of Industry 4.0 is totally on data. It is India where data prices are the cheapest in the world and 1 GB data is available for 25-30 cents... Low-cost data is becoming the new identity of digital India, and is also redefining governance in the country.⁴⁸

The *Economic Survey of India 2018–19* even goes so far as to say how 'the private sector may be granted access to select databases for commercial use. Consistent with the notion of data as a public good, there is no reason to preclude commercial use of this data for profit'.⁴⁹ NITI Aayog's National Strategy of Artificial Intelligence also portrays a vision of data usage as a 'national resource' or 'societal commons'.⁵⁰ Even the Department for the Promotion of Industry and Internal Trade's Draft E-commerce policy talks about how 'India and its citizens have a sovereign right to their data. This right cannot be extended to non-Indians (the same way that non-Indians do not have any prima-facie right or claim to, say, an Indian coal mine).' Since it is like an 'Indian coal mine,' it suggests that the Indian government should impose restrictions on any cross-border flow of data.⁵¹ One of the reasons behind this move is that even though Indian citizens constitute the largest proportion of Facebook users (thereby generating the most amount of data), their data is stored in data centres in Europe and North America.⁵² This has been seen as a new form of colonialism, a *digital or data colonialism* wherein the data of developing countries is being used to fuel the growth of Big Tech companies based in the developed world.⁵³ In his work on 'digital colonialism', Michael Kwet specifically talked about the 'imperial control' of the United States over the Global South through the monopolistic practices of Big Tech firms like Uber, Google and Meta and other educational technology platforms.⁵⁴

Thus, in order to protect a 'resource' like data from being exploited by these American Big Tech firms, the Indian state believes it needs to establish sovereignty over this resource through various policy documents and legislations like the data localisation policy.⁵⁵ *Data Sovereignty* is seen as a mechanism through which one can fight against the new form of data colonialism that seeks to control this all-important 'resource' of the modern times just as historical colonialism exploited other resources like wood, coal, oil, gold, etc.

The government has also reiterated this stance of *Data Sovereignty* at global forums such as the G-20 Summit held in Osaka in 2019, where India did not sign the 'Osaka Track', an international declaration on data flows pushed by Japan and endorsed by the US and European Union for free flow of data across borders.⁵⁶ Accessibility of data to

39 Dana Polatin-Reuben and Joss Wright, 'An Internet With BRICS Characteristics: Data Sovereignty And The Balkanization Of The Internet', FOCI '14 (USENIX 2014) <https://www.usenix.org/system/files/conference/foci14/foci14-polatin-reuben.pdf> accessed 5 January 2022.

40 Daniel Howley, 'China's Big Tech crackdown is about protecting the Communist Party' (Yahoo Finance, 2021) <https://finance.yahoo.com/news/chinas-big-tech-crackdown-is-about-protecting-the-communist-party-194729528.html> accessed 5 January 2022.

41 Amba Kak and Samm Sacks, 'Shifting Narratives and Emergent Trends In Data-Governance Policy: Developments In China, India, And The EU' (AI Now Institute 2021) https://lawyale.edu/sites/default/files/area/center/china/document/shifting_narratives.pdf accessed 12 August 2023.

42 Kak and Sacks (n 41).

43 Leo Kelion, 'EU Reveals Plan To Regulate Big Tech' (BBC News, 2020) <https://www.bbc.com/news/technology-55318225> accessed 4 January 2022; 'Amazon Charged With Abusing EU Competition Rules' (BBC News, 2020) <https://www.bbc.com/news/business-54887650> accessed 2 December 2021.

44 Silvia Amaro, 'EU Announces Sweeping New Rules That Could Force Breakups And Hefty Fines For Big Tech' (CNBC, 2020) <https://www.cnbc.com/2020/12/15/digital-markets-act-eus-new-rules-on-big-tech.html> accessed 4 January 2022.

45 Kak (n 4).

46 Kak and Sacks (n 41).

47 Sinha and Basu (n 2).

48 Indo-Asian News Network (IANS), 'Howdy, Modi!': PM Modi Talks Of \$5 Trillion Economy, Low-Cost Data, GST' (2019) <https://www.hindustantimes.com/india-news/howdy-modi-pm-modi-talks-of-5-trillion-economy-low-cost-data-gst/story-bCw2k5osKffvno410JmLN.html> accessed 7 November 2021.

49 Government of India, Ministry of Finance, Department of Economic Affairs, 'Economic Survey 2018-19' (2019).

50 Government of India, NITI Aayog 'National Strategy of Artificial Intelligence' (2018); NITI Aayog is a public policy think tank of the Government of India

51 Government of India (n 3) 14.

52 Jacqueline Hicks, 'Digital Colonialism': Why Some Countries Want To Take Control Of Their People's Data From Big Tech' (The Conversation, 2019) <https://theconversation.com/digital-colonialism-why-some-countries-want-to-take-control-of-their-peoples-data-from-big-tech-123048> accessed 4 January 2022.

53 Michael Kwet, 'Digital Colonialism: US Empire And The New Imperialism In The Global South' (2019) 60 *Race & Class* <https://journals.sagepub.com/doi/abs/10.1177/0306396818823172?journalCode=racb> accessed 3 November 2021; Hicks (n 26).

54 Kwet (n 22); Michael Kwet, 'Digital Colonialism: The Evolution Of American Empire' (<https://roarmag.org/>, 2021) <https://roarmag.org/essays/digital-colonialism-the-evolution-of-american-empire/> accessed 3 November 2021.

