Government-Mandated Front Doors?

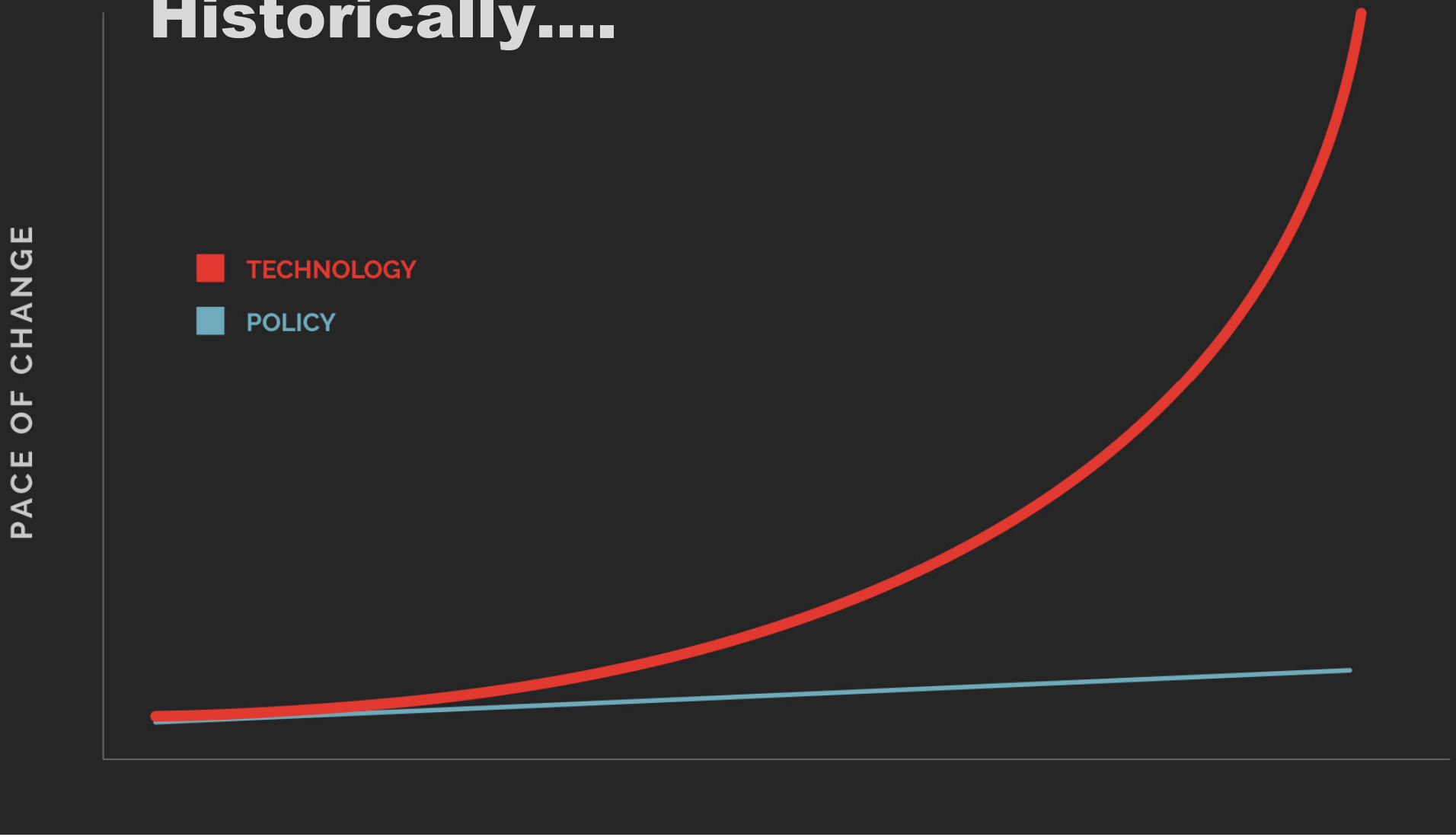
A Global Assessment of Legalized Government Access to Data

