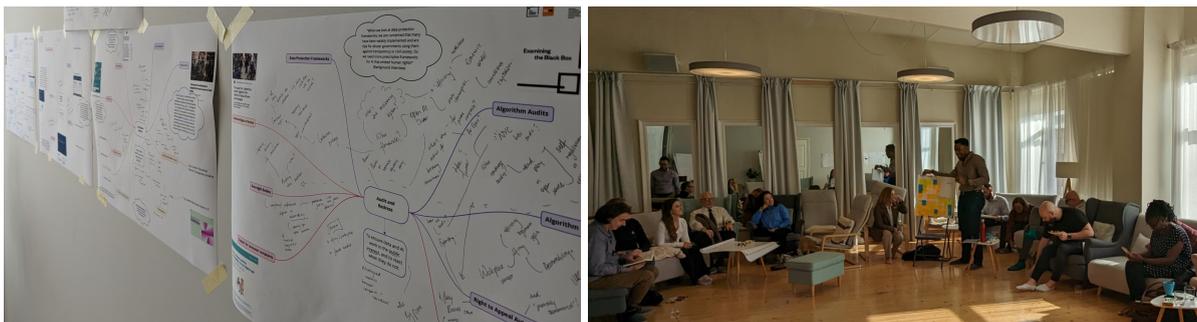


Data and AI Governance

Open Government policy concepts to embed transparency, participation and accountability



Report of a design lab organised alongside the Open Government Partnership Summit in Tallinn, Estonia - September 4th 2023

Executive summary

Data and AI are changing our world. Decisions about what those changes look like should be shaped and made by all of us.

In September 2023, Connected by Data brought together a diverse group of civil society, government and academic stakeholders on the fringes of the 2023 Open Government Partnership Summit in Tallinn, Estonia, to co-design model policy commitments that could deliver meaningful transparency, participation and accountability in data and AI governance.

The three concepts outlined in this report directly respond to the [Open Government Challenge](#) on Public Participation and Digital Governance and set out concrete proposals for national and local government action. We encourage governments and civil society to build on these concepts in developing policy commitments both within, and beyond, the Open Government Partnership action planning process.

Governments should focus on:

- (1) Participatory oversight of technology procurement** through creation of multi-stakeholder oversight groups that are empowered to advise, question and publicly report on public sector data and AI procurement.
- (2) Deliberative development of data and AI strategies** at both national and local levels through use of both open, and more targeted, participation processes.
- (3) Strengthening citizen voice within sectoral regulators** to create a robust feedback loop and ensure data and AI firms have social licence to operate in the way they do

The report provides more details on the case for these commitments, and how to make them effective open government measures.

More about commitment development

These areas for action were identified through a process that explored current proposals for transparency, participation, redress and capacity building in the

context of data and AI, and reflecting on the strengths and limitations of current popular measures, such as algorithmic transparency registers.

Building on advice from OGP experts that effective commitments need owners, collaboration in both design and implementation, roots in existing laws and frameworks, and to be goal oriented, the three commitment concepts are intended to give communities a powerful voice within existing data and AI governance arrangements. They all build on the idea of establishing social licence for data and AI use, and recognise the importance of moving beyond a harm-centred narrative, to also engage with positive uses of data and AI to deliver better public services and greater accountability.

Introduction

The [Open Government Partnership \(OGP\)](#) is an international initiative that seeks to promote transparency, accountability, and citizen participation in government. Launched in 2011 it is composed of governments and civil society organisations from around the world. Every two years, national and local government members of the partnership develop a set of action plan commitments which are then monitored by the International Reporting Mechanism (IRM).

In a review of its first decade, [Piotrowski, Berliner and Ingrams \(2022\) have outlined how](#) the OGP can support both 'direct pathways of change' when commitments lead to substantive government action, as well as an important set of 'indirect pathways' in which the interactive, participatory and multi-stakeholder processes around the OGP foster 'norms and policy models', 'resources and opportunities' and 'linkages and coalitions' that further progress open government agendas. In particular, they argue that the OGP has provided a critical platform for elevating government focus on issues such as open government data, [open contracting](#) and [beneficial ownership transparency](#), as well as acting as an important forum for promotion of public participation and participatory processes.