55 Amber Sinha and others, 'Cross Border Data-Sharing And India: A Study In Processes, Content And Capacity' (The Centre for Internet and Society, India 2022) <https://cis-india.org/internet-governance/files/mlat-report> accessed 3 January 2022.

56 Suhasini Haider, 'At G20, India Stands With Developing World — Not U.S., Japan — On 5G And Data' The Hindu (2019) <https://www.thehindu.com/news/national/on-5g-and-data-india-stands-with-developing-world-not-us-japan-at-g20/article28207169.ece> accessed 7 October 2021; Arindrajit Basu, 'Sovereignty In A 'Datafied' World' (Observer Research

Indian actors (companies, individuals, and the government) remains the primary strategic interest of the Indian state.⁵⁷

Interestingly, when it comes to the laws regulating data in the country, the government has taken a backseat when it comes to the mandates restricting cross-border data flows. When the *Personal Data Protection Bill (2019)* was first introduced in the Parliament, it mandated the storage of 'sensitive personal data' within India.⁵⁸ In the bill, the government could notify any data as 'critical personal data' which must be stored and processed only in India.⁵⁹ When the bill was referred to in the Joint Parliamentary Committee (JCP) of the Parliament, this localisation mandate was defended on four fronts⁶⁰:

1. In order to achieve national security objectives, wherein a hostile country can use data for surveillance; to manipulate consumer opinion or behaviour; as well as to enforce law, as law enforcement agencies need timely access to data.
2. To provide better informational privacy using data protection regulations within the country.
3. To boost employment, as data centres and other associated industries can generate massive employment opportunities.
4. In order to gain bargaining power with other countries due to a strong internet presence and massive amounts of data at its disposal, bolstering the digital economy.

But this bill was withdrawn by the government in August 2022 and the draft of a new bill, *Digital Personal Data Protection Bill (2022)* was put up for public consultation in November of the same year and is due to be tabled in the Parliament later in 2023.⁶¹ This new bill did away with specific data localisation mandates that restricted cross-border data flows of sensitive personal data and critical personal data.⁶² It allowed the data fiduciary to transfer data outside India 'in accordance with such terms and conditions as may be specified' by the central government.⁶³ Some reports have talked about how this was done after backlash from the industry and how it is a move to simplify cross-border data flows 'to promote ease of doing

business'.⁶⁴ Interestingly, the process of determining the countries to which the data will be transferred is not clear, with some reports suggesting that it would be based on trust and 'reciprocity' with India.⁶⁵ When the draft of this new bill, *Digital Personal Data Protection Bill (2023)* was tabled before the parliament in August 2023 after this consultation, instead of providing a list of countries where data can be transferred, they would notify a blocklist of countries to which they can 'restrict the transfer of personal data by a Data Fiduciary for processing'.⁶⁶

Despite taking a step back in terms of the localisation mandates of the data protection bill; based on some of the other policy documents and public proclamations by its own ministers it seems like the Indian state does seek to play an active role in helping domestic startups and companies with the infrastructure to overcome the 'first mover's advantage' to give it the possibility to create 'high value digital products'.⁶⁷ This is something which I will touch upon in the next section. The presumption here is that these companies being from India represent national interest, and should therefore be treated differently. Data colonialism is seen purely as a new manifestation of historical colonialism. Whereas in the latter it was the East India Company that represented British colonialism, in the former, it is the American Big Tech firms like Amazon that represent the new form of data colonialism. Data colonialism as an idea is not challenged here. In fact, its exploitative nature is being embraced and even nurtured as a tool to ironically fight it. The only thing that is being challenged in the name of data colonialism is its origin in the western countries like the United States.

Yet it is not clear how companies based in India would necessarily serve the local interest and use the same business models for which the Big Tech companies have been criticised.⁶⁸ In fact, a company that is the symbol of India's fight against data colonisation, Reliance (partly owned by *Big Tech* like Meta), will likely dominate the digital commerce space as Amazon has done with online marketplaces.⁶⁹ This is something that I will discuss in a later section on the specific form of techno-nationalism in India.

In the next section I will look at the centrality of the Indian private sector in projecting the image of decolonisation by the Indian state.

Foundation 2021) https://www.orfonline.org/research/sovereignty-in-a-datafied-world/?utm_source=pocket_mylist#_ednref2 accessed 3 January 2022.

57 Basu (n 56).

58 Personal Data Protection Bill (2019).

59 Arindrajit Basu, Elonnai Hickok and Aditya Singh Chawla, 'The Localization Gambit: Unpacking Policy Measures For Sovereign Control Of Data In India' (The Centre for Internet and Society, India 2019) <https://cis-india.org/internet-governance/resources/the-localisation-gambit.pdf> accessed 12 August 2023.

60 Joint Committee On The Personal Data Protection Bill, Report Of The Joint Committee On The Personal Data Protection Bill, 2019 (Lok Sabha Secretariat 2021).

61 Chatterji JS& S, 'Simpler, Clearer Iteration of Data Protection Law' Business Line (4 December 2022) <https://www.thehindubusinessline.com/business-laws/simpler-clearer-iteration-of-data-protection-law/article66223325.ece> accessed 11 April 2023.

62 Goyal T, 'How Different Is the New Data Protection Bill?' The Hindu (21 November 2022) <https://www.thehindu.com/sci-tech/technology/how-different-is-the-new-data-protection-bill/article66166438.ece> accessed 15 April 2023.

63 Digital Personal Data Protection Bill (2022).

64 Badgama N, 'Explained: What Is India's Digital Data Protection Bill, 2022 All About?' (WION, 21 December 2022) <https://www.wionews.com/india-news/explained-experts-raise-concerns-about-indias-digital-data-protection-bill-2022-545276> accessed 15 April 2023; Chatterji JS& S (n58).