Andrea Little Limbago, PhD

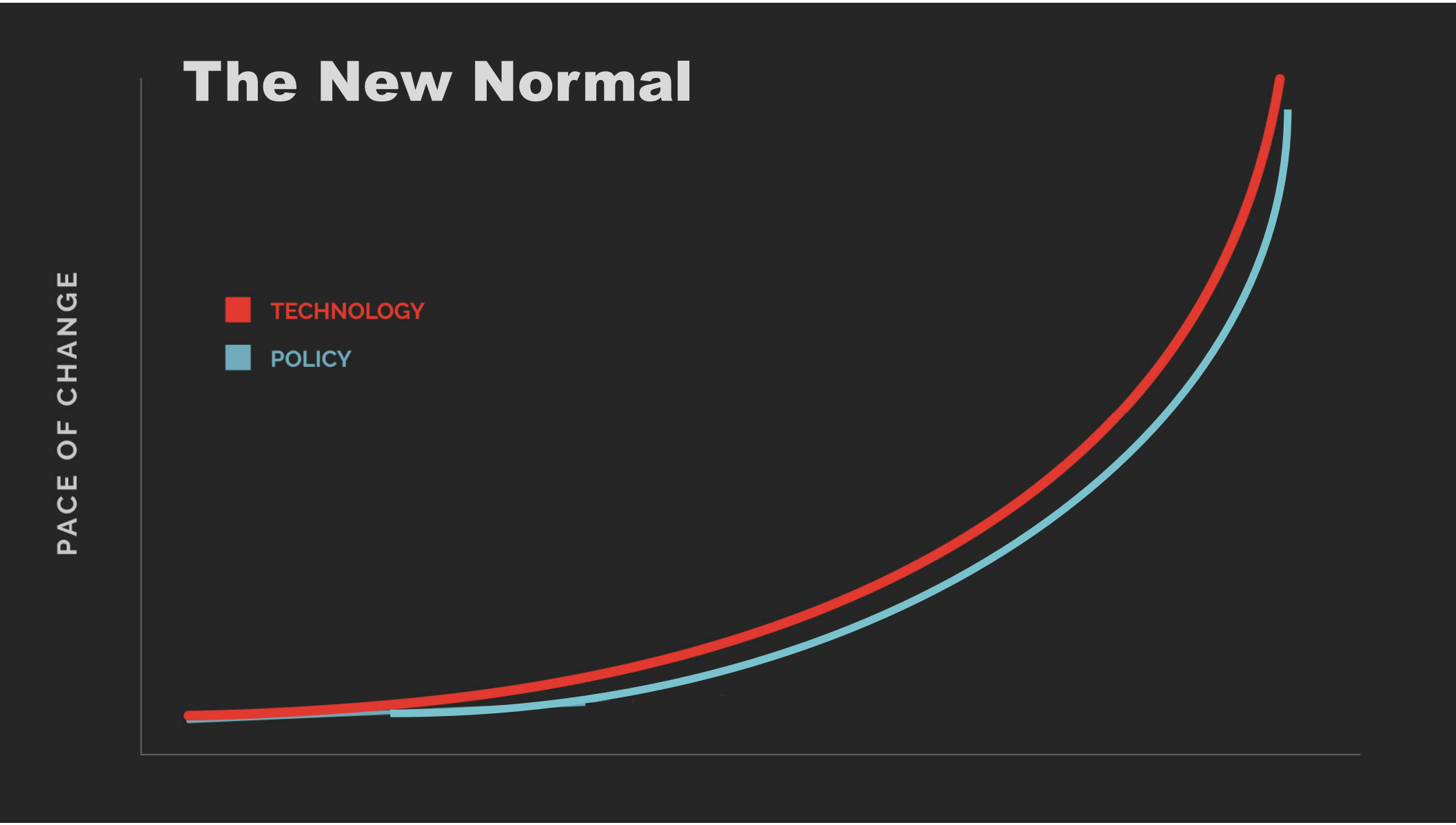
@limbagoa

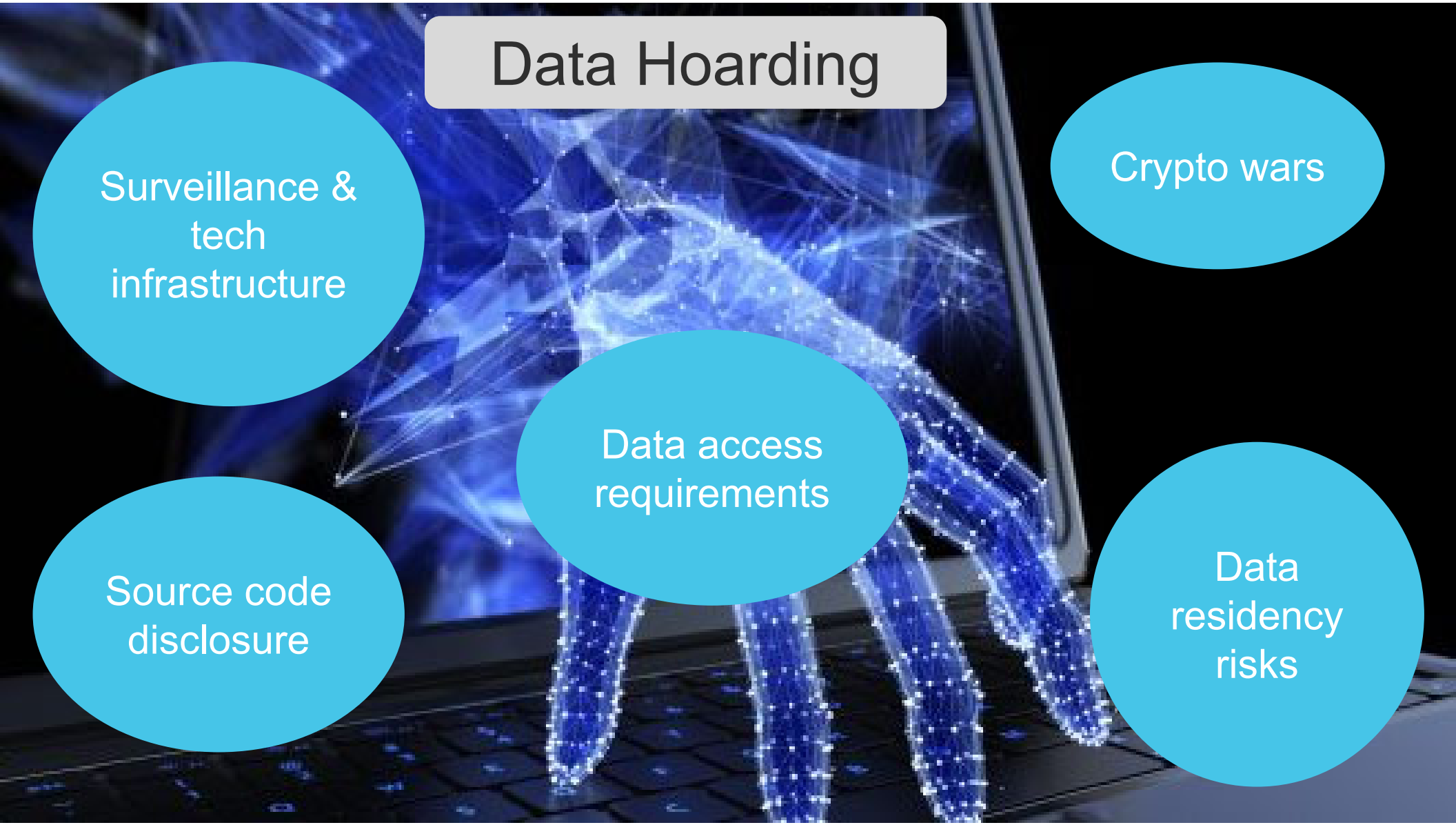

More than half the world’s population live under governments who have mandated, or are considering mandating, government access to data

