

# UNTANGLING DATA GOVERNANCE

## — SRI LANKA'S WAY FORWARD —

13 November, 2025 | Colombo, Sri Lanka



Canada

# Untangling Data Governance - Sri Lanka's Way Forward



Opening Remarks

**HELANI GALPAYA**

CEO, LIRNEasia

# **LIRNEasia: a pro-poor, pro-market Asia Pacific think tank; focused on digital and infrastructure policy and regulation**



## **Our Mission:**

**“Catalyzing policy change through research to improve people’s lives in the emerging Asia Pacific by facilitating their use of hard and soft infrastructures through the use of knowledge, information and technology”**

# Regional Research Overview on Data Governance in South and Southeast Asia



Speaker

**PRANESH PRAKASH**

Policy Fellow LIRNEasia, Co-Principal Investigator



# Harnessing data for democratic development in South and Southeast Asia

Pranesh Prakash

# Who am I?

Co-Principal Investigator of the D4DAsia project

Research Fellow at LIRNEasia

- Co-founder of the Centre for Internet and Society
- Fellow at Yale Information Society Project / Fundación Karisma / New America / Internet Freedom Fellow, etc.
- Principal at Anekaanta

# D4DAsia project

Study across 7 countries: India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand (and South Korea).

Questions we asked when we launched this study:

- Why are we studying data governance?
- What is "data governance"?
- How do we go about studying data governance?
- What are special considerations in developing countries in South & Southeast Asia?

# Why is data governance important?

Because **technology** shapes our lives.

Important for good governance & development.



# Data governance and technology

Technological advancements require social, economic, political & legal responses

- History of privacy (confidentiality, "right to privacy", data protection)
- Evolution of transparency from "right to information" to "open data"

# Evolution of privacy with technology

- “Anyone who listens to people talking when they dislike him doing so or flee from him will have molten lead poured into his ear on the Day of Qiyamah.”<sup>[^1]</sup>
- Writing and mass media helped create and evolve the tort of **breach of confidentiality** in the 1800s in England.
- Photography and mass media led to the landmark paper “The Right to Privacy”<sup>[^2]</sup> by Brandeis & Warren in 1890 (“**right to be let alone**”)
- Databases led to **data protection** in the 1980s and 1990s.
- Publicly searchable databases led to the **right to be forgotten** in the 2010s.

[^1]: Sahih Bukhari, Hadith: 7042

[^2]: 4 Harvard L.R. 193 (Dec. 15, 1890), <https://archive.org/details/jstor-1321160/>

# Evolution of transparency with technology

- Right to information
  - Mostly reactive transparency, with proactive transparency requirements in some countries
  - Smaller amounts of information, more specific
- Open data
  - Proactive transparency
  - Large quantities of information, more general

Both are needed.

# What is "data governance"?

- Neologism
- Differently construed in different domains.
- In public policy, boils down to "governance of data"

# Systematic study of data governance: increasing access

Increasing openness / access for citizens

Open

- Standards
- Software
- Data
- APIs
- Content
  - Access to scholarly literature

# Systematic study of data governance: decreasing access

Decreasing openness / access for citizens

- Privacy / data protection
- Security
  - Data {retention, localization, centres}, etc
  - Data access (legal enforcement, etc.)
- Property-like rights
  - Copyright / Database rights
    - Harms to research / AI / search engines / innovation
- Need to be carefully calibrated.



# Comparative analysis

- EU is *not* the only model! Often inappropriate for developing countries.
  - Even EU is re-thinking regulatory approach (thanks to the Draghi report)
  - State capacity, private sector compliance ability differs
  - Think beyond the "Brussels Effect"

# Increasing openness: Open standards

- Important from everything from accessibility for persons with disabilities (WCAG) to business reporting (XBRL) and tax. At ISO, IEEE, W3C, IETF, etc.
- (Open standards: Royalty-free, open specifications, open development process.)
- India, Indonesia, Philippines have policies.
- India, Nepal have lists of egov standards (eGIF).
- None do a great job. **India, Indonesia, and Philippines are best examples.**
- Independent FOSS implementation is the "canary in the coalmine".

