Assessment

A DC State of Mind? A Review of the *World Development Report 2021: Data for Better Lives*

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INTRODUCTION

Data has become a core part of our economic and social infrastructures, transforming how we produce and exchange goods, services and information. Debates over data governance have intensified, and encompass issues such as data protection, privacy, surveillance, competition, taxation and digital trade flows.[1] With its 2021 World Development Report, *Data for Better Lives*, the World Bank enters the fray, offering a data governance model which, its authors argue, will help harness the power of data for 'better lives' while limiting risks of misuse. This Assessment provides a brief summary of its main claims and recommendations, before critiquing it on three grounds, namely that its evidence base is weak; that its data market-centric data governance framework serves the interests of existing incumbents while undermining data rights; and that it misrepresents the nature of global debates on data governance and thus undermines the actual positions taken by representatives from developing countries. Overall, we argue that the World Bank is using this report to represent one heavily contested governance framework that advances the interests of high-income countries as the standard common-sense approach while occluding alternative models and frameworks.

[1] See Azmeh et al. (2020); European Commission (2020); Graef (2018); Greenleaf (2018); Lyon (2014); O'Neil (2016); Taylor and Mukiri-Smith (2021); Zuboff (2019).

SUMMARY OF THE REPORT

Data for Better Lives (hereafter the Report or WDR 2021) presents data as a great 'untapped resource' with transformative potential for developing countries, improving the efficiency; targeting and effectiveness of public services (pp. 54–57); strengthening government transparency and the agency of citizens (p. 58); reducing transaction costs and boosting economic productivity and efficiency (pp. 31, 124); and empowering the private sector to better serve governments and low-income markets (p. 103). In order to achieve these aims, the WDR 2021 argues that data needs to become open, more free-flowing and better integrated across organizational and national boundaries. In particular, the authors argue that the small size of many developing economies limits the potential of machine learning and data science and constrains domestic firms from benefitting from digital markets (p. 242). Thus, in order to 'improve lives', data must flow more freely and more safely.

The Report identifies a number of barriers standing in the way, including the unwillingness of administrators to share data, leading to under-use and data siloes (pp. 63, 244, 267); a lack of interoperability rules and legal safeguards, leading to market segmentation; misuse of personal data and erosion of trust (pp. 202–09); and a lack of infrastructure and deficiencies in finance and expertise, leading to poor coverage and missed opportunities (pp. 157–77). To overcome these barriers, the Report calls for the establishment of integrated national data systems (pp. 301–21) and the adoption of harmonized standards to support interoperability across institutions and borders (pp. 202–03).

At the centre of this vision are private technology firms, envisioned to have the requisite capital and expertise to build necessary infrastructure and create innovative data-intensive products and services. In particular, the Report advocates that global data firms, rather than domestic firms should play this role arguing that 'firms from larger, more connected economies — or firms that already operate across countries — with access to larger datasets will have an advantage that only grows with time' while 'firms from low- and middle-income countries are more likely to lack both access to finance to cover the initial costs of collecting and managing their data and the analytical capabilities to derive value from them' (p. 111). As such, the Report argues that governments must adopt accommodating policies and refrain from imposing restrictive regulations that might constrain 'international data-driven firms' from operating, writing that such regulations 'depriv[e]

the local economy of the pro-growth and development benefits that data-driven firms can provide' and 'preven[t] the development of a local ecosystem of data-driven entrepreneurs built around these larger firms' (ibid.).

The WDR 2021 frames concerns around data discrimination, privacy and control as technical problems that can be solved through regulations, and identifies lack of trust as a key constraint. Thus, the Report advocates for the establishment of a 'new social contract' that will 'enable the use and reuse of data while ensuring equitable access to the value realized'.[2] In other words, for consumers (and citizens) to willingly allow their data to be captured, extracted and re-used across institutional and national boundaries, regulators must adopt common regulatory frameworks to build trust and shore up confidence. This new social contract includes safeguards which prevent the misuse of data 'as well as enablers, which facilitate access to and reuse of data' (p. 189). The authors further assert that such safeguards should be seen as tools that 'rebalance power asymmetries between data holders/subjects and data controllers/users that can undermine trust' (pp. 190–91), and they identify rule of law principles, transparency, accountability, non-discrimination and inclusiveness as important principles of data governance and regulation. They envision that this new social contract will empower civil society and citizens to better scrutinize public policy and call for greater accountability.

While the Report focuses on potential benefits, the authors acknowledge various costs and risks. First, they acknowledge the growing market power of big tech and the need for anti-trust legislation to maintain competition. Their chapter on infrastructure provides a helpful guide on the physical and financial infrastructure of the digital economy and thus acknowledges the very large costs involved. They also recognize the risks of artificial intelligence (AI) and discuss regulatory challenges (p. 197). Yet the authors still argue strongly for the continued use of AI and machine learning, deeming them necessary to realize the benefits of data.

The authors conceptualize the economic benefits for developing countries largely in neo-classical terms, arguing that use of data by private technology firms can 'overcome market failures', improve access to finance, boost aggregate efficiency and productivity gains within markets, and reduce transaction costs (p. 93). While they acknowledge that 'certain actors' (p. 190) (large multinational firms) obtain unfair benefits, they root their discussion of governance at the

[2] 'Main Message 2'; www.worldbank.org/en/publication/wdr2021

national level, framing 'lack of trust' as an outcome of weak domestic institutions and failures by state actors to enact or evenly apply existing laws to guard against digital inequalities (ibid.). By situating their new social contract at the national level, the authors underplay how global inequalities might impact the distribution of benefits and harms, and how digitization itself might widen those inequalities.

