

**40th International Conference of Data Protection and
Privacy Commissioners**

**Open Session: “*In discussion with independent data
protection authorities*”**

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“Data Laws and Ethics”

1. Madam Chair, you would agree that a data protection authority should play three major roles: first and foremost as an **enforcer** of the law, second as an **educator**, and third a **facilitator**. This echoes the findings of CIPL in their discussion paper “*Regulating for Results*¹” published at the 39th Conference held in Hong Kong last year.
2. You would recall that in Hong Kong last year, we also took the opportunity to canvass various data-protection

¹ “*Regulating for Results: Strategies and Priorities for Leadership and Engagement*” (25 September 2017), CIPL: <https://www.huntonprivacyblog.com/2017/09/25/cipl-issues-discussion-paper-on-regulating-for-results-strategies-and-priorities-for-leadership-and-engagement/>

legal frameworks, and the associated data privacy culture.

We also started to gather serious thoughts about the notion of data ethics.

3. Some of the observations made after the Conference include a) Hong Kong is a likeable and liveable place for all purposes, b) privacy cultures within the region of Asia, as reflected by their legal frameworks, may not be the same as those in other parts of the world.
4. Hong Kong is one of the first Asian jurisdictions having a single and comprehensive data protection law, basically based on the OECD and the EU models . One of the key objectives for enacting the law in 1995 in Hong Kong was to protect individual's data privacy rights without compromising ICT, trade and economic developments.
5. Hong Kong is part of China but has the privilege of having a high degree of autonomy constitutionally, including an entirely different legal regime, and a unique set of data protection laws. And I can assure you that in Hong Kong, data privacy right is a fundamental human right.

6. That said, it does not mean that in the mainland of China there are no data protection legal frameworks. Quite the contrary, there are a great many regulations, albeit often objective-specific and sector-specific. Indeed China has over the last few years attached high priorities and great importance to the protection of personal data, and has been doing so fast and substantively. Professor Wu Shenkuo of Beijing Normal University helpfully chaired a panel discussion at a side event earlier on accounting for the data protection developments in China.
7. Whilst the letter of the laws on data protection in the mainland of China and Hong Kong may not be the same, the spirit of data protection is to a large extent shared.
8. What is certainly shared 100% is the traditional moral standard, in relation to respecting others, and trust as the basis of human interactions, which has been handed down from generations to generations over the last 2,500 years.
9. I believe whilst there may still be debates about the universality of privacy rights in the legal sense, there

should be little disputes about moral standards or ethics in relation to data governance and data stewardship.

10. When it comes to data governance or digital ethics, we should engage the general public and organisations, businesses and governments alike, in developing the requisite respect and trust for a sustainable privacy culture.
11. It is against this background that in April 2018 I commissioned the Information Accountability Foundation (IAF) to conduct a consultancy study, with a view to drawing up recommendations on what an Ethical Data Stewardship framework should look like, and tools for organisations to achieve fair and ethical processing of personal data, such as artificial intelligence and machine learning. The consultancy report was published in Brussels two days ago, which was intended to tie in nicely with the theme of this year's Conference.
12. It is hoped that with the Ethical Data Stewardship framework and tools, we as regulators will be in a position to empower and facilitate businesses to further their

innovation developments in this digital era. Businesses and governments should respect data subjects' right in their data, and any proposed data-intensive activities will need to have regard to the impact, both positive and negative, on the data subjects.

13. Our consultancy report sets out the *Ethical Data Stewardship Accountability Elements*, and introduces *Ethical Data Impact Assessments* (EDIAs) addressing the impact of advanced data analytics, at the practical level.
14. Madam Chair, I believe that DPAs should regulate for results. Enforcement alone is not enough to drive compliance and effective protection. I am sure you would agree that with accountability and ethics, alongside the legal framework and complementing the sanctioning machines and certainly not as an alternative, regulators would be able to work hand in hand with both consumers and businesses, not only to do what we **have to** as a matter of law, but what we **ought to** do as a matter of ethics, in terms of being **respectful, fair and beneficial**, in

order to nourish a culture that respects privacy and data control of individuals. The full consultancy report, together with an assessment and oversight model, can be downloaded from the Hong Kong regulator's website www.pcpd.org.hk.

15. Thank you, Madam Chair.