Open Data Working Group
Convening #2 | 15 December 2020
Discussion Notes

Objectives of the Open Data Working Group

An initiative of the International Innovation Corps (UChicago Trust) and the Data Governance Network (anchored by IDFC Institute), the Open Data Working Group hosted its second convening on Tuesday, December 15th. During the session, participants discussed the state of current Open Data policy, as well as the case for subsequent policy and legislation.

Some participants argued that other avenues should be explored, such as accelerating public adoption, prior to evaluating the need for legislation. In contrast, others asserted that greater, substantive accountability and enforcement mechanisms - which can only be created via legislation - must be implemented in order to achieve Open Data. This, however, may provoke resistance from government stakeholders, who fear that the transparency created by true Open Data may lead to accountability and possible repercussions. The group also highlighted the challenges faced by stakeholders both on the supply and demand side at every stage of the data life cycle, from collection to publishing.

Overview of Legislation Around Open Data

- The mandate for India's Open Data platform is derived from the National Data Sharing and Accessibility Policy (2012). As discussed in the previous convening, the policy is non-mandatory, and operationalisation is subject to the interests, will and capacity of each Chief Data Officer (CDO).
- Given that there is presently momentum and political will in the data governance space, it is possible that this is an auspicious time to revive the topic of additional policy and / or legislation for Open Data.
- The reprioritization of Open Data intersects with the government's invigorated mission to foster the nation's AI ecosystem. Given that AI depends on high-quality datasets as an input, an improved OGD Platform poses to serve as a critical enabler.
- Since NDSAP was released in 2012, the culture surrounding Open Data has evolved significantly. The public sector is more familiar with Open Data initiatives, and government agencies and CDOs have years of experience in operationalizing them.

Need for Open Data Legislation

- While policy is a strong starting point, ultimately legislation may be required in order to create an effective Open Data ecosystem via an enforceable system of disincentives for not sharing data. Legislation creates a mandate that can be enforced, with non-compliance precipitating consequences.
- However, disincentives are not adequate in and of themselves. Given capacity constraints, it is not always possible to enforce them effectively. Therefore, incentives for data sharing are needed as well. Here, initiatives such as the Open Data Champion award are motivating ministries to share more data with greater frequency. More thought must be put into systemic incentives.
- One participant pointed out another drawback with implementing Open Data via policy: different departments use it solely as a foundation, and make changes per their discretion in implementation. While it makes sense to have contextualised guidance, variability can also make it more difficult to create a standardised Open Data ecosystem, and resolve intersectoral discrepancies or issues. Thus, even with legislation, there should be high level guidelines that can be enforced, as well as standard processes delineated for each relevant sector.
- Some members pointed to the RTI Act as a parallel. It took time for both the government and citizens to get used to sharing data and demanding it respectively. This is liable to be true of Open Data as well.
- Presently, an updated version of the Open Government Data (OGD) Platform is in development, which aims to push electronic files and data directly between agencies and the NIC using APIs.

Pushback on Open Data Legislation

- A significant, well-anticipated challenge is resistance to Open Data legislation from some parties within the government. The main concern for government stakeholders is that Open Data will increase transparency and accountability - ultimately 'rocking the boat.'
- Another consideration is the feasibility of genuinely creating Open Data legislation that yields a desired outcome. Despite the passage of the RTI Act, the public still struggles to obtain access to information, with backlogs of requests numbering in the hundreds of thousands. It is important to design Open Data legislation in a way that accounts for the weaknesses and gaps of the RTI Act.

Session Participants

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