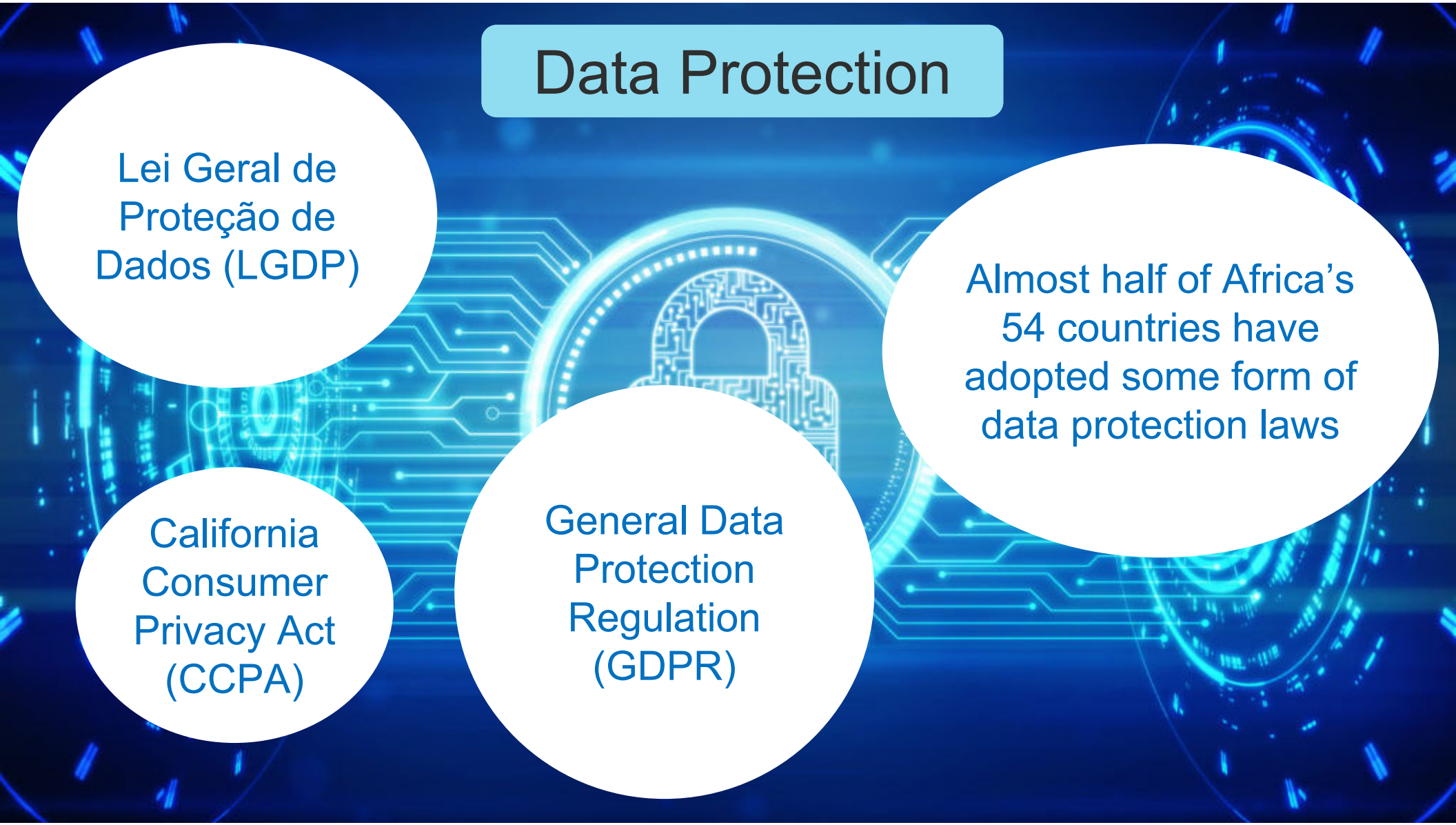
Historically....



