

# TREATING DATA AS COMMONS

Relevant for: Developmental Issues | Topic: E-governance - applications, models, successes, limitations, and potential incl. Aadhaar & Digital power

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The Gopalakrishnan Committee set up by the government on developing a governance framework for non-personal data recently put out its draft report for public consultation. The report's main purpose is to ensure wide sharing and availability of data in society. To ensure that companies share the required data, it was found necessary to develop strong conceptual and legal basis for data-sharing requirements and obligations.

To understand why data sharing is needed, and its importance to a strong and fair digital economy, we must first recognise the infrastructural nature of data. Industrial age infrastructure — roads, electricity, etc. — were often publicly owned. Even if there was some private role, these were run as closely regulated public utilities. The idea was to ensure widespread availability of such infrastructural elements to all, and avoid wasteful duplications. Society's data have a similar nature for a digital economy.

The digital age came with useful digital services that everyone lapped up. Many of these services were free or highly subsidised. The infrastructure versus over-the-top services distinction may initially have not been too significant. But that difference becomes important as digital corporations begin to dominate all sectors, including important ones such as education and health.

That very few corporations have vertically integrated all the digital components involved in delivery of any digital service is the reason for their becoming such huge global monopolies. Seven out of the top 10 companies globally today have a data-centric model. Such unsustainable concentration of digital power has a significant geopolitical dimension, with complete domination globally of U.S. and Chinese companies. At the national level its deleterious effect is of exploitation of consumers and small economic actors, and of strangulating competition and innovation. There are calls worldwide to break up Big Tech; to moderate their monopoly power. Their monopoly is best addressed by separating the infrastructural elements of digital service provision from the business of digital service delivery. There are two key infrastructural components of a digital economy: data and cloud computing. The Gopalakrishnan report and this article focus on the infrastructural element of data.

Infrastructures are to be equitably provided for all businesses. Data have similar characteristics. But today, dominant digital corporations are building exclusive control over any sector's data as their key business advantage. Start-ups try to ape the same mode. What is needed, however, is to treat data as infrastructure, or 'commons', so that data are widely available for all businesses. The digital businesses then shift their key business advantage from exclusive access to data to employing available data for devising digital services for consumers' benefit.

The Gopalakrishnan committee takes such an infrastructural view of data. Data collected from various communities are considered to be 'owned' by the relevant community. Such 'community ownership' means that the data should be shared back with all those who need it in society, whether to develop domestic digital businesses or for producing important digital public goods. With a robust domestic data/AI industry, dependence on U.S. and Chinese companies will reduce.

It is for these purposes that the Gopalakrishnan committee proposes the concept of 'community data'. Only the data collected from non-privately owned sources, from society or community sources, have to be shared when requested for. Data from privately owned sources remain private. Since a community requires a legally recognisable body to articulate its data ownership claim, the committee introduces the concept of community trustees that could be various bodies representative of the community.

Data collectors are considered as data custodians that will use and secure data as per the best interests of the community concerned. Data trusts are data infrastructures that will enable data sharing, sector-wise, or across sectors, and which can be run by various kinds of third-party bodies. The committee recommends a new legislation, because ensuring and enforcing data sharing will require sufficient legal backing. A Non-Personal Data Authority is also envisaged to enable and regulate all the envisaged data-sharing activities.

India is the first country to come up with a comprehensive framework in this area. Starting early in this important digital policy and governance area may just provide a formidable first mover advantage for India to acquire its rightful place in the digital world.

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