# It's Worth to Look Beyond the Empires – It's Also Less Disappointing

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I. The Structure of the Book 932
II. Vertical Battles as System of Checks and Balances 933
III. There's More Than Three Empires – Brazil's Vertical Battles 935
IV. Digital Sovereignty as a Question of Digital Public Infrastructure – the India Stack 937
V. Conclusion 938

Anu Bradford's *Digital Empires* is an impressive study of key regulatory approaches across the globe influencing the power of private tech companies. The starting point for the book is the 'concentration of economic, political, and cultural power in a few large tech companies' (p. 2), in particular concerning the dissemination of harmful content, the moderation of democratic discourse, and the all-encompassing tracking of human behaviour online in an economic system rightfully conceptualised as 'surveillance capitalism'[1]. Against this backdrop, she compares the three (main) competing models for the regulation of digital technology: the American market-driven, the Chinese state-driven, and the European rights-driven regulatory model.

Reviewing such a prestigious book two years after its publication provides the opportunity to shorten the usual summary of the author's line of argumentation,[2] and instead to focus on re-reading the book in the light of

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1 Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power* (Profile Books 2019).

2 To avoid repeating what others have already done extensively, see for example Kal Raustiala, 'Digital Empires: The Global Battle to Regulate Technology. By Anu Bradford', AJIL 118 (2024), 592-599; Patrick Leblond, 'Anu Bradford, Digital Empires: The Global Battle to Regulate Technology', World Trade Review 23 (2024), 548-550; Han-Wei Liu and Weihuan Zhou, 'Digital Regulation in the Shadow of Digital Empires: A Quest for Cooperation?', JIEL 27 (2024), 186-191.

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current developments. In doing so, I will first apply the analytical framework developed by Bradford on the unholy alliance of *Big Tech* and the Trump administration which drives the current constitutional crisis in the USA. The developments of the last months stand in stark contrast to the tentative optimism expressed by Bradford throughout the book, which assumes – or at least hopes for – a progressing convergence of the European and American models for regulating digital technology. Second, I would like to point towards one of the gaps caused by the choice of analysing the regulation of digital technologies (solely) through the lens of three 'digital empires': the lack of attention to (alternative) regulatory models deployed by states in the Global South, such as Brazil and India.

## I. The Structure of the Book

Anu Bradford identifies the US, China, and the EU as the three 'digital empires' which are the dominant digital powers in today's world. All equipped with a distinct governance model (market-driven, state-driven, rights-driven) and a unique vision for the digital economy, they have '[n]ot unlike the empires of the past […] further exported their domestic models in an effort to expand their respective spheres of influence' (p. 6). In the first part, consisting of three chapters, each of the models is described in detail. This part is an excellent introduction to the legal regulation of digital technologies under the respective legal frameworks. It becomes particularly interesting when Bradford not only emphasises the differences between the three governance models but also highlights their similarities. In these parts, the book's at times belligerent narrative ('empires', 'wars', 'battles') is left behind and a refreshing nuance is added to the comparison, which is often lacking in political and legal discussions.

The three 'digital empires' engage in 'horizontal battles' amongst each other, where they fight for rule-setting power, market shares, and digital sovereignty (chapter 5-6, curiously, no chapter is dedicated to a conflict between China and the EU). Furthermore, they also fight 'vertical battles' on privacy, data access, and content moderation with private – primarily foreign – companies (chapter 4). The last part of the book analyses the strategies of each of the 'empires' to enlarge its sphere of influence, from the private power of American *Big Tech* companies promoted by the government's 'internet freedom agenda' (currently experiencing a stark backlash, chapter 7) and the export of Digital Authoritarianism through infrastructure by China (chapter 8) to the extra-territorial effects unfolding from Europe's digital

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regulation (chapter 9, described in more detail in Bradford's book on the Brussels Effect[3]).