At Connected by Data, with our mission of giving communities a powerful say in data governance, we set out to explore how the toolkit of open government, and the platform provided by the OGP in particular, might be applied to furthering the democratic and participatory governance of data and AI.

We approached this through a one-day design lab, convened as a fringe event of the 2023 OGP Summit, and focussed on collaborative development of 'commitment concepts' that might be taken up for further development by local and national governments. We built on the [outcomes of an earlier design lab](#), which had identified the need for clearer policy proposals in relation to four areas of powerful collective data governance: transparency, participation, redress and capacity building.

We also framed our discussions in the context of the Open Gov Challenge, launched in Tallinn, and setting out the goal of having common commitments across OGP member countries.

The Open Gov Challenge

“All around the world, we’re facing a host of crises. We’re emerging from a global health pandemic. We’re confronting immense economic challenges, inequity, geopolitical shifts, and a growing climate crisis. And we cannot ignore the layers of complexity new technology adds to all of this.



But it’s through these hard times that we see the power and potential of democracy and open governance. We know that when government and civil society work together, we see more ambitious and impactful reforms transform our communities.

We need the open government community to rise up. It’s our time to meet the moment. That’s why we’re launching the Open Gov Challenge.”

“**Challenge 9:** Digital governance - Strengthen transparency and public oversight of AI and data protection frameworks.”

Source: [The Open Government Partnership, September 2023](#)

Within the digital governance theme of the Open Gov Challenge, we have framed our discussions in terms of **data and AI governance**. We recognise that AI is a significant focus of much current policy attention. However, we believe that there is no effective AI governance *without* data governance, and that there are many data governance decisions that substantially affect individuals and communities regardless of whether or not AI technologies are used.

In the preparatory interviews we carried out for the design lab, a number of interviewees specifically noted the importance of looking ‘upstream’ from transparency of AI systems, to address data provenance and supply chains.

Practical commitments on AI & data

The following section contains three policy concepts, intended to provide the foundations for open government commitments. These complement existing suggestions in the Open Gov Guide, and draw upon ideas from across the open government toolbox, showing how the governance of data and technology can be informed by work on topics from procurement and participatory policy-making, to extractives governance and environmental oversight.

Commitment 1: Participatory technology procurement oversight

Public sector organisations should create local oversight groups to supervise procurement processes that involve technology and AI platforms.

Key features

- **Oversight groups should include balanced representation of different stakeholders**, including government IT teams, information governance teams, workers, civil society, and informed citizens.
- **Training should be provided** for members to feel equipped to engage with technical, environmental and substantive/impact aspects of any technology and AI systems being procured.
- **The group should be strategic**, be able to take a selective deep-dive look at particular contracts at the planning, procurement or implementation stages.
- **An oversight group would be kept informed** about technology procurement plans and would be able to advise, be empowered to ask questions, and would be able to issue public reports on processes that take place.
- **Oversight group minutes should be published** to provide transparency and accountability.

This commitment idea was designed with city and local government specifically in mind. It is intended to have a remit that could cover any technology procurement, from bespoke AI systems, to contracts to provide cloud services like online office software, recognising that AI features are increasingly introduced into cloud services as an add-on, including post-procurement.

By bringing together a range of stakeholders, and by incorporating a training component, an oversight group contributes to capacity building. It can help break down the barriers between siloed technology teams, delivery teams, and affected communities and public service users.

The concept of a procurement oversight group is not specific to technology procurement. However, there is value in having a specific group with a focussed remit in order to have the right combination of members, skills and training to be able to critically support adoption of technology and AI within a public agency.

The framing and implementation of this commitment could draw on a number of established open government ideas including [open contracting principles and practices](#), the concept of a [social witness](#) empowered to observe all stages of a procurement process, and existing work on [setting transparency requirements](#) and [process standards for procurement of AI](#).