The New Normal




Data Hoarding
Surveillance & tech infrastructure
Crypto wars
Data access requirements
Source code disclosure
Data residency risks


Data Protection
Lei Geral de Proteção de Dados (LGDP)
Almost half of Africa's 54 countries have adopted some form of data protection laws
California Consumer Privacy Act (CCPA)
General Data Protection Regulation (GDPR)

The geography of data protection and access risk

- Borders do exist on the Internet….
- The impact of the Splinternet on supply chain risk: Data protection and cyber risk vary by location
- Which movement is gaining traction and where?

➢ Let’s quantify it!

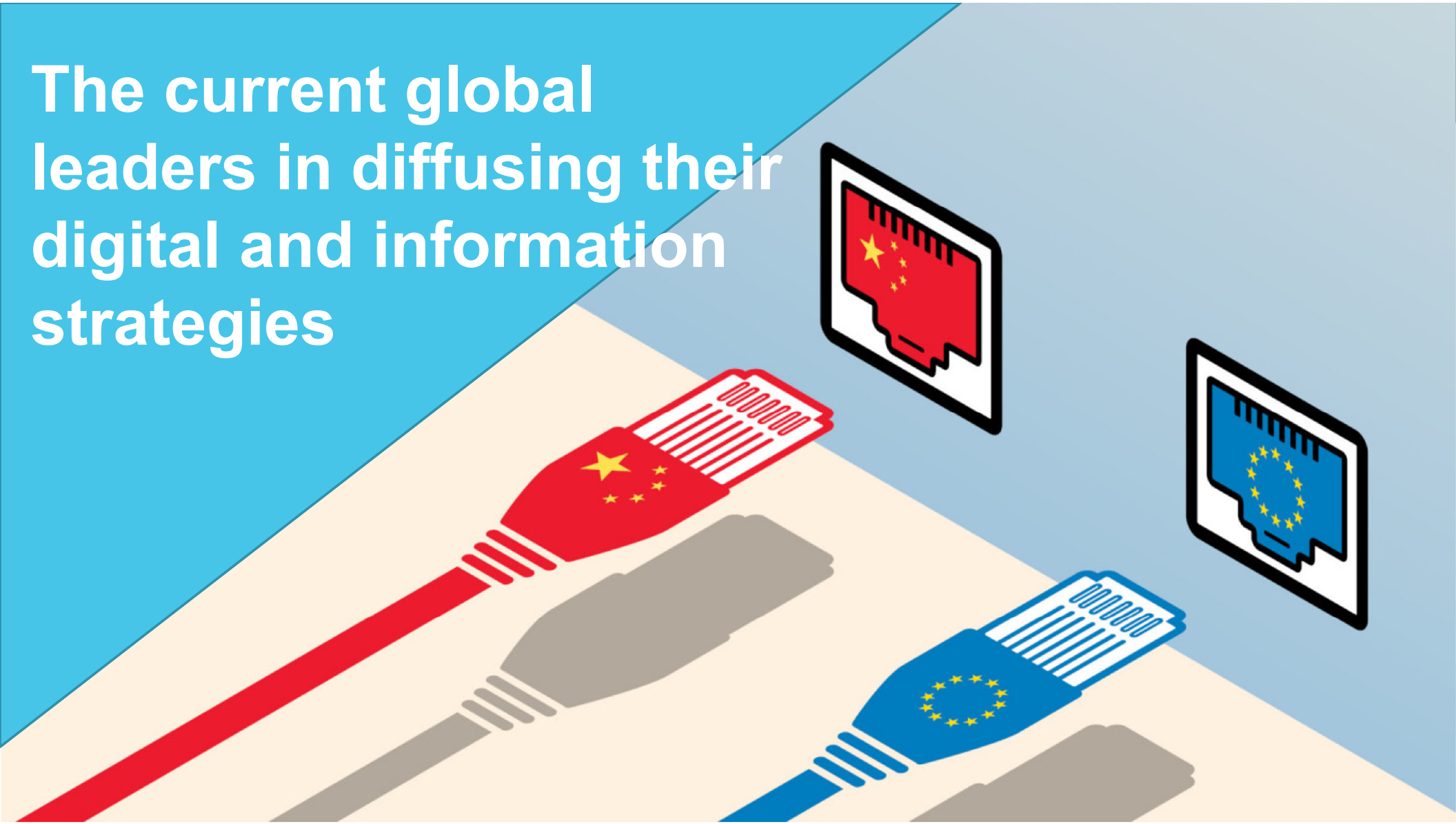

Informing the Research Design:
A Shifting Regulatory Landscape


Digital Authoritarians


Digital Democracies

Increasingly an overlap and more so a spectrum of policies, tactics, and norms

The current global leaders in diffusing their digital and information strategies



The Rule Setters

China

- Cybersecurity Law
  - Since 2015, series of laws focused on cyber sovereignty, internet controls, state access to data or technical support to authorities, security standards
- Latest Five-Year Plan emphasizes tech self-reliance, data localization and government influence over data
- Data Security Law (Sept '21) seeks to limit extent of private data collection, while classifying private-sector data by importance to state interests

European Union

- General Data Protection Regulation
  - Focused on transparency, security, minimalization, purpose limitation, accountability, strict standards for data transfer outside of EU
- Recent discussions of banning facial recognition in public spaces

Global Diffusion

Turkey

- Unrestricted access to communications data without a warrant under emergency surveillance decrees
- Forced appointment of local representatives, which must be an incorporated company under Turkish law or Turkish citizen