## II. Vertical Battles as System of Checks and Balances

Discussing the book today, more than half a year into the second term of the Trump administration, one must recognise that a cautious, but hopeful prediction by Anu Bradford has not become reality. At the end of the chapter on the 'US-EU Regulatory Battles', she paints the picture of a 'new era in transatlantic digital policy where the United States (US) and the European Union (EU) are prepared to put aside their mutual regulatory battles in order to focus on the battle that many argue matters the most: the joint battle to defeat digital authoritarian norms embedded in the Chinese state-driven regulatory model and to defend liberal democracy as a foundation of the digital economy' (p. 254, see also p. 387). Unfortunately, current developments suggest that quite the opposite is the case.

In its first months, the new Trump administration has proven not to be an ally in the battle against digital authoritarianism, but rather the very concrete incarnation of it. The new administration does not only dismantle the rule of law, ignore judgements by Federal Courts, deport people illegally, arrest judges, and dismiss thousands of civil servants,[4] but it aims to replace systems of good administration, public participation, and democratic processes with a new promise of Artificial Intelligence (AI)-driven automation.[5] Spearheaded in the first months by Elon Musk, CEO of X (formerly Twitter) and Tesla and then-part-time 'Senior Advisor to the President', and his newly-created 'Department of Government Efficiency' (DOGE), Musk-loyal engineers have taken over databases from departments all across the government. Some of these databases included highly sensitive information about US citizens and companies, such as health information, financial data, and contractual information of competitors of Musk. While it remains unclear what the exact

3 Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020).

4 For an overview see collaborative projects like 'US Democracy Under Threat', Verfassungsblog, <https://verfassungsblog.de/us-democracy-under-threat/>, last access 18 May 2025; and 'Tracking Trump Administration Litigation', Lawfare, <https://www.lawfaremedia.org/projects-series/tracking-trump-administration-litigation>, last access 18 May 2025.

5 For an overview with further references on the concrete measures which have taken place, see Rainer Mühlhoff, 'The New Fascism Is Here – And Big Tech Is Running It', Verfassungsblog, 9 February 2025, <https://rainermuehlhoff.de/en/The-New-Fashism/>, last access 18 May 2025; Eryk Salvaggio, 'Anatomy of an AI Coup', Tech Policy Press, 9 February 2025, <https://techpolicy.press/anatomy-of-an-ai-coup>, last access 18 May 2025.



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purpose to access all these information is, public statements of DOGE officials suggest the idea of one centralised data repository, one database containing all the information about all people and companies in the US.[6] This dream for the authoritarian surveillance state, and nightmare for liberal democracies, is qualified by scholars and political commentators as an 'AI coup'[7] paving the way to a 'new fascism'[8].

It's an odd variant of *state-driven* regulatory model which is currently unfolding in the US. The alliance of tech oligarchs with the Trump administration was most prominently depicted by iconic pictures of his inauguration, showing all of them assembled to cheer the new President.[9] It is not so much formed by legal coercion, such as regulation requiring *Big Tech* companies to act in a certain way, but by strategic anticipatory obedience.[10] This obedience to the erratic wishes of the political leader appears to be driven in some cases by personal convictions (e. g. Elon Musk – before publicly breaking ties with the Trump administration), in other cases it is probably based on purely economic considerations, as Di Stefano shows in her review in this symposium, and possibly also fear of retaliation measures in cases of disobedience.

Whatever the motivation of these companies is, it leads to the cessation of any kind of *vertical battle* within the US which could serve as an instrument of checks and balances towards the current administration. As Bradford points out, *Big Tech* companies have in the past, for example, restrained US government's surveillance operations by 'minimal compliance and aggressive litigation' (p. 61). While it is true that many of those companies were also wiling partners in national security and law enforcement efforts (p. 62), the partial resistance which had incorporated 'elements of the rights-driven and state-driven regulatory approaches' (p. 62) now seems to have been given up completely. It is this function of vertical battles to resist governmental overreach which the book already hints at, but which is only now coming to the forefront as it is falling away.

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6 Makena Kelly, 'DOGE Is Building a Master Database to Surveil and Track Immigrants', Wired, 18 April 2025, <https://www.wired.com/story/doge-collecting-immigrant-data-surveil-track/>, last access 18 May 2025.

