



Data Protection Regulations and International Data Flows: Implications for Trade and Development

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5 July 2016

**MIKTA Workshop on Electronic Commerce
WTO Headquarters, Geneva**

UNCTAD's E-commerce and Law Reform Programme

- To date, over **60 countries** in Africa, Asia and Latin America and the Caribbean have received technical assistance in various forms
 - Data Protection Act of Uganda (2016)
- Awareness and build capacity workshops of policy and law makers, including parliamentarians:
 - ✓ **Online and face-to-face training courses** on the “Legal Aspects of E-commerce” following the TrainForTrade methodology : legal validity of e-transaction, consumer protection, taxation, security, privacy, IPRs, content regulation;
 - ✓ Over **2600 policy and law makers** trained in 8 years in the ASEAN, EAC, ECOWAS, Latin America and the Caribbean.
- Reviews of national laws and regional agreements.



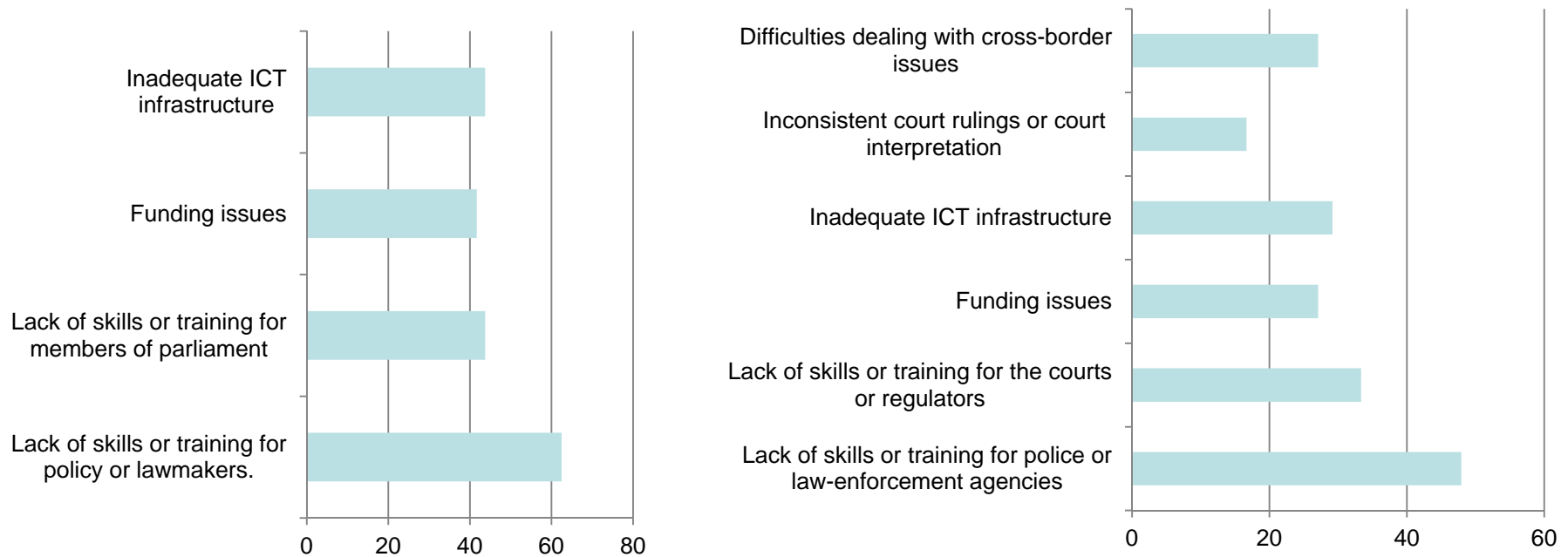
Global map of data protection laws 2016

- 110 countries now have a data privacy law (June 2016)
- About 50% of developing countries do not have laws in place
- Global spread of data protection laws will continue:
 - At least 24 more countries have official bills
 - Some have e-commerce/consumer privacy laws (eg. China, Indonesia)
- Several countries are revising their laws (eg. Japan, Singapore)
- Law enforcement in developing countries is an increasing challenge



Challenges to the enactment and enforcement of Data Protection Legislation

(48 developing countries, 2013-2015, percentage of respondents)



Source: UNCTAD.



Why is Data Protection important?

- Many social and cultural norms include a respect for privacy. Some consider it a fundamental right.
- In the information economy, large quantities of digitized information and data move across national borders
 - International flow of goods, services, and finance has increased global GDP by approximately 10 percent, or \$7.8 trillion in 2014.
 - Data flows represent an estimated \$2.8 trillion of this added value.



Implications for International Trade

- Data protection is directly related to trade in goods and services in the digital economy
 - Too little protection can create negative market effects through affecting consumer confidence
 - Too much can overly restrict business activities and trade
- Ensuring that laws consider the global nature and scope of their application, and foster compatibility with other frameworks, is of importance for global trade

Getting the balance wrong between data protection and data flows can have serious consequences for either the protection of fundamental rights or for international trade and development.