- Forced localization: companies have less ability to control data access, local reps may facilitate additional access requests, encryption apps blocked

Ecuador

- Service providers may be compelled to hand over data or technical information required to decrypt encrypted data
- Interception of communications also permitted with a warrant
- Following ‘19 breach of 20M citizens, movement toward data protection, approved law in May ‘21

Global Diffusion

Thailand

- ‘19 law allows government official to seize, search, infiltrate computers without a warrant if deemed high-security threat
- Officials empowered to decrypt or order data decryption

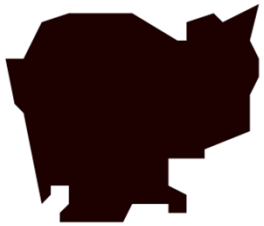
Kazakhstan

- Service providers must assist authorities with data access
- Several attempts since 2015 to require every internet user in the country to install a digital cert, but faces pushback

Global Diffusion

Mauritius

- Historically supported freedoms, but has been growing emphasis on censoring social media
- Considering a law to intercept and decrypt internet traffic, routing all traffic through government servers
  - No judicial oversight



Cambodia

- ’21 decree requires all external traffic to pass through a government-controlled hub
  - Oversight by the regulatory body who also monitors online activity
- QR code contact tracing app -> data requested by China in exchange for telecom upgrade from Huawei

Global Diffusion

Indonesia

- Pending legislation focused on censorship also requires companies to provide access to systems and data, potentially bypassing data privacy protections

Australia

- ‘19 anti-encryption law requires companies to hand over data to the government and/or create tools to bypass encryption
- ’20 proposed Surveillance Legislation Amendment Bill

United Kingdom

- Snooper’s Charter– bulk interception of online communications, found in violation of right to privacy by European court of human rights
  - End-to-end safeguards required
- 2016 Investigatory Powers Act replaced the previous regime