# Increasing openness: Free and open source software

- (FOSS: the right to run the software for any purpose, study and change how it works, and redistribute both original and modified copies.)
- India has multiple (natl + state) policies, and even has a govt Github-equivalent (OpenForge).
- Intl. examples like **USA (code.gov), Switzerland, Germany (and EU).**

# Increasing openness: Right to information

- Six countries have explicit constitutional provisions, and in India it has been read into free speech provision.
- **Sri Lanka and India** provide the best examples, though in India things have gone downhill in practical terms as well as legal terms.
  - Non-obstante (overriding) clauses, overrides secrecy laws.
  - Supreme Court comes under RTI Act. In India, "PIOs should 'record detailed reasons'" to reject.

# Increasing openness: Open data

- Every country *except* Pakistan and Nepal has a govt-run open data portal.
  - In some it is more fragmented.
- Examples worth studying: **One Data Indonesia (Satu Data) & India's NDSAP / data.gov.in.**
- **UK** among world leaders

# Open APIs

- Needed for programmatic access to data.
- Useful for G2G as well as G2B & G2C.
- **India: API Setu (discoverability)** and "Digital Public Infrastructure".
- A genuine "DPI" approach would rely on **open standards, FOSS, and open APIs.**



# Decreasing openness

- Data localization: Most pernicious in India, Thailand and Philippines. More limited in Nepal.
  - Legal access more important than technical localization in most cases.
- Data protection: A fine balance required to avoid stifling research, free speech, innovation, archiving.
  - None strike that balance well.
- Copyright: Again, a fine balance to avoid stifling free speech, innovation.
  - Search engines and AI

# Open policymaking process

- Not just transparency, but also responsiveness, public justification, and articulation of trade-offs.
- None did really well on the whole
  - Specific policies / specific departments
- **South Africa's 'green paper' / 'white paper' system.**

# Conclusion

- 80-page report with far more details + country reports.
- Studying "data governance" requires looking at dozens of laws and policies, as well as policymaking processes. We've contributed a novel method for such a study.
- No country or region has all the right answers. State capacity differs, ability of private companies to comply differs
- There are no "right solutions", only trade-offs.
  - Govts, private sector, civil society, etc. should acknowledge these trade-offs and openly discuss them.

# Findings from Data Governance Research in Sri Lanka



Speaker

**ASHWINI NATESAN**

Policy Fellow LIRNEasia, Country Researcher – Sri Lanka

# Data Governance Framework: Sri Lanka

Key Findings

Ashwini Natesan

Research Fellow

# Increasing Access to data

- Right to Information Act No 12 of 2016 (“RTI Act”)
- National Archives Law No 28 of 1973 (as amended)
- Survey Act No 17 of 2002 (as amended)
- Census Ordinance No. 9 of 1900 (as amended)
- Credit Information Bureau of Sri Lanka Act No. 18 of 1990 (as amended)
- Anti-Corruption Act No 09 of 2023



# Decreasing access

## ○ Security

- Sri Lanka Telecommunications Act No. 25 of 1991 (as amended)
- Computer Crime Act No. 24 of 2007
- Public Security Ordinance No. 25 of 1947
- Online Safety Act No. 9 of 2024

## ○ Privacy / Data Protection

- Personal Data Protection Act No 09 of 2022 (“PDPA”)

## ○ Intellectual Property Rights Act, No. 36 of 2003

# Limitations of the Study

- Majority of research conducted in late 2023 and early 2024
  - reflects the state of policies during that time
  - there have been amendments and updates since that are not in report
- Some recent updates, such as the Draft Cloud Strategy released in June 2025 are included.
- Some policies/draft policies cited in the report may no longer be accessible on the official websites due to subsequent policy updates

# Research Questions

- What are the implications of the emergent nature of the governance architecture? Because there is no overall design that envisions how the parts fit together, it is likely that there will be friction points and even contradictions. How are these being worked out?
- How were the laws and bills developed? What expertise was brought to bear? How open were the procedures? How receptive were drafters to suggestions and criticisms?
- How were capacity challenges addressed: by simplifying the laws or by tolerating incomplete implementation?