A national or international campaign could support adoption of this commitment by providing advice, training and knowledge sharing support to help establish the framework for, and practice of, local technology procurement oversight groups.

Commitment 2: Deliberative development of data and AI strategy

Governments should adopt a robust participatory and deliberative co-creation approach to the development of any national data and AI strategies.

Key features

- **A transparent and multi-stakeholder approach** that allows the country to develop a shared vision for AI development, and to

establish ongoing and participatory mechanisms that can oversee its implementation.

- **Data and AI policy shaped by citizen voice**, not just industry, innovation or efficiency agendas that may have a limited view of both the harms, and the potential benefits, of data and AI.
- **A focus on inclusion and involving stakeholders from many different sectors**, recognising that data and AI are cross-cutting issues that affect the whole of society, and that can impact particular minority groups more acutely.
- **Mechanisms for third-party oversight** to evaluate the quality of participation, and to monitor that policy formation and implementation follows public guidance.

This model commitment draft was developed in recognition that many governments are actively developing data and AI strategies, but are often reliant on a narrow range of stakeholders, inputs and ideas. It also takes into account the way in which a broad participatory process around new data and AI policy can contribute to national capacity building, [written up in more detail by Veronica Cretu on the Innovating Governance blog](#)¹.

Thinking about data and AI as national infrastructure can help to highlight the importance of multi-stakeholder participatory processes. In many countries there are already well established precedents and models for formal public engagement in the planning, delivery and monitoring of physical infrastructure projects that might provide lessons to apply to the development of data and AI infrastructures.

Selecting participation processes that involve elements of capacity building, such as deliberative fora, can support engagement that is better able to address different trade-offs.

The implementation of this commitment can draw upon the wealth of open government partnerships learning on effective dialogue and deliberation,

¹ <https://www.igovernance.eu/our-blog/data-governance-and-ai-capacity-building>

including work on [dialogue around science and technology topics](#). There are significant [global networks promoting and supporting participatory governance](#). There is an important role for open government advocacy organisations in monitoring the extent and quality of participatory processes, [particularly given evidence from Aaronson and Zable \(2013\)](#) that few national policy processes on AI have included meaningful and inclusive public participation to date.

Commitment 3: Strengthening citizen voice in sectoral regulators

To govern the use of AI in both public and private sectors, regulators should have the ability to identify the issues most affecting communities, the capacity to act, and the oversight and scrutiny to make sure their actions serve the public interest. Organisations extracting data, or providing tools that have societal-level impacts, must establish their social licence to operate.

Key features

- **The social licence to operate of data and AI firms should be regularly established** through robust public and deliberative public engagement.
- **Regulators should identify and establish at least one standing public engagement mechanism** to make sure they are able to detect and respond to emerging impacts and opportunities related to AI.
- **Governments should map existing regulatory tools and capabilities to govern data and AI** and should strengthen these where necessary through capacity building or new powers if required.

The impacts and opportunities of AI ultimately exist in many different sectors, giving sectoral regulators an important role to play. In our workshop, we

focused in particular on the role of elections regulators in addressing potential abuses of generative AI tools to interfere with election integrity and fairness.

It is important to understand the current capabilities of each regulator, both in terms of powers, and skills and knowledge to deploy them in relation to data and AI. Mapping the current regulatory environment should also support consideration of the most powerful way to bring in citizen voice to counterbalance other private-interest pressures the regulator may be under. Whether or not a country is regulating AI through new cross-cutting bodies, or through empowering existing regulators, sectoral regulators will have a role in providing a place for citizen voice on specific issues to be fed into the regulatory system.

The concept of social licence to operate (SLO) is well established in a number of industries, and [Verhulst and Saxena have championed its application to activities around data](#). Investopedia [defines it](#) as *“the ongoing acceptance of a company or industry’s standard business practices and operating procedures by its employees, stakeholders, and the general public”*. A suitable inclusive public deliberation, such as a deliberative citizens assembly, has the potential to generate a set of legitimate principles to inform judgements of how far firms have social licence. In some cases, this may be able to inform existing regulatory action; in other cases, comparing citizen views on social licence to the current regulatory toolkit might reveal gaps that need future legislative reform.

