

Data Flows With Equity, but Equity of What?

**Input to the 2023-24
Inter-Sessional Panel on
'Data for Development', UNCSTD**

IT for Change

November 2023



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Data Flows With Equity, but Equity of What?

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6 November 2023

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The [Issues Paper on Data for Development \(2023\)](#) by UNCTAD marks a paradigm shift in the data debate by addressing data flows with equity.

We are familiar with the discourse that distinguishes between equality and equity. While equality entails providing the same resources or opportunities to each individual or group of people, equity acknowledges that each person faces different circumstances and allocates precisely the resources and opportunities needed to achieve an equal outcome. Equity has inherent elements of a politics of recognition, redistribution, and even participation. It may relate to racial justice, social justice, or specific domains, such as health equity.

Policy discussions on equity need to ask: equity for what? Do policies aim to equalize rights, opportunities, or outcomes? And indeed, address the question of who are we equalizing for.

The Issues Paper discusses how equity in data flows is foundational to achieving data for development (p. 72). This is a vital movement in data governance discussions. Until now, privacy and security have been the two key pillars in the discourse. The concept of data flows with trust emanates from these two important values. However, there is a catch. In a world controlled by Big Tech, we observe an expedient checkbox approach where trust is not considered as public trust, wherein institutions provide the reliability necessary for social and political citizenship. Instead, it is reduced to a mere license for the data market to march ahead with limitless extraction, hoarding, and mindless propertization of data in exchange for a technicalized idea of data protection — all of this without guarantees.

The triumvirate of security, privacy, and equity marks a crucial shift, moving the needle on the data flows debate. In this context, an equity blind spot can incur substantial costs, leading us to reconsider fundamental principles: free flows for what? And free for whom?

¹ This input was developed by Anita Gurumurthy, Executive Director, IT for Change.

I. Public Innovation Ecosystem Under Seige

So, what is the current status quo of data?

Today, as [Cecilia Rikap](#) points out with a bit of dark humor, “A small group of people and machines learn, and the overwhelming majority of the world risks losing learning skills as intelligent chatbots spoon-feed us with (not necessarily reliable) answers.”

The intelligence from data and the wealth of data are rapidly transforming into a coercive and even oppressive knowledge paradigm. A majority of small businesses, innovators, and nation-states appear to lack the control and, consequently, the capacity to decide and shape their knowledge infrastructures. Two decades of a first-mover, winner-take-all digital economy have led us to a fragile international economic order.

The artificial intelligence (AI) industry is undergoing a quantum change, shifting from Machine Learning models towards an innovative environment where a handful of companies control the base layer of AI needed to build new applications. Rather than developing AI from scratch, data scientists use foundation models (FMs) as a starting point. These large-scale FMs can be adapted to a wide range of tasks and operations.

There is significant vertical integration in FM, with many firms having a presence in two or more stages of the value chain. Several FM developers, such as Microsoft, Amazon, and Google, also own key infrastructure for producing and distributing FMs, including data centers, servers, and data repositories. We also observe links across parts of the value chain in the form of partnerships and strategic investments. Google and Microsoft have entered into such agreements with various FM developers, including Anthropic and OpenAI. Both firms provide cloud computing services as part of these agreements.

This implies that the knowledge needed to unlock innovation inevitably leads us back to Big Tech, whether we appreciate it or not. The structures of knowledge in society appear to be held hostage to the infrastructural power of the AI first-movers.

However, there is also a fallacy here at play. Big Tech encourages the belief that the complexity and size of its FMs are inevitable. Yet, development relies on local complexity, and the accuracy of models may not necessarily require vastness but thickness, achievable only through effective local governance mechanisms.

Today, advances in the chip industry allow for a specialized architecture to selectively target specific problems. However, the new chip industry contradicts current trends. While the semiconductor market, as we know it, has long been based on [Moore's Law](#) and reducing computing costs, recent advances do not augur well for the marketplace. Without appropriate competition policies and antitrust enforcement, the chip industry is highly concentrated.

Businesses rely on cloud-server providers to provide specialized chips for training AI. It is [reported](#) that these providers — AWS, Microsoft, Google, and Oracle — have, with a spike in demand for such specialized server chips, ‘limited their availability,’ creating a shortage.

We are transitioning from a public innovation environment, characterized by general computing, to an increasingly corporate-controlled ecosystem — a labyrinth that seems to besiege us into a monolithic, anti-developmental market oligarchy. [Scholars](#) express concern that as chips for more general computing become marginalized, we are witnessing a slowdown in the ‘overall pace of computer improvement.’

II. The Inequity Problem in Data for Development

All of this revolves around the right to development, encompassing social, cultural, and political sovereignty — a claim to the future of ideas, possibilities, and pluralistic social models. The geo-economic inequalities in data have resulted in a neocolonial dependency, establishing a new bipolar control between two nations — the US and China.

However, the sovereignty question cannot be delinked from decolonization. For example, European policy challenges differ significantly from those faced by African countries. In the ‘data for development’ debate, we require innovative thinking on what technological sovereignty will look like if we aspire to build a world of social equity.