# Friction Points and how they are being worked out

- Laws – overriding clause / non-obstante clause in legislations
  - We find this in most of the recent laws analysed – RTI, PDPA, OSA, etc.
- In some cases, concerns are being worked out to address issues- example
- National Archives law vs. PDPA vs RTI – National Archives – KII- noted that they are looking to address these areas of conflict – data retention
  - Framework for National Archives and Records Management Legislation
- PDPA – KII noted that Advisory Committees would be appointed

# Friction Points and how they are being worked out

- Some examples where friction points were not considered
  - Section 23 of the Electronic Transactions Act provides for restrictions on the application of the legislation. One of the exceptions relates to financial transactions, including foreign exchange transactions and those involving settlements and payments. An exception is needed for Central Bank regulations and for exchange control purposes. But sector-specific clarity is needed.
  - “Information Classification Framework” that is meant to provide guidance to PAs regarding disclosure under RTI has *inter alia* classified “salaries” and “personal case files such as benefits, program files or personnel files” as “Confidential” information. This position is not supported by RTI Commission orders.

# A multitude of policies in draft form, without being adopted and those adopted operate in silos

- A plethora of policies exist in draft form without being adopted
  - Example - National Data Sharing Policy (draft); Information Classification Framework and Policy; Digital Document Management Policy
- There is a draft policy on Sri Lanka's FOSS Adoption, but procurement guidelines do not insist on FOSS.
- A good example of a master policy that lays down the framework is - Sri Lanka Government Enterprise Architecture (SL-GEA) (version 1)
  - Lists various government initiatives serves as an example of how policies can be interconnected and provide coherence.



# How are laws being developed? (Procedural uniformity)

- Public consultations can be understood as government efforts to inform, ask about, and discuss issues with those affected by a decision, a solution or a policy planned for promulgation or already promulgated.
- Broadly the following are some of the best practices for public consultations:
  - Timely notification: Stakeholders should be informed early enough to influence decisions. Sufficient time should be given for the public to participate meaningfully
  - Accessibility: Ensuring information is accessible to all relevant groups. Made available in add 3 languages – online and offline.
  - Inclusive participation: Engaging vulnerable or marginalized groups. District wise / Provincial participation
  - Transparency and accountability: Providing feedback on how public input influenced decisions.

# Comparatively analysing public consultation processes in a few laws

Right to Information Act No 12 of 2016	Personal Data Protection Act NO 9 of 2022	Online Safety Act 2024 (Currently being reviewed)	National Archives (Draft Law)
<ul style="list-style-type: none"> <li>✓ - Published for public consultation</li> <li>✓ - Timely Notice</li> <li>✓ - Accessibility (Unclear whether online and offline; all 3 languages)</li> <li>✓ - Inclusive participation (Based on KII)</li> <li>X - Transparency and Accountability</li> </ul>	<ul style="list-style-type: none"> <li>✓ - Published for public consultation</li> <li>✓ - Timely Notice</li> <li>✓ - Accessibility (Unclear whether online and offline; ; all 3 languages)</li> <li>✓ - Inclusive participation (Based on KII)</li> <li>X - Transparency and Accountability</li> </ul>	<ul style="list-style-type: none"> <li>X - Not Published for public consultation</li> <li>X - Timely Notice</li> <li>X - Accessibility</li> <li>X - Inclusive participation</li> <li>X - Transparency and Accountability</li> </ul>	<ul style="list-style-type: none"> <li>✓ - Published for public consultation</li> <li>✓ - Timely Notice</li> <li>✓ - Accessibility</li> <li>✓ - Inclusive participation</li> <li>N/A - Transparency and Accountability</li> </ul>

# RTI request for accessing a draft Bill

- In *Shreen Saroor v. Prime Minister's Office*, the Appellant requested information on proposals / draft legislation concerning commitments made by the Government of Sri Lanka in relation to the UNHRC Resolution No 30/1 to establish the Office of missing persons, truth seeking mechanism and judicial mechanisms with a special counsel. The Reparations Bill was released due to this request. This had to be taken on appeal for the information to be released.