Building a model

Assessing Data Access Risk

Joint ventures

Data residency

Federal data privacy protections

Encryption & surveillance

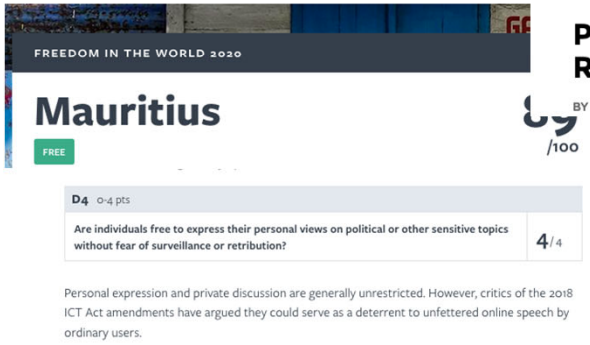
Source code requirements

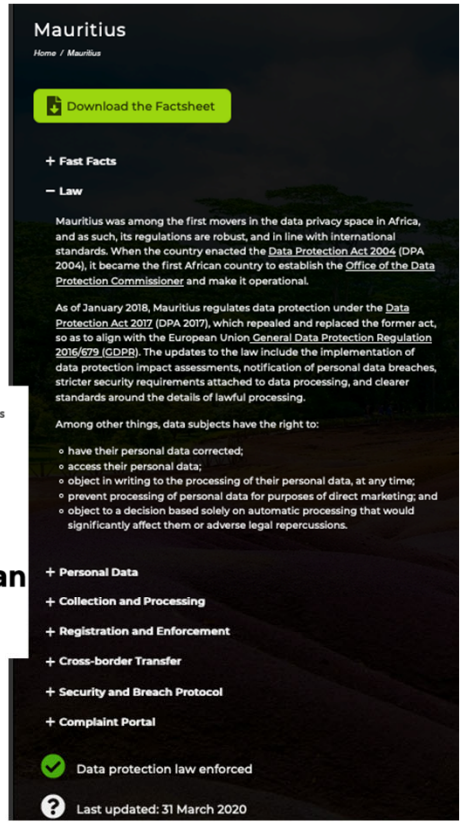
Transparency and judicial oversight (DPAs)

Data in a Haystack Problem:

While some information is available from security and privacy sources, needed to expand to sources focused on ‘ease of doing business’

Data Triangulation





Data Protection Africa
https://dataprotection.africa/

Unstructured to Structured Text

- Each question aligned and coded such that low scores reflected less data protection/more invasive government intervention while higher scores reflected more data protection/less invasive government intervention

- Core areas:
  - Data storage
  - Restrictions on government access to data
  - Data protection law and independent oversight
  - Source code disclosure requirements
  - Joint venture requirements

- Global Coverage: 189 countries or territories

Results/Findings

Opposite Ends of the Spectrum

Government Intervention

1) North Korea

2) China, Russian Federation

3) Vietnam, Eritrea

4) Iran, Cuba, Equatorial Guinea, Pakistan, Syria, UAE

5) Azerbaijan, Bangladesh, DRC, Egypt, Myanmar, Rwanda, Saudi Arabia, Uzbekistan, Venezuela

Data Protection

1) Iceland, Antigua & Barbuda, Bahamas, Costa Rica, Denmark, Estonia, Taiwan

2) Austria, Bahrain, Belgium, Bulgaria, Croatia, Czech Republic, Japan, Latvia, Liechtenstein, Lithuania, Macedonia, Netherlands, New Zealand, Norway, Panama, Portugal, Romania, Slovenia, Sweden, Uruguay