This commitment does not prescribe a particular participation mechanism for regulators to adopt, but the following approaches were discussed:

- **Consumer and community feedback processes** - allowing regulators to hear and act on reports direct from affected individual and communities;
- **Peer-research function** - drawing on a network of peer-researcher to gain bottom-up insights into how technologies are impacting regulated issues;
- **Standing citizens jury** - embedding a trained group within the regulator to input on different topics of concern or focus;
- **Joint audit and participatory audits** - where regulators either provide a gateway to respond to civil society or academia-initiated audits

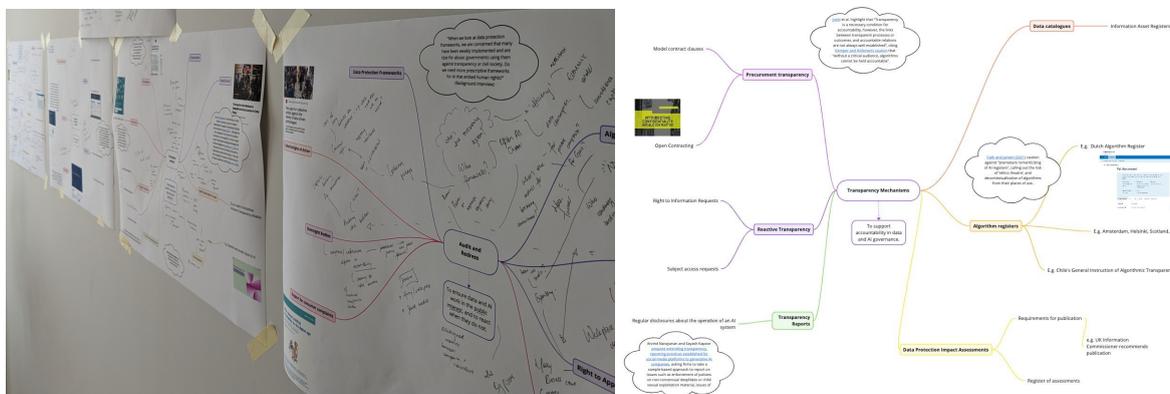
(particularly useful when regulators have low capacity), or when regulators co-deliver audits with the involvement of affected communities.

Shared assessment tools and donor-support assessments (e.g. AI regulatory readiness assessments modelled on tools such as [open data readiness assessments](#)) could have an important role to play in supporting states to deliver the first part of this commitment: multi-stakeholder mapping of current governance/regulation capability.

We specifically explored how this commitment might be applied in the context of **election integrity** where there are significant concerns about use of generative AI to produce misinformation, or fragment public debate through micro-targeting. By asking for a mapping of regulatory capacity, this commitment should enable identification of existing tools that could be adapted to bring transparency to the use of AI in elections (e.g. campaign disclosure and finance rules). By advocating for public dialogue, it could generate clearer consensus on the appropriate uses of AI in election campaigning. And by calling for creation of 'bottom up' sensing and research capacity for the regulator, it should increase opportunities for abuses of AI to be detected. For example, regulators might run, or partner in, the crowdsourcing of election adverts that individuals have seen in order to identify inappropriate micro-targeting or misinformation.

Building on the evidence: workshop process

In this section we summarise key workshop discussions that fed into the commitments above, but which are not fully captured within them.



Existing practice

We started our workshop sessions looking at existing practices of transparency, participation, redress and capacity building around data and AI. Drawing on background interviews and on a series of OGP reports including [Algorithmic Accountability for the Public Sector](#) (2021), [State of Evidence on Algorithmic Transparency](#) (2023) and [Data Protection in Africa](#) (2021), prior to the workshop we summarised existing policy ideas on data and AI governance the form of five mind-maps, detailing the range of mechanisms, tools and approaches that could potentially feature as part of commitments. Groups were then invited to add to, annotate, and critique this existing policy toolbox, and to discuss how these ideas could inform new commitment design.