The deliberations post public consultation should also be made available to the public

In reality, an RTI Commission order was necessitated to even get a copy of a Bill

# Capacity challenges- tolerated or are laws simplified

## ○ RTI Act

- RTI Commission does not have an independent line item in the National Budget-funding under the Media Ministry.
- KII Comment “The issue is not so much the lack of money but the non-independent manner in which the funds are processed to the Commission. This must be rectified”.
- Training of officials / PAs was widely undertaken in 2017- those officials no longer in the roles of Information Officer / Designated Officer.

## ○ PDPA

- consider ways to generate revenue (Data Protection Authority)

## ○ In summary, most capacity challenges are tolerated.

## ○ Simplify existing requirements is not the norm (record management vis-à-vis- archiving requirements by RTI Act)

# Deep Dive – RTI and PDPA

- One law has been implemented whilst the other will come into operation next year.
- Study on the possible areas of conflict between the two laws and other concerns.
  - Section 5 (1) (a) exemption of the RTI Act is narrow, while the definition of “personal data” under the PDPA is wide
  - No need to give reasons for RTI request; while under the PDPA- purposes for processing of personal data need to be disclosed.
  - PDPA has an exception on the grounds of “right to information,” but there needs to be clarity.
- Concerns within each of these enactments
  - For instance, PDPA – definition of “public authority” or the requirement of an “adequacy decision”, these have been clarified through amendments to the PDPA.
  - Compliance on provisions relating to proactive disclosure under the RTI Act have been low

# AI and Data- PDPA

- Training of AI models – requires large-scale web scraping- does the PDPA allow that?
  - Publicly available data not excluded
  - "Legitimate interests" potential basis for processing
  - Under Schedule V (Collection of Personal Data) Item 5, it has been stated that where personal data has been collected by means other than through a direct interaction with the data subject- details as mentioned should be disclosed to the data subject
  - Item 6 can be viewed as the exception where such provision of information could involve disproportionate effort – this could potentially allow for AI training models to use personal data. However, the specific reference is to archival or research purposes.

# Does the IP Act allow for training AI model ?

## ○ Copyright laws permit training of AI?

- The Intellectual Property Rights Act of Sri Lanka does not contain provisions for allowing search engines to index copyrighted data (Google is also not legal?)
- Under the Sri Lankan Intellectual Property Rights Act, an author's copyright is protected during the lifetime of the author and for a further period of seventy years from the date of his (or her) death. Can copyrighted works be used to train AI models? – If they should be used, there needs to be an exception under “fair use” for text and data mining

# Recommendations

## A. Harmonise Conflicting Laws and policies

- Conduct a comprehensive legal audit to identify overlaps/conflicts between sectoral laws (e.g., PDPA, RTI Act, National Archives Law, etc.) and policies
- Establish a Unified Framework for Data Governance (as proposed in the National AI Strategy)

## B. Institutional and Structural Reforms

- Strengthen the Institutional Coordination Mechanism (CBSL, DPA, RTIC)
- Empower and Operationalize Advisory Committees



# Recommendations

## C. Implementation and Capacity Building

- Develop a National Capacity Building Roadmap for training officials in data access/processing with the public (for example, under the RTI Act, PDPA, or Anti-Corruption Act) and also within State departments.
- Address Fragmentation Through Shared Platforms (implementation of the National Enterprise Architecture and the implementation of the Lanka Interoperability Framework.)

## D. Public Engagement and Transparency

- Institutionalize Meaningful Public Consultations
- Increase Public Awareness and Civic Participation

## E. Monitoring and Evaluation

# UNTANGLING DATA GOVERNANCE

## — SRI LANKA'S WAY FORWARD —

13 November, 2025 | Colombo, Sri Lanka



Canada

# Data Governance: Challenges, Gaps, and Opportunities in the Regional Context



**PRANESH PRAKASH**  
Co-Principal Investigator,  
Country Researcher,  
India



**ASHWINI NATESAN**  
Country Researcher,  
Sri Lanka



**ASLAM HAYAT**  
Country Researcher,  
Pakistan



**SEMANTA DAHAL**  
Country Researcher,  
Nepal



**RYAN SAKTI**  
Country Researcher,  
Indonesia



Moderator  
**HELANI GALPAYA**  
CEO, LIRNEasia

# UNTANGLING DATA GOVERNANCE

## — SRI LANKA'S WAY FORWARD —

13 November, 2025 | Colombo, Sri Lanka



Canada