The nature of inequity in the data market can be summarized as follows:

- (i) The de facto policy environment has not resulted in allocative or distributive equity in data and AI resources. Instead, there is a concentration of infrastructural power in the data market, fueling an epistemic divide — a division in data, information, and knowledge;
- (ii) Anachronistic laws fail to make data for innovation accessible. The increasing propertization of knowledge coincides with the erosion of the commons and public knowledge;
- (iii) Multilateral institutions are lagging behind in providing global norms. While the focus on the ‘global data commons’ may be crucial as an ideal, we need more assertive articulations for a local-to-global democratic architecture for data and AI governance. Currently, it appears to be a one-way street where the duty to pool is the destiny of the majority world, but not the right to benefit;
- (iv) Big Tech impunity has proven to be costly, subverting people’s rights. The case of Meta blocking information from Canadian news outlets during the forest fires was inhumane, especially during an emergency where public authorities were racing against time; and
- (v) The overall situation is one of capture, and all the talk about open-source AI is not a real option. Building anything requires considerable time and vast resources, and smaller firms are most often cannibalized by big

corporations controlling the innovation trajectory. Big Tech corporations also exploit the dilapidated state of national and international regulation and governance.

III. Equity of Autonomy in the AI Paradigm

The Issues Paper makes an important assertion: “From privacy as a market contract, we need to move to a new social contract for data that foregrounds data as a common good. If data can be perceived as a common good, akin to clean air or natural resources, it necessitates a corresponding framework for its protection and management that encompasses more than just individual control. While acknowledging the significance of personal agency in managing one's data, a fair and just digital economy requires an overarching paradigm shift from private data contracts to social contracts, transcending purely market considerations.” (p. 61)

Therefore, the question shifts from ‘*How to make a market contract for effective control of my data?*’ to ‘*How to shape the social contract of datafication for the collective good? How can public value be created in the age of data?*’ (Datafication may be defined as the process through which everyday socio-environmental interactions can be digitally rendered into a machine-readable form and utilized for knowledge generation for social and economic use.)

From a right to development perspective, the first imperative for equity is updating and rearticulating the human rights regime concerning people’s data rights. Individuals must have the rights to:

- (i) Benefit from their data, and be free from harm;
- (ii) Access data inferences about themselves;
- (iii) Be represented appropriately/not represented in data; and
- (iv) Participate in the governance of data and data-based systems.

While these bundles of rights serve as a starting point or necessary conditions for a new social contract on data, they are not sufficient.

To give substance to the social contract of data, we must take a step back and attempt to identify what is needed to achieve the equity of benefits, or, in fact, what should even be defined as benefits. This is not merely a philosophical or moral question; it involves the very concrete building blocks — the nature of policy, data, AI models, cloud infrastructure, applications, and other resources necessary for economic and political freedoms.

Freedoms, as Amartya Sen argued in his famous essay *Equality of What?*, are linked to equity of capabilities.

This involves:

- a) The opportunity and ability to make choices; and
- b) Absence of punishing costs or freedom from coercive choice.

Freedom is both structural, with collective/shared aspects, and individual. The focus is on the ability of people to choose to live different kinds of lives within their reach, rather than confining attention only to what may be described as the culmination or aftermath of choice. Inequity in capabilities may be understood as an inequity in choice, which Sen argues is at the core of inequity in society.

Sen posits that what is important is for policy to aim for the equality of autonomy. In this view, a society may choose not to adopt a free AI model that makes them perpetually dependent. A public health or agricultural system may decide against a technology partnership that provides short-term efficiency gains if such a model undercuts the long-term interests of the public system.

In the data paradigm, equity is about reshaping the structures of choice to facilitate the expansion of strategic life choices for all peoples. This is clearly not about a coercive inclusion into an unequal global data economy.

Equality of autonomy may not necessarily obtain with an [‘output equity’](#) approach unless data capabilities — the necessary interim step — are put in place. This implies that while access to benefits in the AI order is critical, there is a missing link. This pertains to how benefits are determined and, consequently, how such determination influences input equity or allocation decisions concerning a range of resources.

We can infer that fairness and justice in AI governance are not solely about tackling biased data or even the distribution of data. Instead, addressing data inequity involves the distribution of a much wider array of resources to build contextually rooted choices in society, ensuring that the data economy is fair and just.

IV. Recommendations to the CSTD

As nation-states navigate the AI epoch, international development needs to be guided by a ‘data flows with equity’ agenda. This would entail a decisive shift not only in the international governance arrangements of data but also to the structures in the global economy that perpetuate inequality. The CSTD can enable this shift by advocating for the following measures:

- (i) Establish global data contract to protect ‘development as data freedom’ of all peoples, delivering on democratic and distributive integrity;
- (ii) Reorient international economic law towards redistributive justice, encompassing trade, intellectual property (IP), taxation and investment regimes;
- (iii) Enact binding regulation for tech corporations, emphasizing accountability and liability for infringing on people’s rights and the health of the marketplace;
- (iv) Allocate public finance for the development of data infrastructures in developing countries and robust institutional frameworks for accountability in private partnerships;
- (v) Prioritize underexplored public-community models in data governance at the national level; and

(vi) Harmonize the data governance regime with updated consumer law, competition law, and labor law to prevent abuse of infrastructural power by Big Tech platforms.