65 Ganesan A, 'DPDP Bill 2022: Data Localization Provisions Removed in New Bill, More' (MediaNama, 18 November 2022) <https://www.medianama.com/2022/11/223-dpdp-bill-2022-data-localisation-provisions-removed-data-transfer/> accessed 15 April 2023; Aryan A, 'Government to Do Away with Data Localization Requirement in New Personal Data Protection Bill Draft' The Economic Times (16 November 2022) <https://economictimes.indiatimes.com/tech/technology/government-to-do-away-with-data-localization-requirement-in-new-personal-data-protection-bill-draft/articleshow/95541627.cms> accessed 15 April 2023.

66 Digital Personal Data Protection Bill (2023); Jain A and Waghre P, 'IFF's First Read of the Draft Digital Personal Data Protection Bill, 2023' (Internet Freedom Foundation, 3 August 2023) <https://internetfreedom.in/iffs-first-read-of-the-draft-digital-personal-data-protection-bill-2023/> accessed 8 August 2023.

67 Government of India (n 3) 15.

68 Kak (n 4) 309.

69 Daniel Block, 'How the Facebook-Reliance combine and the farm laws pave the way for digital colonization [2019] The Caravan <https://caravanmagazine.in/business/facebook-reliance-farm-laws-banking-retail-dominance> accessed 5 January 2022.

3. The role of the private in creating public goods: The centrality of the private sector in the decolonisation effort of the Indian state

The Indian state seeks to project a uniqueness about the way it approached data governance, differentiating itself from the *laissez-faire* approach of the United States which led to a monopoly of the Big Tech companies as well as the authoritarian approach of the Chinese state, which is considered undemocratic. Certain key private actors play an outsized role in projecting this policy and the rhetoric around it. One of the key actors who plays this role is Nandan Nilekani, one of the principal architects of the *Aadhaar* project. He talks about the uniqueness of this Indian approach by highlighting how it has created ‘open digital platforms from scratch and tailored them to the Indian context’ and how ‘instead of leaving them in the hands of a few private technology companies (as in the case of the West), the Indian government has built these systems as public goods’.⁷⁰ The principal *public good* being referred to by Nilekani is this *Aadhaar* project. It was aimed at providing a basic identity to Indian citizens and making India’s welfare system more efficient. But, a digital infrastructure or a *digital public good* was built around it with the help of certain private actors, making it a huge part of India’s answer to data colonialism.⁷¹ An effort has been made to portray this as a unique path taken by India, which is distinct from the western and Chinese approach, where powerful entities and players from the Indian private sector play an outsized role in its formation and deployment – even as it portrays itself to be a *public good*.

A closer look at the *Aadhaar* project reveals how a few private companies and individuals played a huge role in its formation. The Unique Identification Authority of India (UIDAI), the authority responsible for giving Unique Identification Numbers (UID) to residents in India, was initially headed by Nandan Nilekani, who has held various positions in the company Infosys, including the post of CEO and co-chairman. He was the chairperson, and according to Usha Ramanathan, a human rights activist and an expert on law and poverty, was also given

the status, protocol and privileges of a minister, without having to meet the constitutional requirement that a minister has to be a member of Parliament... This device, by which he was given the rank of cabinet minister without the constraints of the position, was used to facilitate lateral induction of corporate leadership into the government.⁷²

Thus, many people from the corporate space came over to build the entire system. This included ‘former Infosys employee, Pramod Varma, [who] became *Aadhaar*’s chief architect; Viral Shah, a PhD in Computer Science and coinventor of Julia programming language; Shankar Maruwada, CEO of Marketics; Sanjay Swamy, CEO of mCheck among others’.⁷³ These were the domain and technology

experts that were necessary to build such a system which required the necessary expertise to deal with big data analytics.⁷⁴

Apart from this, initially even its status as a public authority was very much questionable. Although UIDAI was initially constituted under the Planning Commission in 2009 via a gazette notification, it was until recently only a ‘dubious public... quasi-government’ authority operating without a legal framework.⁷⁵ In 2016, it was only after the passing of the *Aadhaar* Act (2016) that it became a statutory authority and a government department under the Ministry of Electronics and Information Technology. Moreover, even the deployment of the *Aadhaar* project is dependent on the private entities as for the enrolment process, UIDAI appoints state government and private registrars and they, in turn, appointed private enrolment agencies to enrol people in the programme.⁷⁶

Similarly, another *public good* - *India Stack*, ‘a collection of systems and standards’ is going further by giving a number of services to everyone with an *Aadhaar* number.⁷⁷ These services include storage for electronic documents (*Digi-Locker*), electronic signatures (*e-Sign*), *Unified Payments Interface* (instant real-time payment service) and *e-KYC* (know your customer). It is a platform that allows various third parties (businesses, nonprofits, and state organisations) to create services like *Easy-GST* and *ClearTax*, which help out with fulfilling tax obligations and submitting information to the tax authorities on time and in the required formats; or organisation like *FRS Labs* or *BioEnable*, which provide document verification. *India Stack* is created by an organisation *iSPIRT*, which is a non-profit organisation that supports India’s digital start-ups. It is an intermediary for private businesses who want to start their services using the *India Stack* platform.⁷⁸ Many of its ‘volunteers’ (as *iSPIRT* describes them on its website) were with the UIDAI – like Pramod Verma, its chief system-architect and technology advisor since it started, Sanjay Jain (UIDAI’s chief product manager for two years), and Vivek Raghavan (who is also currently the Chief Product Manager and Biometric Architect at UIDAI).⁷⁹ This ‘revolving door’ policy has been criticised for its lack of transparency by international

74 Rishikesha Krishnan, ‘*Aadhaar*: A National Innovation Platform?’ <https://jugaadtoinnovation.blogspot.com/2012/06/aadhaar-national-innovation-platform.html> accessed 4 October 2021; Linnet Taylor and Dennis Broeders, ‘In The Name Of Development: Power, Profit And The Datafication Of The Global South’ (2015) 64 *Geoforum* <https://www.sciencedirect.com/science/article/abs/pii/S0016718515001761?via%3Dihub> accessed 4 November 2021.