The non-exhaustive list of concepts introduced by the mindmaps can be found in the table below, with additional concepts introduced during the workshop noted in *italic*.

Transparency mechanisms - to support accountability in data and AI Governance

- **Procurement transparency** (e.g. Model contract clauses; Open contracting)
- **Reactive transparency** - right to information (RTI) requests and subject access requests (SAR)
- **Transparency reports** - regular disclosure about the *operation* of systems
- **Algorithm registers** - (e.g. Dutch algorithm register or registers in Amsterdam, Helsinki and Scotland)
- **Data catalogues** - and information asset registers
- **Data protection impact assessments** - including requirements for publication or registers of assessments
- **Human rights and equalities impact assessments**
- **Researcher access to data**
- **Crowdsourced transparency** such as *citizen science projects*

Transparency standards and templates - to support meaningful transparency

- **Algorithmic transparency standards**
- [IEEE 7001-2021](#)
- [ISO/IEC AWI 12792](#)
- **Data labels** (e.g. [Datasheets for datasets](#) and [Data nutrition label](#))
- **Model cards** - including voluntary industry commitments and those required by procurement processes

Participation methods - to give citizens a powerful say in data and AI governance

- **Consultation**
- **Citizens' jury**
- **Citizens' assembly**
- **Community representatives on boards**
- **Co-production**
- [Social licence for data](#)
- **Multi-stakeholder groups**
- **E-participation**
- **Street protest**

Audit and redress - to ensure data and AI work in the public interest

- **Data protection frameworks**
- **Collective rights of action**
- **Oversight bodies**
- **Support for consumer complaints**
- **Algorithm audits** *including published third party audits*
- **Algorithm impact assessment**
- **Right to appeal automated decisions**
- **Data governance assessments**
- **Industrial action**

Capacity building - to equip government and civil society to govern data and AI

- **Training**
- **Peer-exchange**
- **Data governance assessments**
- **Leadership programmes**
- **New roles** - including chief data officer and data stewards.

Discussion of these mindmaps prompted a wide range of questions about existing tools for governing data and AI, including:

- **How can we make transparency measures more legible to citizens?**
- **How can technology help us to deliver transparency at scale?** For example, can AI tools help to analyse, summarise and find signals amongst transparency reports and disclosures?
- **What can we learn from sectors such as medicine which have strong licensing regimes?** How does licensing provide a 'hook' for embedding oversight and participatory practice?
- **How should we address 'national security exemptions' to right to information requests about data and AI?**
- **Participation is labour: when does it become extractive to ask people to engage?**
- **How can we pilot projects at the local level?** For example, introducing measures at the city level and learning from this.
- **How do we address misaligned incentives between companies, governments and citizens?**
- **What is the overarching system for audit and redress?** What are the frameworks?
- **How can we build the capacity of all stakeholders to engage in data and AI governance effectively?**

Guiding principles

Reflecting upon current AI and data governance practice, the workshop explored a set of possible guiding principles for future commitment design, including. These included that data and AI governance should:

- Be human centred;
- Be critical about dominant narratives;
- Be both forward and backwards looking: capturing past and potential harms and benefits;
- Be holistic: addressing the whole 'value chain' of AI
- Be outcome focussed: drawing on an understanding of lived experience
- Be rooted in principles of public interest, and engaging with ideas of 'do no harm'
- Always offer a human route to decision making

- Build on the idea of ‘open by default’
- Prioritise pragmatism over perfectionism
- Focus on legibility over transparency
- Provide a fair distribution of risk: recognising negotiation and trade-offs

Effective commitment design

We discussed learning from past open government partnership commitments.

| Past problems | Solution |
|---|---|
| No one is in charge, and knows they are in charge | Clear ownership |
| Vague, and lacking in activity | Include specifics on putting the commitment into practice |
| Lack of buy-in | Clear case for why it matters |
| Violates legal constraints | Considers legal and regulatory context |

Breakout groups then used the following template to develop and present commitment drafts.