7 Salvaggio (n. 5).

8 Mühlhoff (n. 5); published first in German: Rainer Mühlhoff, 'Trump und der neue Faschismus', Verfassungsblog, 9 February 2025, <https://verfassungsblog.de/trump-und-der-neue-faschismus/>, last access 12 March 2025.

9 Ali Swenson, 'Trump, a Populist President, Is Flanked by Tech Billionaires at His Inauguration', AP News, 20 January 2025, <https://apnews.com/article/trump-inauguration-tech-billionaires-zuckerberg-musk-wealth-0896bfc3f50d941d62cebc3074267ecd>, last access 18 May 2025.

10 For the companies' strategic alignment or disalignment with the different approaches of the US and Europe, see Stefania Di Stefano, 'Tech Companies in the Digital Wars: Rebels or Stormtroopers?', HJIL 85 (2025), 941-948.



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Instead, US companies seem to focus on vertical battles in Europe and are actively challenging the regulation there – by labelling it as 'censorship'.[11] Their alliance with the US government transforms these vertical battles to horizontal battles: From Vice-President Vance echoing the equation of content moderation with 'censorship' to the announcement that sanctions for non-compliance with European regulation will be understood as tariffs and met with countermeasures.[12] Such transformation of conflict is a phenomenon which Bradford already observed for the past (p. 221) but which reached a substantial new intensity under the current administration. The fact that the book's hopes for an alignment of the US-American and the European model have not materialised is a painful reminder of what was still considered possible two years ago.

## III. There's More Than Three Empires – Brazil's Vertical Battles

Instead of further deepening this pain, it might be healthier to look for gaps, for areas of digital regulation which are left open by the book. The book's narrative, with its focus on the USA, China, and Europe, and the story of three 'empires' engaging in 'battles' with companies and amongst each other, simplifies today's complex multi-polar geopolitical landscape to a certain extent. The three chosen entities resemble the foundational post-World War II structure of geopolitics, leaving only Russia out of this old group of 'empires' (it's only mentioned as one example of state-driven authoritarianism, p. 308-313). As a consequence of this choice, the role of states of the Global South remains un(der)explored in *Digital Empires*.

One prominent example for this is Brazil. There, a special variant of a 'vertical battle' can be observed. While these are generally taking place between legislators or supervisory authorities, on the one side, and tech companies, on the other, it's the judiciary which became unusually active in Brazil. In March 2019, the then-President of the Supreme Federal Court,

11 Théophane Hartmann, 'US Tech Moguls Slam EU Digital Rulebook', Euractiv, 13 January 2025, <https://www.euractiv.com/section/politics/news/us-tech-moguls-slam-eu-digital-rulebook/>, last access 18 May 2025.

12 Deepa Shivaram, 'Vance Scorches European Allies in Munich Speech, Lecturing Them about Democracy', NPR, 14 February 2025, <https://www.npr.org/2025/02/13/nx-s1-5290258/vance-munich-security-conference-trump-putin-zelenskyy-russia-ukraine>, last access 18 May 2025; Anupriya Datta, 'Trump Threatens to Launch Tariff Attack on EU Tech Regulation', Euractiv, 22 February 2025, <https://www.euractiv.com/section/tech/news/trump-threatens-to-launch-tariff-attack-on-eu-tech-regulation/>, last access 18 May 2025.



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Dias Toffoli, ordered an inquiry into personal attacks and false news concerning Supreme Court judges. This inquiry has developed into a year-long investigation, whose face Justice Alexandre de Moraes has become, crowned as 'Brazil's Defender of Democracy' by the New York Times.[13] In the course of this investigation, de Moraes has requested the takedown of thousands of social media posts and dozens of accounts.[14] When X (formerly Twitter) only geoblocked pieces of content, he did not shy away from ordering their global takedown[15] – raising complicated questions of overlapping jurisdictions. He also ordered the demonetisation of content disseminating disinformation during the Brazilian elections of 2022,[16] banned – in a remarkably personalised stand-off between de Moraes and Musk – X in Brazil for non-compliance with removal orders and included Musk as suspect in a criminal inquiry concerning the spread of false information.[17]