75 Usha Ramanathan, ‘*Aadhaar* Unmasked ~ What We (Don’t) Know About The Companies’ *The Statesman* (2013) <https://www.thestatesman.com/world/aadhaar-unmasked-what-we-don-t-know-about-the-companies-12th-july-2013-2-1502448564.html> accessed 4 October 2021; Linnet Taylor and Dennis Broeders, ‘In The Name Of Development: Power, Profit And The Datafication Of The Global South’ (2015) 64 *Geoforum* <https://www.sciencedirect.com/science/article/abs/pii/S0016718515001761?via%3Dihub> accessed 4 November 2021; Planning Commission was an institution of the Government of India which was later dissolved in 2014 and was succeeded by another government think tank NITI Aayog mentioned before.

76 Bruce Sterling, ‘*Indian Aadhaar* Issues’ (*Wired*, 2018) <https://www.wired.com/beyond-the-beyond/2018/02/indian-aadhaar-issues/> accessed 4 January 2022.

77 Hicks (n 59).

78 Hicks (n 59).

79 Aria Thaker, ‘*Aadhaar* Security Failure: Government Webpages Provide Unsecured Access To Demographic Authentication’ [2018] *The Caravan* <https://caravanmagazine.in/science-technology/aadhaar-security-failure-government-webpages-provide-unsecured-access-to-demographic-authentication> accessed 4 January 2022.

70 Nandan Nilekani, ‘Data To The People: India’s Inclusive Internet’ [2018] *Foreign Affairs* <https://www.foreignaffairs.com/articles/asia/2018-08-13/data-people> accessed 4 January 2022.

71 Jacqueline Hicks, ‘Digital ID Capitalism: How Emerging Economies Are Re-Inventing Digital Capitalism’ (2020) 26 *Contemporary Politics* <https://www.tandfonline.com/doi/full/10.1080/13569775.2020.1751377> accessed 4 May 2020.

72 Usha Ramanathan, ‘*Aadhaar*-From Welfare To Profit’, *Dissent on Aadhaar: Big Data Meets Big Brother* (1st edn, Orient Black Swan 2018) 173.

73 Prakhar Misra, ‘Lesson From *Aadhaar*: Analog Aspects Of Digital Governance Shouldn’t Be Overlooked’ (2019) 19 *Pathways for Prosperity Commission Background Paper Series* https://pathwayscommission.bsg.ox.ac.uk/sites/default/files/2019-09/lessons_from_aadhaar.pdf accessed 4 January 2022.

watchdog agencies like the Privacy International, which, in its report on financial technology in India, said that:

Having India Stack as a product produced by a group of ‘volunteers’ – rather than, say, within the UIDAI – has certain advantages from their point of view: they do not have to operate transparently, there is no requirement for them to be subject to right to information legislation or procurement rules. Thus, this important initiative – potentially as important as anything coming from government ministries – is not subject to that degree of oversight.⁸⁰

Nilekani also had a hand in the appointment of the head of the National Payments Corporation of India (NPCI), a non-profit created by the Reserve Bank of India and the Indian Banks’ Association, which owns the Unified Payments Interface (UPI), its instant payment system.⁸¹

This huge intermingling of state and private actors is portrayed as a *public good*, where the state is projected as the provider of a digital infrastructure upon which private players can create new services. It is shown in contrast to the power of the Big Tech giants like Google and Meta who monopolise the digital infrastructure.⁸² But as we saw earlier, private companies and individuals still play a huge role in the very foundation and functioning of these *public goods*. These private stakeholders are also responsible for building governance frameworks around data which are endorsed and implemented by the state, like the *Data Empowerment And Protection Architecture, 2020* paper by NITI Aayog, which acknowledges the involvement of iSPIRT.⁸³

Jacqueline Hicks has called this development in India ‘Digital ID Capitalism’, thus separating it from other western forms of digital capitalism, which is led by the private sector.⁸⁴ Here, the state not only regulates data-driven enterprises, but creates the infrastructure for the domestic data-driven industries. She argues that ‘Digital ID Capitalism’ is a form of post-colonial capitalism that occurs in the Global South. Here, the state justifies its support of the domestic industries as it believes that the West continues to be the beneficiary of its colonial past.⁸⁵ Consequently, in the case of the Aadhaar as well as India Stack project, the Indian private actors are seen by the state as crucial players in the building of *digital public goods*. They are considered necessary to oppose the colonisation by the western Big Tech by creating alternative systems that reduce the influence of services that they provide. In this manner, the rhetoric of data sovereignty of the Indian state cannot be decoupled from the domestic private industry interests. In the following section, I will talk about some of the implications of this rhetoric, and how the private sector in India plays up this rhetoric and tries to benefit from it.

80 Privacy International, ‘Fintech: Privacy And Identity In The New Data-Intensive Financial Sector’ (Privacy International 2017) <https://privacyinternational.org/sites/default/files/2017-12/Fintech%20report.pdf> accessed 4 December 2021.

