Decoding India's Draft Data Accessibility Policy

Guhathakurta, Rahul

Decoding India's Draft Data Accessibility Policy

IG indrastra.com/2022/02/Decoding-India-Draft-Data-Accessibility-Policy.html

By Rahul Guhathakurta

As per the latest *Draft India Data Accessibility & Use Policy 2022,* the **Government of India (GoI)** intends to allow various ministries and departments to exchange any data collected, generated, and stored *(with some exclusions)* both internally and with businesses, including start-ups and independent researchers. According to the government, the strategy intends to *"change India's capacity for harnessing public data for large-scale social reform,"* among other things.

The *Draft India Data Accessibility & Use Policy 2022* is now available for public comment on the Ministry of Electronics and Information Technology (MeitY)'s **website** until March 18. This policy replaces the National Data Sharing and Accessibility Policy (NDSAP) and the Open Government Data Platform India.

According to the **Economic Survey conducted in 2019**, the government should explore monetizing people's data as part of a broader strategy to exploit *"data as a public good"*.

Making the argument for digital data storage and processing, the Survey stated that technology has significantly reduced the cost and effort associated with data collecting, storage, processing, and dissemination. The Survey advocated that government services be improved by using the *"administrative, survey, institutional, and transaction data"* that citizens voluntarily or legitimately share with the government.

The draft mandates the creation of the Indian Data Council (IDC) and the India Data Office (IDO) to set metadata standards and enforce them. While the IDC would be composed of the IDO and data officers from five government ministries, the IDO will be established by the MeitY to streamline and unify data access and sharing across the government, and other stakeholders.

The IDC's responsibilities will include developing frameworks for defining high-value datasets, finalizing data and metadata standards, and monitoring policy implementation. Departments and state governments will be appointed to the IDC on a rotating basis, with each department having a two-year tenure.

According to the draft, stakeholders such as start-ups, other organizations, individuals, and academics would have access to enriched data *via* data licensing, sharing, and valuation within the confines of data security and privacy. Additionally, the IDC will finalize cross-domain data standards that will be accepted by all relevant government ministries and departments.

According to the experts, the background note of the draft policy talks about the **Personal Data Protection Bill** and the **Non-Personal Data Protection Framework**. But, it doesn't provide clarity on how these two things will work together. For example, the draft policy doesn't explain how the government will handle the consent and anonymization of an individual's data. Despite the policy's desire for anonymization, there is no legal accountability or independent regulatory supervision. It also ignores scientific study and automated technologies for the re-identification of anonymized data.

Currently, India lacks a data protection law that may hold companies accountable for data breaches or forceful data collecting. Inter-departmental data sharing raises privacy issues because the open government data portal may result in 360-degree profiling and enable state-sponsored mass intelligence gathering. On top of that, it becomes more critical given the financial incentives associated with licensing to the private sector, in which the government acts as a data broker. Here, the commercial worth of the data increases as the amount of personal data collected increases. Additionally, the absence of *anchoring legislation* results in the policy failing to meet the legal standard for state intrusion in privacy established by the Supreme Court of India in its historic right to **privacy ruling**.

About the Author

Rahul Guhathakurta (ORCID: **0000-0002-6400-6423**) is a strategic management consultant and is currently affiliated with Anaha Innovations — an Ahmedabad-based technology business incubator and private equity firm. Also, he is a primary investor in IndraStra Global — a US-based publishing company.