

Explainer

Data Access for Researchers: A Key Component of Rights-Respecting Approaches to Online Platform Regulation

Challenges and Opportunities for the Global Majority

Access to data for researchers has emerged as a critical issue for the international community and is a key element in arriving at inclusive digital transformation.

This is because having quality information is fundamental to creating meaningful public policy relating to digital platforms. This topic takes on added significance in the Global Majority due to unique challenges and implications for the enjoyment of human rights.

As policymakers increasingly seek to regulate online platforms and take steps to ensure information integrity online, the need for effective and rights-respecting approaches to data access for researchers is paramount.

This briefing explores the issue through the following questions:

- What is data access for researchers and why is it important?
- How is data access addressed in legal frameworks?
- What are the challenges of this issue in the Global Majority?

Data access for researchers: Introduction and links to human rights

Data access for researchers refers to providing individuals or entities permission to access, use, and study data gathered by online services in the interactions of their users, particularly the way that online platforms govern themselves or apply their policies and terms of service with respect to users' information or conduct. These actions can have clear implications for human rights at individual and collective levels but might only be visible when accessing the bulk data.

Providing researchers with access to data, when done in an appropriate manner, can support transparency, access to information, and freedom of expression online. This is because data access can shed light on how platforms operate, including problematic practices by governments or online platforms (e.g., online censorship and actions that lead to removing permissible expression). When this information is made available to researchers, it can be used to inform advocacy on policies that promote transparency and accountability or tackle issues such as algorithmic bias or trends in disseminating harmful content. Data access would facilitate more broadly evidence based policymaking including in areas

such as hate speech, technology facilitated gender-based violence, and online child sexual exploitation and abuse, among others.

On the other hand, providing researchers with access to data can be an issue from an operational security perspective and have negative effects on individuals' right to privacy. This is because it involves providing individual researchers or research entities with the ability to examine vast amounts of information, including personal information, which raises questions on what safeguards or data protection frameworks are in place to protect users' privacy.

How is data access addressed in legal frameworks?

Data access for researchers has been acknowledged as an essential element of policymaking for online platform regulation at the global and national levels. The UNESCO Guidelines for the Governance of Digital Platforms contains several provisions relating to data access for researchers - noting how independent researchers have a role in identifying patterns of abuse behaviour and can provide independent scrutiny of how a governance system works. It specifies that digital platforms should provide vetted researchers with access to non-personal data and pseudonymous data that is necessary to understand the impact of digital platforms, as well as access to journalist and advocacy groups when there is a public interest and the access is proportionate and necessary.¹ Moreover, the upcoming UN Code of Conduct for information integrity on digital platforms is likely to explicitly recognise the importance of this issue as its original policy brief contained a stand-alone principle on the need to strengthen research and data access. It acknowledges that states should invest in and support independent research, and that digital platforms should allow researchers and academics access to data, while respecting user privacy.²

At the national level, we have seen a variety of laws and proposals on this issue, with the most prominent example contained within the European Union's Digital Services Act (DSA). This law is primarily concerned with the regulation of online platforms and Article 40 grants particular entities with access to the data of online platforms and search engines for the purposes of conducting research that contributes to the detection, identification and understanding of system risks. Conditions exist for researchers to gain access - they must obtain the status of "vetted researcher" by independent authorities called Digital Services Coordinators (DSCs), as well as disclosing funding relating to their research and fulfilling data security and confidentiality requirements, amongst others.³

¹ UNESCO Guidelines for the Governance of Digital Platforms, Safeguarding freedom of expression and access to information through a multistakeholder model, (2023), available at:

<https://www.unesco.org/en/internet-trust/guidelines>

² Our Common Agenda Policy Brief 8, Information Integrity on Digital Platforms, (2023), available at:

<https://www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-information-integrity-en.pdf>

³ European Centre for Algorithmic Transparency, FAQs: DSA Data Access for Researchers, (2023) available at: [FAQs: DSA data access for researchers - European Commission.](#)

Another example includes Canada's Bill C-36, which under Part 5 would enable a government body to provide accreditation for specific persons to collect electronic data when the primary purpose is to conduct research or engage in education, advocacy or awareness, and require an operator to comply with requests for access made by an accredited person.⁴

These types of provisions have also been proposed in Global Majority countries, notably in Brazil, where the government had supported a proposal to regulate online platforms in the form of Bill 2630 or the "Fake News Bill".⁵ The proposal was in some ways modelled on the DSA and would similarly mandate that online platforms facilitate data sharing with particular entities, but it was formulated in more general terms, without specifying an authority for oversight, and thus would rely on additional regulations for effective operation. The bill was, however, withdrawn from discussion by the Chamber of Deputies presidency while a working group was created to formulate a new proposal for platform regulation. Under this scenario, it remains unclear whether and how data access for researchers would be approached.

