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State of the World Economy

Democracy & Digital Governance: Help or Hindrance?

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SYNOPSIS

The Biden administration sees democracy as the solution to digital authoritarianism at home and abroad. But doubling down on existing principles and exclusive clubs may not be the most effective answer to shared problems of digital and data governance.

COMMENTARY

IN A hyper-connected world rocked by the Sino-US competition in 5G formats and allegations of digital snooping by Chinese and US tech companies, the Biden administration seems to think that democracy and democratisation unto cyberspace is the solution. However, all is not so clear cut.

For one, doubling down on the reinforcement of democracy at home and abroad avoids a reassessment of how and to what extent democracy in its current — usually Western — form is and is not fit for purpose in a digital age.

Problematic Principles

Whether in the United States, European Union (EU), or elsewhere, key data policy practices are modelled on democratic principles. Data sharing and mobility within or across borders often hinges upon mechanisms of transparency and the protection of privacy as an individual right.

Entities seeking access to data are legally obligated to provide notice of what data is

collected and how it is used to garner consent. Legal redress of violated data rights is generally contingent upon individuals proving harm or injury towards their persons.

But these approaches may not afford adequate data-related social protection, which is key to enabling trust. First, the gold standard of consent shifts the responsibility of data protection onto individuals, despite mounting evidence that such deputisation is a tall order.

It is doubtful that the average person can keep track of all data exchanged, consent meaningfully when faced with complex legal language, or fully comprehend the workings of algorithms, for instance, even where simpler explanations are available. This insufficiency of transparency or openness may be especially problematic where populations have only recently come online or have lower data literacy.

Second, data rights are individual rights but groups are increasingly harmed in the digital political economy. Policies backed by big data and algorithms are applied to groups for security and development purposes, such as racially discriminatory predictive policing (or analysing data to identify potential criminal activity).

However, even if an entire collective is affected, it is generally harder for individuals to seek remedy for collective harm because they must prove that all members of that group suffered actual injury.

Global Digital Governance: Different Models

The global digital economy may be increasingly split across different data governance models, with the EU General Data Protection Regulation (GDPR) being most sensitive to digital protection. But leadership on these issues even across democracies can be flatfooted, if not lagging.

The US still lacks a national privacy law and has ceded leadership in data policymaking, even if its companies are at the forefront of the digital revolution. This is to say nothing, moreover, of the anti-democratic global surveillance undertaken by the Five Eyes Intelligence Network and company.

The EU, meanwhile, has attempted to finetune mechanisms of notice and consent, most recently via mandating fiduciary duties so data controllers act in an individual's best interests when handling their data. But when ill-defined and left in broad-brush terms, as in the case of last year's Digital Markets Act that seeks to govern online platforms, these can be broad concepts that leave wriggle room for abuse.

Need for Inclusivity

Data governance issues such as the aforementioned could be taken up within a close-knit circle of democratic allies, as the Biden administration's National Security Strategic Guidance seems to suggest. But it is questionable whether such discussions, though founded upon discourses such as transparency, should be held exclusively.

Therein lies another shortcoming. Putting aside complications in sorting the world into

democratic versus non-democratic classes, many countries are grappling with digital and technology regulation.

While fundamental differences between data governance models exist, there are dimensions of convergence. China's 2020 draft privacy bill borrows noticeable elements from the GDPR. Consent too is a global best practice, and one that may not be future-proof in addition to providing inadequate data protection.

Much consent is generated through screening texts, for instance, but this raises questions of operability in a world moving towards a screen-less Internet of Things. These are shared realities.

Way Forward: Global Data Governance Body?

There is thus space to establish an international institution dedicated to digital and data governance. Existing institutions like the World Trade Organisation, while dabbling in digital governance, ultimately touch upon specific disciplines such as e-commerce rather than broader rules on consent and rights underpinning the digital sphere.

A new multilateral establishment would need the backing of economic heavyweights such as the US, China and the G20. However, it may be better served by highlighting leadership from more cyber-savvy small and middle powers such as Estonia and Singapore, rather than major powers per se.

This would provide a forum for best practice sharing, though it will remain to be seen whether such multi-stakeholder talks will succour an appetite for tackling bigger obstacles to data sharing and accessibility. This includes the power asymmetries between state-society-market actors, which lie behind movements to contaminate the very data needed to harness technology effectively.

Moreover, it could hold space for conversations on what the digital economy and data, as well as regulatory tools such as antitrust laws and data trusts, can and cannot do — and importantly, communicate that to the public.

This would help manage expectations of what a gilded age of technology can and should reasonably deliver globally, thereby pre-empting disenchantment and trust deficits in governing institutions. For instance, antitrust suits, while on the upswing, may not fundamentally shift business models of data rent seeking even if it breaks up oligopolies.

Urgency in Post-Pandemic World

These conversations are more urgent in a post-pandemic world where a reliance on technology co-exists with various concerns over how it is used and to what end. There is, for instance, lingering angst over privacy, concentration of power in Big Tech, and the need to contextualise Western technology for non-Western contexts.

An inclusive multilateral approach will not necessarily reverse all trends towards international regulatory divergence. Still, it could keep a channel of communication

open for standard-setting cooperation amidst a sea of otherwise competitive and adversarial technology issues — something that a democracy-only approach cannot do.

In the spirit of democracy, it would also show that Washington is listening to the majority of countries — allies included — who baulk at choosing sides and seek a less polarised world, even as they find themselves at odds with different systems of governance.

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