Trends: The Good

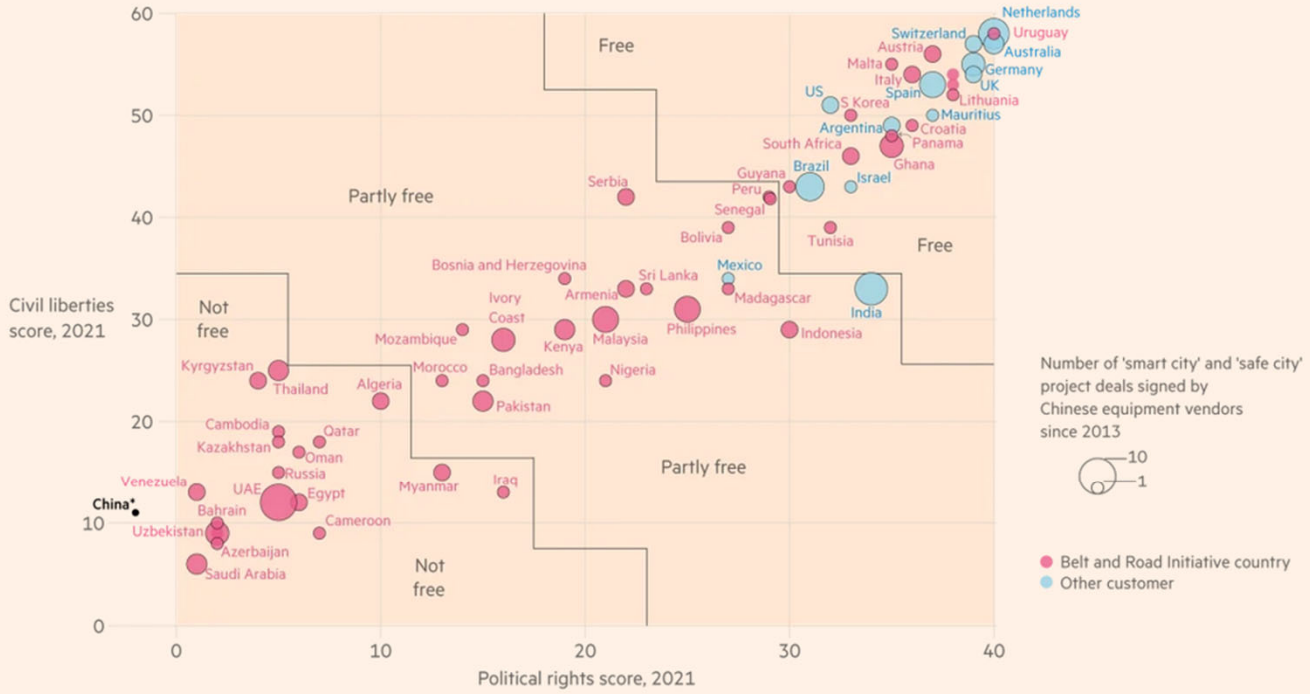
- Almost 100 countries with data protection laws
  - Many more have passed but are not yet enacted
- Accountability on the rise
  - Data protection laws in one country/region are changing behavior elsewhere
  - Fines and regulatory action may be at tipping point to prioritize data protection
- Growing global societal interest and movement for data protection

Trends: The Bad

- If you can't block them….
  - Censorship as a precursor to data access requirements
- Gaps between law and reality
  - Identifying scandals that demonstrate lack of adherence to data protection laws
- The rise of the rest
  - Copycat laws and policies across all regions
- Greater interference around elections

Trends: The Hybrid

Authoritarian regimes are keen on China's surveillance technology — but they are not the only customers



*It is possible for a country's political rights score to be less than zero
Graphic: Alan Smith Sources: RWR Advisory, Freedom House
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https://www.ft.com/content/76fdac7c-7076-47a4-bcb0-7e75af0aadab

Next Steps

Change is coming fast

Zambian CSOs challenge constitutionality of newly passed cybercrime law

US government pushed tech firms to hand over source code

Germany's New Surveillance Laws Raise Privacy Concerns

Police Handed Enhanced Powers to Infiltrate Phones and Computers

Ecuador Approves Data Protection Law

Expanding state surveillance: Organised crime and the PM's push for more police powers

Colorado Passes Data Privacy Law

Indian government launches trusted telecom portal

Russian lawmakers vote to force U.S. tech giants to open local offices

Lisbon gave protesters' data to foreign embassies

Hungarian government suspends some aspects of GDPR

New Data Security Law in China Makes Government Power Over Tech Giants Absolute

Facebook received 40,300 requests for user data from Indian government, restricted access to 878 items in India

Future Considerations

Data Updates!

- Stay apace changes and begin versioning and time stamps to track temporal shifts

Community Input

- Validating and based on input
- Integrate regional/country-specific experts

Other Considerations

- Government/private sector autonomy
- Other tech dependencies? (smart cities, underseas cables, other tech risks?)

White Paper

- Overview of the research design, methodology, and rankings

Tracking Which Way the Balance Tips

Thanks!

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@limbagoa