These actions by the Brazilian Supreme Court are all taking place at a time when democracies around the world start to deploy measures to protect the integrity of elections against disinformation and other forms of foreign interference. As the most populous state and biggest economy in Latin America, the actions of the Brazilian judiciary are closely followed by its neighbouring countries. As an established democracy with a strong judiciary, embedded in a regional human rights framework, the Brazilian case is also more comparable and accessible to European policymakers (and enforcement authorities) than, for example, Chinese approaches. Thus, it is evident that not only Brussels influences regulation in other states (as described extensively in chapter 9), but that also European regulation is informed by regulatory projects in other states. While several of such regulatory initiatives are briefly mentioned throughout the book, its general narrative of a (currently) tripolar digital world order tempts the reader to

13 Jack Nicas, 'He Is Brazil's Defender of Democracy. Is He Actually Good for Democracy?', The New York Times, 22 January 2023, <https://www.nytimes.com/2023/01/22/world/americas/brazil-alexandre-de-moraes.html>, last access 18 May 2025.

14 Nicas (n. 13).

15 Supremo Tribunal Federal (2020) INQ 4781 / DF; for an English summary see '*The Case of the Brazil Fake News Inquiry*', Global Freedom of Expression, <https://globalfreedomofexpression.columbia.edu/cases/the-case-of-the-brazil-fake-news-inquiry/>, last access 18 May 2025.

16 Tribunal Superior Eleitoral (2021) 0600371-71.2021.6.00.0000; for an English summary see '*The Case of Disinformation Demonetization on Brazilian Social Media*', Global Freedom of Expression, <https://globalfreedomofexpression.columbia.edu/cases/the-case-of-disinformation-demonetization-on-brazilian-social-media/>, last access 18 May 2025.

17 Supremo Tribunal Federal (2024) INQ 4.874 / DF; for an English summary see '*Federal Supreme Court of Brazil v. Elon Musk and X*', Global Freedom of Expression, <https://globalfreedomofexpression.columbia.edu/cases/federal-supreme-court-of-brazil-v-elon-musk-and-x/>, last access 18 May 2025.



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forget about the manifold regulatory interactions and entanglements of these 'empires' with other jurisdictions.

## IV. Digital Sovereignty as a Question of Digital Public Infrastructure – the India Stack

The discussion on digital infrastructure is another area where the focus on the three 'empires' might have overshadowed the global influence of other states. Bradford highlights the importance of infrastructure mainly by analysing the dependence both of the US and the EU on Chinese manufacturing (but also on surveillance technologies, chapter 8). At the same, China strategically reduced its dependency on others by implementing strict data localisation measures, investment and export control (p. 199-207). These policies are discussed under the umbrella of 'techno-nationalism' or 'Digital Sovereignty' and comprise of a variety of measures to decrease dependence on foreign hardware, such as semi-conductors, or services, such as social media platforms. The motivation for such policies is manifold: the protection and security of citizen's data and sensitive information, economic rationalities to avoid being helplessly exposed to uniliteral price hikes, or the desire to increase the adherence to certain values, to name but a few. Bradford sharply observes how also the EU (pp. 133-136, 214-215) and the US (pp. 183-196, 212-214) are increasingly introducing such policy measures, which – at least partly – are considered to be inconsistent with the long-established aim of fostering free trade and reducing any kind of barrier.

This debate, however, is not unique to the three 'empires'. The question of dependency on foreign companies for providing essential services is discussed all around the world, often under the theme of 'digital *public* infrastructure'. On the international level, digital public infrastructure featured prominently in the Global Digital Compact, designated there as a 'key [driver] of inclusive digital transformation and innovation'.[18] One of the most ambitious projects in this field is the 'India Stack'. The idea of the India Stack is to provide a set of open standards, application programming interfaces (APIs) and basic components which facilitate broad access to, among others, digital identification and payment services.[19] Despite facing some criticism from privacy

18 'The Pact for the Future, Annex I – Global Digital Compact', UNGA Res 79/1 of 22 September 2024, A/RES/79/1, paras 14-17.