What are the challenges and opportunities of this issue in the Global Majority?

Given the critical nature and importance of access to data, it makes sense that governments in different regions are also developing their forms of online platform regulation and injecting provisions relating to data access for researchers. However, problems can arise when policymakers devise frameworks that are directly modelled on those from other countries, such as in Europe or North America, and apply them in new contexts.

Simply transplanting legal frameworks from the Global North to the Global Majority may be inappropriate as they fail to consider differences in regulatory capacity, economic development, research practices and obstacles or other local needs. For example, defining who exactly would have the ability to access the data made available and deciding on qualifying conditions is a critical element for data access mechanisms. But it is not always clear who is considered a researcher - is it an individual representing an academic institution, a civil society organisation or someone acting independently such as a journalist? While this might be relatively straightforward in a European or North American context, it isn't necessarily in others. Even assuming that such stakeholders exist within a particular jurisdiction could be problematic in itself or accidentally exacerbate inequalities as well-funded and global institutions or individual researchers are able to gain privileged access to data, whereas underfunded and locally-based researchers can be excluded or struggle due to onerous conditions.

⁴ House of Commons of Canada, Bill C-63, available at: <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-63/first-reading>

⁵ National Congress of Brazil, Draft Bill No. 2630, available at: <https://www25.senado.leg.br/web/atividade/materias/-/materia/141944>

Another issue is who oversees the vetting process and decides whether researchers are in fact granted access based on certain criteria. While the DSA mandates that DSCs be established by each EU country to assess researchers' application for data access, it is unclear if this could be replicated in other regions considering the necessary institutional capacity and expertise, or the ability to establish a truly independent body or regulator. Copying provisions might prove troublesome in regions without adequate regulatory maturity, specifically those that lack robust protections for privacy and personal data, or those that are more authoritarian in nature and might leverage such access for malicious purposes.

Policymakers in other regions of the world might consider approaching the issue of vetting and oversight through alternative means, including through peer review and flexibility in terms of affiliation - as opposed to strict euro-centric requirements overseen by an independent body. If not, restrictive criteria could exclude legitimate actors and reinforce existing power dynamics.

An additional challenge stemming from DSA implementation is the impact of heightened attention and allocation of resources to address the DSA requirements at the expense of what is devoted to the Global Majority with its realities and risks. This has also been reflected in a consistent trend of restrictions to API as part of the platforms' reaction to avoid compliance risks.

There might also be broader challenges in the Global Majority relating to socioeconomic disparities, digital divides, market dynamics, and cultural differences that must be accounted for when developing policies. For example, even providing the infrastructure necessary for researchers to access data can be prohibitive due to the resources required and sheer amount of data, in conjunction with issues relating to the psychological damage or impacts on those researchers who are exposed to particular forms of data.

Looking into the opportunities, the process of implementation of the DSA has provided a chance for Global Majority researchers to advocate for a progressive interpretation of its provisions in order to allow access to data under its provision for researchers based outside Europe. This is a clear consequence of the Internet's global nature in which the information flows across borders seamlessly. Operations, media outlets, and practices that originate in one state may have effects in another one. In that sense, non-European researchers have been claiming for the opportunity to access data within the scope of the DSA. Granting access to data for Global Majority researchers under Global North legal frameworks can support the implementation of a diversified, global research agenda that better captures this flux of influences in policy developments from one place to the world to another.

Moving forward

Providing researchers with access to data, when done in an appropriate manner, can support transparency and human rights online. But simply transplanting provisions from the Global North to the Global Majority can prove troublesome for a governance system and pose heightened risks for human rights.

These realities demand concerted efforts to ensure that data access provisions are devised in an effective and rights-respecting manner, which requires inclusive governance processes involving policymakers, civil society, industry and academia.