81 Anuj Srivas, ‘Exclusive: How The RBI Forced National Payments Body To Hire Government Favourite As CEO’ (The Wire, 2022) <https://thewire.in/business/rbi-npci-digital-india> accessed 8 January 2022.

82 Nilekani (n 70).

83 Kak and Sacks (n 41).

84 Hicks (n 71) 2.

85 Hicks (n 71).

4. Techno-nationalism: Indian state’s belief in the local private sector as the champion for fighting the data colonialism of the west

On 3 October 2021, *Panchjanya*, a Rashtriya Swayamsewaka Sangha (RSS)⁸⁶ linked weekly featured the following cover story with the face of Amazon Chief Executive Officer Jeff Bezos:

Whatever the East India Company did in the 18th century to capture India, the same is visible in the activities of Amazon.⁸⁷

Along similar lines, while speaking at the Republic Summit, Mukesh Ambani, Chairman of one of the biggest conglomerates in India, Reliance Industries (which operates *Jio Infocomm* that has 54.1% market share in broadband services), echoed the same rhetoric as the Indian state:

In this world, data is the new oil and data is the new wealth. India’s data must be owned by the people and especially not by global corporations. Data colonisation is as bad as the older colonisation and digital freedom is as important as the freedom we won.⁸⁸

Why is the head of one of the most powerful corporations in India and the richest man in the country talking about data colonialism? Why is he furthering the rhetoric of data sovereignty being propagated by the Indian state? Answers to these questions can be found as a new wave of *techno-nationalism* has taken hold over not just the state, but the private sector as well. It can also be seen in parallel with the rise of ‘corporate nationalism’ where the ‘foreign’ or ‘domestic’ identity of a company along with a sentiment of ‘domestic self-reliance or sharing the fruits of capital locally’ plays a dominant role.⁸⁹ This can be seen in the case of the legal dispute between Reliance and Amazon over the sale of assets by the Future Group to Reliance (their main rival), which Amazon says is illegal, considering it had an agreement with the Future Group in 2019 that gave them ‘special rights over Future’s retail assets’.⁹⁰ Future Group, while arguing that it has not done anything wrong, accused Amazon of not just illegally exerting control, but also called it ‘the East India Company of the 21st century’ and ‘Big Brother in America’.⁹¹ Another

86 a Hindu nationalist right-wing organisation whose members constitute several leaders of the ruling Bharatiya Janata Party (BJP) including Prime Minister Narendra Modi; Frayer L and Khan FL, ‘The Powerful Group Shaping The Rise Of Hindu Nationalism In India’ NPR (3 May 2019) <https://www.npr.org/2019/05/03/706808616/the-powerful-group-shaping-the-rise-of-hindu-nationalism-in-india> accessed 15 April 2023.

87 India Today, ‘East India Company 2.0’: RSS-Linked Weekly Says Amazon ‘Seizing Economic, Personal Freedom’ (2021) <https://www.indiatoday.in/india/story/amazon-dubbed-east-india-company-2-0-rss-linked-weekly-1857543-2021-09-27> accessed 4 January 2022.

88 Press Trust of India, ‘Mukesh Ambani Says ‘Data Colonization’ is As Bad As Physical Colonization’ (2018) <https://economictimes.indiatimes.com/news/company/corporate-trends/mukesh-ambani-says-data-colonization-as-bad-as-physical-colonization/articleshow/67164810.cms> accessed 4 January 2022.

89 Madhavi Singh and Ganesh Khemka, ‘Rise Of ‘Corporate Nationalism’ Empowers Indian Companies At Expense Of Consumers’ The Indian Express (2020) <https://indianexpress.com/article/opinion/columns/amazon-reliance-future-dispute-fdi-in-multi-brand-retail-atmanirbhar-bharat-7106430/> accessed 3 February 2022.

90 Aditya Kalra, ‘Explainer: How Amazon’s Battle With Reliance For India Retail Supremacy Became A Legal Jungle’ (Reuters, 2022) <https://www.reuters.com/markets/deals/how-amazons-battle-with-reliance-india-retail-supremacy-became-legal-jungle-2022-01-11/> accessed 25 January 2022.

91 Singh and Khemka (n 89); Kalra (n 90).

instance of this is the case of WhatsApp (owned by Meta), which, despite claiming to have all the approvals, faced many issues in starting its payment service: many filed petitions saying that allowing a 'foreign entity' to start its payment service would endanger India's financial data.⁹² Similarly, *BharatPe*, a fintech company which offers a UPI based payments app, was accused of tagging its competitors as 'Chinese' or 'American' by circulating pamphlets highlighting the significant ownership of these companies by American and Chinese firms.⁹³ The 'foreign-ness' of a company seems to overshadow every other form of legal assessment.⁹⁴

Pratap Bhanu Mehta called this a form of *techno-nationalism*, where technology becomes a tool of *national power*, and big companies like Reliance are believed to be carriers of this power.⁹⁵ He argues that a company like Reliance becomes a symbol, a national icon (versus a company like Amazon which represents the West, and Alibaba which represents China), and therefore the rise of Reliance is not just the rise of a company but becomes a national mission.⁹⁶ This integration of the national interest with the interest of the company was made manifest when Reliance launched its telecom service *Jio*, which featured a large photo of Prime Minister Narendra Modi with the following caption: 'Jio is dedicated to realising our Prime Minister's Digital India vision for 1.2 billion Indians'.⁹⁷ A few years prior, in a similar move, *Paytm*, a fintech company offering a popular payments app, congratulated the PM by saying 'Paytm congratulates Honourable Prime Minister Sh. Narendra Modi on taking the boldest decision in the financial history of independent India!' His image was then put on the front page of the newspapers when the Indian government demonetized Rs 500 and Rs 1,000 notes post-midnight.⁹⁸ Interestingly, the same company came under the scanner for being owned by a Chinese firm.