- **Commitment title**
- **Key features** - what does the commitment involve?
- **Making the case** - why is it important?
- **Contextual guidance** - outlining how the commitment might be adapted to different contexts (e.g. different levels of national capacity, or national vs. local implementation)
- **Support offer** - exploring what an ideal approach to support adoption of this commitment at scale could be

These presentations formed the basis of the write-up above, although editorial changes have been made to bring in discussions from across the day.

Conclusion and next steps

Proposals for the governance of data and AI are frequently developed in a technical 'bubble', with a narrow focus on issues of transparency or audit, or assuming high-capacity stakeholders. By hosting an open workshop through brought together a diverse group of stakeholders, representing different sectors, regions and levels of experience and expertise in data and AI government, we were able to explore a far broader range of open government and policy tools that might be brought to bear on legitimate governance of data and AI.

We hope the commitments put forward in this report provide a starting point for future practice, and look forward to further dialogue with partners to refine, test and scale the ideas and proposals outlined.

About Connected by Data

Connected by Data is the campaign for communities to have a powerful say in the governance of data and artificial intelligence. As a UK-based non-profit, we work on transforming narratives, policy and practice to change how we talk about data, to change how organisations make decisions, and to change how data is regulated.

You can find out more about us, and the support we can offer, at <https://connectedbydata.org> or by contacting tim@connectedbydata.org

Our design lab series of events is supported by funding from Omidyar Network.

Appendix 1: Participant list

| Name | Country | Organisation |
|--------------------|-----------------|--|
| Gavin Freeguard | UK | Connected by Data Policy Associate |
| Gloria Guerrero | Mexico | ILDA |
| Jordan Sandman | USA | CoDevelop |
| Julian Tait | UK | Open Data Manchester |
| Matthew McNaughton | Jamaica | CoDevelop |
| Denisse Miranda | Honduras/USA | OGP |
| Zeynep Engin | Turkey/London | Data for Policy |
| Sara Castillo | Costa Rica | Judicial Branch Costa Rica |
| Veronica Cretu | Moldova/Austria | Innovating Governance Association / OGP |
| Blerta Thaçi | Kosovo | Open Data Kosovo |
| Greta Rios | Mexico | People Powered |
| Lara Groves | UK | Ada Lovelace Institute |
| Tim Davies | UK | Connected by Data & school governor |
| Helena Hollis | Czechia/London | Connected by Data |
| Richard Gevers | South Africa | Open Cities Lab |
| Maurice Sayinzoga | Rwanda/USA | National Democratic Institute |
| Brigitte Beyer | Germany | Federal Ministry for Food and Agriculture |
| Sarah Onduko | Kenya | World Vision |
| Alfred Mashishi | South Africa | Department of Communications and Digital Technologies |
| Luis Lozano | Argentina | Tribunal Superior de Justicia de la ciudad de Buenos Aires |
| Tom Bridle | USA | Chemonix International |

Appendix 2: Workshop Agenda

| Time | Activity |
|-------|--|
| 09:30 | Arrivals and coffee |
| 10:00 | Welcome & introductions |
| 10:45 | Where are we starting from: knowledge-cafe session exploring existing practice on transparency, participation and redress in AI and data governance. |
| 11:15 | Plenary gap analysis: what needs to be strengthened? |
| 11:45 | Generating AI & Data Governance Principles |
| 12:30 | Introducing afternoon activity & forming groups <i>Groups will work in the afternoon to develop template commitments. Focus areas may be local government, national government, or regulating private sector activity.</i> |
| 12:45 | Lunch |
| 1:45 | Intro to effective commitment design <i>Short presentation exploring existing practice.</i> |
| 2:15 | Pitch preparation working with a predefined template <i>Groups are encouraged to build on and remix existing work, and be ambitious in imagining the support offer that could exist.</i> |
| 3:15 | Coffee & check-in |
| 3:30 | Present back |
| 4:15 | Discussion <i>What are the strengths and weaknesses of what we've created together today? What work is needed to make these principles and commitments useful?</i> |
| 4:45 | Close <i>Brief outline of next steps</i> |