19 Vivek Raghavan, Sanjay Jain and Pramod Varma, 'India Stack – Digital Infrastructure as Public Good', Communications of the ACM 62 (2019), 76-81; Smriti Parsheera, 'Stack Is the New Black?: Evolution and Outcomes of the 'India-Stackification' Process', Computer Law & Security Review 52 (2024), 105947; see also 'India Stack', <https://indiastack.org/>, last access 18 May 2025.



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activists and lawyers for collecting and sharing biometric information for identification purposes,[20] the Stack is generally considered to be the prime example of basic digital infrastructure being provided by a government, enabling access to financial and other essential services for millions of citizens.[21]

More recent initiatives like the EuroStack[22] or the 'Deutschland-Stack'[23], which are using the India Stack as point of reference, demonstrate India's pioneering role in this area in recent years. This development is one of the signals that there is more than three empires competing for global supremacy in tech regulation. The field is also being shaped by states of the Global South. They are not waiting to see the outcome of the battles being fought out by China, Europe, and the US, but are actively influencing the global development and regulation of technology by pursuing their own visions.

## V. Conclusion

*Digital Empires* provides a fascinating and insightful analysis of the global (public) regulation of digital technology. By taking a state-centric perspective, it is able to present in detail the public law response to the ever-increasing accumulation of private power in the last decades. It is, thus, also a compelling argument against the cry of helplessness uttered too often by scholars and activists: regulation would come too late, always be reactive, and be distorted beyond recognition by lobbying efforts before becoming law. While all of these complaints are true to a certain extent, Bradford's *Digital Empires* shows that public regulation is not a mere bystander of technological development. Instead, the three distinct models described by her all have actively shaped it in different ways. This is in no way a trivialisation of the

20 Manish Singh, 'India's Database with Biometric Details of Its Billion Citizens Ignites Privacy Debate', Mashable (14 February 2017), <https://mashable.com/article/india-aadhaar-uidai-privacy-security-debate>, last access 18 May 2025.

21 Yan Carrière-Swallow, Manasa Patnam and Vikram Haksar, 'The India Stack Is Revolutionizing Access to Finance', *International Monetary Fund*, July 2021, <https://www.imf.org/external/pubs/ft/fandd/2021/07/india-stack-financial-access-and-digital-inclusion.htm>, last access 18 May 2025; Felix Sieker, 'Aadhaar and the Rise of Digital Public Infrastructure in India', reframe [Tech] / Bertelsmann Stiftung, 13 November 2024, <https://www.reframetech.de/en/2024/11/13/aadhaar-and-the-rise-of-digital-public-infrastructure-in-india/>, last access 18 May 2025.

22 Francesca Bria, Paul Timmers and Fausto Gernone, 'EuroStack – A European Alternative for Digital Sovereignty', Bertelsmann Stiftung 2025, <https://www.euro-stack.info>, last access 18 May 2025, with a short comparison to the IndiaStack on p. 95.

23 'Koalitionsvertrag (Coalition Treaty)' (CDU, CSU, and SPD 2025), 67, <https://www.koalitionsvertrag2025.de/sites/www.koalitionsvertrag2025.de/files/koav_2025.pdf>, last access 18 May 2025, for a reference to the EuroStack see p. 70.

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private power in the hands of very few companies, not least because Bradford also describes how some horizontal battles between tech companies might be, for example, 'a considerably more effective way to realise the goals of the General Data Protection Regulation (GDPR) than any effort by European privacy regulators' (p. 383). Instead, it is a compelling reminder that private power is not god-given, but the result of political choices. Hence, a different digital world is possible if only there is the will to build it.

Unfortunately, looking at the three 'empires' from today's perspective, it seems that the strongest will to change the digital world is the one of Donald Trump to make it a less free, less equal, and less just place. If this were the end of history, state-driven authoritarianism would be winning. But it is not. There are more than three 'empires' which shape technology globally. More states are part of these regulatory 'battles', many with distinct visions on how to shape the digital world. After all, global internet governance's multi-stakeholder approach always acknowledged that there is even more than states and companies. As the focus on the three 'empires' becomes increasingly depressing, it might be rewarding to zoom out a little and consider the global diversity of different regulatory approaches. There is a lot more to unfold and to learn – both for imitation and as a deterrent.

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