Beyond symbolism, there have been various government decisions that have helped Reliance establish its market dominance in the telecom market. For instance, according to the rest of the telecom industry, Telecom Regulatory Authority of India (TRAI) allowed Reliance to 'test' the connectivity of its network many degrees higher than the norm, and amended the definition of 'significant market power' to exclude data share after *Jio* became the biggest data provider.⁹⁹

The irony of the situation is that in April 2020, Meta purchased a 10 percent stake in Reliance *Jio* and has integrated *Reliance JioMart* into its messaging app WhatsApp, giving it the opportunity to receive massive 'valuable data on people's needs, retail preferences, and

finances'.¹⁰⁰ For Reliance, piggybacking on the most popular messaging platform, WhatsApp, allows it to become even more dominant in the food supply chain.¹⁰¹ There are other avenues as well through which they can potentially work together, including mobile gaming, virtual reality, video streaming and payments.¹⁰² Moreover, it is not just Meta: as many as 13 international entities have purchased a total of 34 per cent in stakes in Reliance *Jio*.¹⁰³

Therefore, we can see how the rhetoric of nationalism and data colonialism play a role in the way in which policies around data governance are formed. Here, the state is being supported by many private enterprises in furthering this rhetoric, even though in reality it is partnering with those same forces which it claims to oppose in supporting the Indian state (as can be seen in the case of Reliance and Meta).

In the next section I will critically examine how the colonial mentality of extractivism seeps into the *decolonisation* rhetoric of the Indian state.

5. A data-centric regime: How the *decolonisation* of the Indian state remains within the psychological limits of data colonialism

While historical colonialism has arguably (defined strictly in terms of territorial occupation) largely ceased to exist, its political, social, cultural, and economic legacy continues to haunt the colonised even today with data colonialism being its newest iteration.¹⁰⁴ One of those legacies is that the state machinery in non-western formerly colonised countries continues to embrace those same colonial practices. The reason for this persistence is what Anibal Quijano called 'a colonisation of the imagination of the dominated'.¹⁰⁵ Therefore, in order to understand its lasting impact today, it makes sense to look at how colonialism captures this 'imagination of the dominated'.

Is there a reason why the exploitative nature of colonialism persists even after the coloniser has left? One answer can be found in the work of one of the most renowned critiques of colonialism, Ashis Nandy, an Indian political psychologist who defines colonialism not simply as a political or an economic phenomenon, but also as a 'psychological state', which 'may not always begin with the establishment of alien rule in a society and end with the departure of the alien rulers from the colony'.¹⁰⁶ He takes the example of India to show how colonialism began operating 75 years before it became dominant and continues to remain a dominant ideology in many sectors even 35 years (at that time when his book was published) after the British left India.¹⁰⁷

92 Singh and Khemka (n 89).

93 Tarush Bhalla, 'Bharatpe's Taunts On Nationalism Irk Rivals' *Mint* (2020) <https://www.livemint.com/technology/tech-news/digital-payment-firms-lock-horns-with-bharatpe-11598980420489.html> accessed 6 January 2022.

94 Singh and Khemka (n 89).

95 Pratap Bhanu Mehta, 'We Might Enter An "RSS Meets Ji" Ideological World' *The Indian Express* (2019) <https://indianexpress.com/article/opinion/columns/the-new-techno-nationalism-technology-elections-5703564/> accessed 5 December 2021.

96 Mehta (n 95).

97 Daniel Block, 'Data Plans: How Government Decisions Are Helping Reliance Jio Monopolise The Telecom Sector' [2019] *The Caravan* <https://caravanmagazine.in/reportage/government-helping-reliance-jio-monopolise-telecom> accessed 5 January 2022.

98 'Vijay Shekhar Justifies Using PM Modi's Picture To Sell Paytm' (*Zee Business*, 2017) <https://www.zeebiz.com/small-business/news-vijay-shekhar-justifies-using-pm-modis-picture-to-sell-paytm-12525> accessed 4 January 2022.

99 Block (n 97).

100 Block (n 69).

101 Block (n 69).

102 Prasad Banerjee, 'How Jio And Facebook Could Work Together To Make Inroads Into India's Internet' *Mint* (2020) <https://www.livemint.com/companies/news/how-jio-and-facebook-could-work-together-to-make-inroads-into-india-s-internet-11587552809964.html> accessed 4 January 2022.

103 Gurbir Singh, 'When Corporates Play The Nationalist Card' *The New Indian Express* (2020) <https://www.newindianexpress.com/opinions/2020/nov/29/when-corporates-play-the-nationalist-card-2229346.html> accessed 4 January 2022.

104 Coudry and Mejias *The Costs of Connection: How Data Is Colonizing Human Life and Appropriating It for Capitalism* (n 10).

105 Quijano, 'COLONIALITY AND MODERNITY/RATIONALITY' (n 18) 169; Ricaurte (n 10).

106 Ashis Nandy, *The Intimate Enemy: Loss And Recovery Of Self Under Colonialism* (1st edn, Oxford University Press 1983) 2.