Why do the study?

- To map global landscape of data protection and privacy laws
- Primary objectives:
 - Have a single source of information on the global landscape
 - Explore relationship between trade and data protection laws
 - Consider policy options for countries that are developing or considering data protection laws
 - Ultimately, serve as a basis for continued global dialogue prioritizing compatibility between divergent frameworks



Contributors





Who are the Stakeholders?

- Civil Society; Individuals
 - Consumer protection, individual rights
 - ‘Perhaps the most significant challenge to privacy is that the right can be compromised without the individual being aware’ - Privacy International*
- Private Sector
 - Business opportunities, trade, innovation
- Government
 - eGovernment, national security, protection of privacy
- International organizations
 - Formulation of rules
 - Capacity building



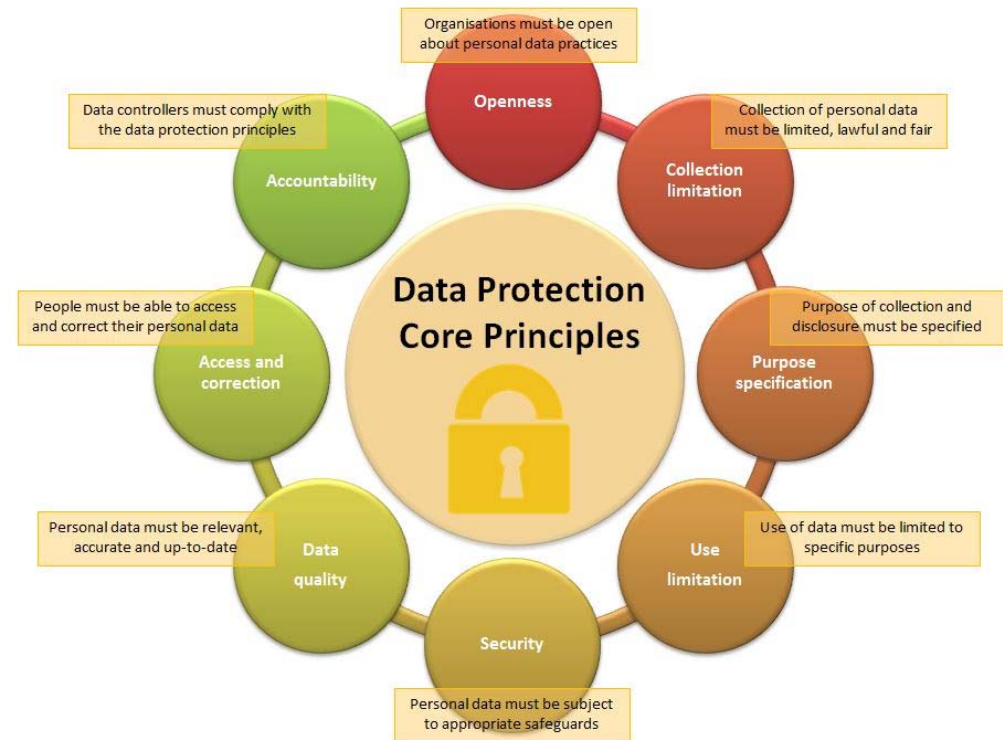
Why Talk About it Now?

- New technological developments add urgency
 - Internet of Things : Value-added services will grow from around \$50 billion in 2012 to approximately \$120 billion in 2018
 - Cloud computing: Estimated global market value of the industry by 2017, from \$107 to \$127 billion.
 - Big Data and Data Analytics
 - 5G Networks
- Many opportunities, but also potential drawbacks and concerns
 - >2,100 incidents reported in 2013, exposing >822 million records (Risk Based Security, 2014)



Observations in the study

- Core principles present in many frameworks
- Diverging implementation practices
- Global compatibility is a common goal
- Reflecting the global nature of data flows and the Internet





Issues Concerning Global Compatibility

- Gaps in coverage
 - Significant “real world” impact to date of the CoE Convention 108
 - National gaps: no laws, partial laws or that contain broad exemptions
- Impact of new technologies
- Cross-border data transfers
 - Data localization requirements
- Balancing surveillance and data protection
- Enforcement of data protection laws
- Determining jurisdiction
- Compliance burdens

CoE Convention 108 as the most promising international development

- CoE has realistic prospects of « globalisation »
 - 49 members (Morocco, Senegal and Tunisia have been invited to accede the treaty): nearly 50% of all countries with data protection laws
- Core principles widely accepted
- Ability for any country to join
- Only moderate privacy standard are required
 - CoE only requires an approximate EU “adequacy”
- Convention works through a collaborative open process
- Binding nature drives harmonization
- Has strong support from the other initiatives



Thank you!

unctad.org/Data-Protection-Study