107 Nandy (n 106).

If one wants to understand how colonialism seeps into the mindset of the Indian state even when it is overtly trying to project a resistance to data colonisation by the western Big Tech, one should look at the particular way in which Nandy describes how dissent is managed in colonial rule. According to Nandy, while there is a system of psychological rewards and punishments to ingrain colonial norms in the psyche of colonial subjects, it can be easily identified and challenged. What is more dangerous is the culture that is created wherein 'the ruled are constantly tempted to fight their rulers within the psychological limits set by the latter'.¹⁰⁸ Similarly in the case of the Indian state, this psychological limit to the way it imagines data governance is a 'data driven rationality', which, according to Ricaurte, is based on three assumptions: '(1) data reflects reality, (2) data analysis generates the most valuable and accurate knowledge, and (3) the results of data processing can be used to make better decisions about the world'.¹⁰⁹

The Indian state accepts this rationality as it believes that India has to harness data as a resource and control it by keeping it within its territory. This can be clearly seen from the localisation mandate in the *Report of the Joint Parliamentary Committee (JPC) on the PDP Bill, 2019* where the report mentions how

Data is core to the future of our economy and is unlike any other resource. Data is now treated as an asset, deriving implicit value generated from insights, patterns and distribution of data and its amalgamation with other data. It is available nationally and internationally, providing an impetus to the economy and innovation.¹¹⁰

As we can see, data has been given such an importance that the very future of the Indian economy is being portrayed as being dependent on the ability to derive value from it. Therefore, even when it tries to take on the data colonialism of the West, it fights within those epistemological limits of the 'data-centric regime' and does not reimagine a resistance outside of it.¹¹¹ According to Ricaurte, the state in a non-western country also embraces this 'dominant data epistemology'¹¹² and plays a systemic role in data colonisation by

(1) developing legal frameworks (2) designing public policy, (3) using artificial intelligence systems for public administration, (4) hiring technological services, (5) acquiring products for public administration and surveillance purposes, (6) implementing public policies and digital agendas, and (7) facilitating education and the development of labour forces.¹¹³

In order to pursue this agenda, the state is dependent on the private sector to supply them with the technology, as can be seen in the case of Aadhaar and India Stack mentioned in the earlier section. In fact, the importance of private sector over here is based on an 'extractive' and 'practical rationality', which deems only them as capable enough to process and appropriate data.¹¹⁴ At the same time, the society is considered a 'natural beneficiary' of this appropriation of data, just

as the 'civilizational project' was supposed to benefit humanity in historical colonialism.¹¹⁵ This gives them immense power to shape this digital agenda.¹¹⁶

Moreover, there is little to no participation or even consideration of the indigenous communities in this agenda. Therefore, the ambit of *data sovereignty* becomes restricted to a very small powerful elite including the state and other powerful private sector players.¹¹⁷

6. Conclusion

While examining the data sovereignty approaches of different BRICS countries (Brazil, Russia, India, China and South Africa) in 2014 (the year Narendra Modi became India's Prime Minister), Polatin-Reuben and Wright described India as having 'a weak approach to data sovereignty', arguing how India is seemingly more interested in 'protecting the data of its Western investors' rather than data that is 'nationally generated', citing the signing of a *Cyber Pact* with the UK, which aims to protect British data that is stored in Indian Data Centres.¹¹⁸ This suggests that there has been an intensification for the calls for a *stronger approach* to data sovereignty with the new government, which, through its policy documents and general rhetoric, is more willing to assert its sovereignty over data. This trend (as mentioned before as well) is not something particular to India, as many countries are now looking to assert sovereignty over the data generated in their own territories.¹¹⁹

Through this paper, I have tried to analyse this approach and this rhetoric of data sovereignty as well as the sense of data colonisation that the Indian state is trying to portray through various laws and policy frameworks. I have tried to show the centrality of the private sector in this imagination of data sovereignty, both in terms of its formulation and implementation. It also takes part in furthering the rhetoric of data colonisation, which serves its interests and allows it to shape policy around access to data. I have further argued that the rhetoric of decolonisation followed by the Indian state falls within the same epistemological ambit of Big Data that has led to the rise of Western Big Tech that it wants to take on.

While looking at *Big Data* or *Datafication* through the lens of colonialism is useful given many similarities between these two processes, we must also critically engage with it, as we risk reviving old binaries such as identity politics vs. anti-capitalist struggles, structure vs. agency, etc. at best, and at worst, simple reversals like tradition is good and modernity is bad.¹²⁰ Moreover, there is also a risk of creating its own 'blind spots' with terms like 'Global South' and 'colonial', where we miss the different narratives and experiences of various countries with their own issues.¹²¹ There can be other conceptual blind spots in the colonial perspective like race, gender, caste, etc., which can be overcome through intersectionality by engaging with other lenses like feminism or critical

108 Nandy (n 106) 3.

109 Ricaurte (n 10) 2.

110 Joint Committee On The Personal Data Protection Bill (n 60) 8.

111 Ricaurte (n 10) 3.

112 Ricaurte (n 10) 7.

113 Ricaurte (n 10) 8.

114 Couldry and Mejias, 'Data Colonialism: Rethinking Big Data's Relation to the Contemporary Subject' (n 10) 5.

115 Couldry and Mejias, 'Data Colonialism: Rethinking Big Data's Relation to the Contemporary Subject' (n 10); It also complements the earlier point on *techno-nationalism* in India where the interest of a private corporation (in this case Reliance) was seen as similar to the interest of the whole nation.

116 Ricaurte (n 10).

117 Kovacs and Ranganathan (n 14).

118 James Kirkup, 'David Cameron To Strike Cybercrime Deal With India' The Telegraph (2013) <https://www.telegraph.co.uk/news/politics/9879272/David-Cameron-to-strike-cybercrime-deal-with-India.html> accessed 5 January 2022; Polatin-Reuben and Wright (n 39) 4.

119 Polatin-Reuben and Wright (n 39).

120 Kiran Asher, 'Latin American Decolonial Thought, Or Making The Subaltern Speak' (2013) 7 *Geography Compass* <https://doi.org/10.1111/gec3.12102> accessed on 12 August 2023; Milan and Treré (n 12).

121 Kak (n 4) 308.

race theory. This can help us in understanding how intersecting fields of race, class or gender also shape the political economy of *Datafication* or Big Data.¹²²

Nevertheless, the decolonial approach towards data is useful in bringing to the fore an extractive rationality underpinning datafication, and identifying alternative visions of data that do not conform to this data-driven rationality. This is not easy, given the dominance of this narrative of data-driven rationality. As Nandy said in his work, colonialism restricts even the resistance of the colonised.¹²³ Therefore, a radical reimagination of data decolonisation must be promoted.

We also need to ask who gets to define *data sovereignty* in the face of *data colonialism*? Is it the state, the citizens or the whole community? Is everyone in the community being given an equal opportunity to define sovereignty, including the marginalised groups within the society? As we have seen in this paper, since colonialism is an ideology which is no longer bound by binaries of Global South vs Global North, we should probably take inspiration from instances of data sovereignty that can potentially challenge the very ideological basis of data colonialism. For instance, Taiuru, Burch and Finlay-Smiths talk about principles of Maori Data Sovereignty where, unlike the western colonial understanding of data as a commodity that needs to be extracted for enrichment or profit, data 'refers to something treasured by a specific group of people which, therefore, requires guardianship and protection'.¹²⁴ They refer to data as a *taonga* or treasure and data contributors therefore as the guardians of data; where no one entity can own big data. They focus on 'where data originates, who gathers it, and how the wider community can benefit', thereby protecting the priorities of data holders i.e., people supplying data.¹²⁵ Interestingly, the Draft National E-Commerce Policy (2019) by the government mentioned before in the article does talk about the 'Maori Data Sovereignty Network' as an example of 'Taking back control over data'. While it talks about how 'Maori data should be subject to Maori governance and that Maori organizations should be able to access this data to support their development aspirations', it fails to understand how the Maori data sovereignty principles are fundamentally against the kind of colonial resource commercialisation and extraction being pushed by the India state, as argued by Taiuru, Burch and Finlay-Smiths.¹²⁶

While these initiatives try to reclaim the idea of sovereignty from the exclusive realm of the state, there is also a need to problematize the idea of data sovereignty.¹²⁷ Yarimar Bonilla does so by pointing out how the concept of sovereignty was used by the colonial powers in the first as 'a legal technology with which to lay claim to putatively unowned lands'.¹²⁸ Based on her argument, Couture and Toupin have argued for the need to question 'the colonial histories or power dynamics that are being maintained or reproduced' when

social movements and indigenous struggles resort to the notion of sovereignty when thinking about data.¹²⁹

Through this paper I have tried to look at the rhetoric of data sovereignty and the need to fight data colonisation as it is being promoted by the Indian state, and whether it actually opposes the ideology of data colonisation. Future research can highlight how one can uncover such an imagination of *decolonisation* and perhaps imagine decolonisation of data that can fundamentally oppose data colonisation to its very core. For instance, one of the ways in which we can possibly do this is by empowering the local communities through data practices at the grassroots level like the one being run by *Jaljeevika*. It is a not-for-profit organisation based in India that works with farmers in the aquatic sector to build technological solutions from the ground up, providing farmers with location-specific advisory support, market intelligence, IVR-based support services for small farmers and linking them to agencies like banks and government programmes.¹³⁰ In order to build these technologies, data are collected from farmers through community resource persons or agents who are selected from amongst the residents and trained to explain terms and conditions of the contract to them before they sign up for any government or private service.¹³¹

There is a further need to explore how state and other powerful actors within different countries in the Global South try to appropriate the concept of decolonisation. While Big Tech is rightly being opposed in many countries in the name of data colonisation, we also need to examine whether those same extractive rationalities are being deployed elsewhere by the same actors who claim to oppose it.

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122 Milan and Treré (n 12).

123 Nandy (n 106).

124 Taiuru K, Burch K and Finlay-Smiths S, 'Realising the Promises of Agricultural Big Data through a Māori Data Sovereignty Approach' [2022] *New Zealand Economic Papers* <https://www.tandfonline.com/doi/abs/10.1080/00779954.2022.2147861?journalCode=rnzp20> accessed on 12 August 2023.

125 Taiuru K, Burch K and Finlay-Smiths S (n 124) 5.

126 Government of India (n 3) 41; Taiuru K, Burch K and Finlay-Smiths S (n 124).

127 Couture and Toupin (n 1).

128 Bonilla Y, 'Unsettling Sovereignty' (2017) 32 *Cultural Anthropology* 330 <https://doi.org/10.14506/ca32.3.0> accessed 20 April 2023.

129 Couture and Toupin (n 1) 15.

130 'WATER FOR LIFE, WATER FOR LIVELIHOOD: JALJEEVIKA STRATEGY PLAN 2020-2025' (Jaljeevika) <https://securservercdn.net/160.153.137.14/yjd.b40.myftupload.com/wp-content/uploads/2020/04/Strategy-Document-1.pdf>; Kapoor A, Mahesh S and Narayan V, 'Impact of the Non-Personal Data Governance Framework on the Indian Agricultural Sector' (Aapti Institute 2022) https://thedataeconomylab.com/wp-content/uploads/2022/02/Aapti-Report-Impact-of-the-Non-Personal-Data-Governance-Framework-on-the-Indian-Agricultural-Sector_Final.pdf accessed 20 April 2023.

131 Kapoor A, Mahesh S and Narayan V (n 130).