Having reviewed its core arguments and recommendations, we now delve deeper into our critique. We first scrutinize the evidence upon which the report's governance framework is based, arguing that it draws disproportionately on data from high-income countries; fails to scrutinize the development claims advanced by private firms; and provides insufficient context to judge success cases among low- and middle-income countries.

SMOKE, MIRRORS AND UNREPRESENTATIVE CASE STUDIES

Psychological studies have revealed a tendency for people to investigate phenomenon in a biased way, searching for 'facts' that confirm pre-existing viewpoints while neglecting information that contradicts them. Some of these confirmation biases are unconscious but others are explicit, driven by commercial or political incentives. For whatever reasons, this report exhibits a clear bias in its use of evidence and analysis towards the interests of private technology firms and, by extension, high-income countries where the majority are headquartered.

This bias is symptomatic of wider research on new and emerging technologies where we might expect insufficient evidence (or insufficiently representative samples) to prevent responsible parties from drawing conclusions. Yet as the report nicely explains, digital technologies require costly infrastructures, and so there is a temptation for policy makers to draw conclusions from patchy evidence in order to raise necessary capital. This temptation can result in overly techno-deterministic thinking in which positive outcomes are attributed to technologies in isolation from their wider institutional and political contexts (Mansell, 1999). Such perverse incentives are further exacerbated by the interests of private technology firms, which exercise ever-greater control over data and may even insist researchers work with their own staff. Firms can also promote 'friendly' research by funding and collaborating with trade associations and/or philanthropic organizations. Such strategies can result in a palpable 'hype' which does not reflect available evidence. One can

perceive this dynamic in the Report's bibliography (and the bios and bibliographies of the authors and cited pieces), where numerous consultancy reports and favourable news coverage are cited but where more critical works have been omitted or buried inside discussions.

Broadly speaking, the Report advances the Bank's characteristic neoclassical perspective on economic development, linking investments in digital infrastructures to aggregate growth. To justify their claims, the authors combine econometric studies that associate digital investments with improved development indicators along with looser discussions of case studies of applications and platforms whose business models are presumed to have transformational effects. Disappointingly, in *all* these case studies, the authors simply describe the anticipated benefits of the platforms and apps without providing any independent assessment about their real-life impacts. The number of examples is genuinely astounding. Here is one:

> Digifarm, a mobile platform offered by Safaricom in Kenya, provides farmers with one-stop access to a suite of products, including financial and credit services, quality farm products, and customized information on best farming practices. Mobile money data from M-Pesa and data on the way people behave on the app are taken into consideration to provide farmers with tailored products and services. (p. 104)

As the Digifarm platform is still being piloted on a relatively small scale, it would be too early to make conclusions about its success or wider impacts. The same is true of numerous other examples. While we would not expect the authors to conduct studies on all the projects they mention, they could at least have provided some information about their relative usage and/or drawn attention to the growing evidence of start-up failures, scaling problems and the varied and mixed impacts that digital start-ups and platforms have had on specific value chains (Bateman et al., 2019; Foster et al., 2018; Murphy and Carmody, 2015; Taylor and Mukiri-Smith, 2021). Circulating unverified accounts of digital transformation in the absence of evidence is irresponsible, fuelling hype and furnishing untested firms with undue legitimacy.

With regards to the econometric data, the authors acknowledge that they rely heavily on data from high-income countries and that this 'imbalance is itself a sign of the lopsided distribution of benefits deriving from data' (p. 101) and yet they still use this data to make a series of bold and broad claims. For example, the authors justify costly investments by writing that '[n]umerous

studies have found that broadband infrastructure boosts economic growth, increasing productivity and employment while enabling digital enterprises' (p. 158). This claim is supported by seven studies, five of which draw on evidence exclusively from high-income countries. Of the two references drawing on data from developing countries, one of the authors (Minges, 2015 cited on p. 158), actually discusses caveats and highlights problems with determining causality explaining how, 'particularly for developing countries', the positive economic impacts from fixed broadband 'were sometimes not statistically significant' (Minges, 2015: 11). Such reservations have been omitted from the Report.

Elsewhere, the WDR 2021 makes other claims based on unrepresentative samples or unique case studies. For example, the authors write: 'Lower income countries could reap substantial benefits from such e-commerce platforms: the cost-reduction effects of platforms tend to be greater for exporting countries that are unknown or less trustworthy to consumers' (p. 100). This claim is based on a study that excludes much of the developing world and all of Africa, except South Africa, and uses a country's Corruption Index score as a proxy for 'trustworthiness'. It would be interesting to test this hypothesis against other proxies such as prior foreign direct investment (FDI) flows or trade flows. China, in particular, has scored extremely poorly on the World Bank's 'Ease of Doing Business and Corruption Index', yet boasts extremely high rates of FDI and global trade volumes. Is digital connectivity responsible for this inverse relationship, or are other variables (namely industrial policies) responsible? And what happens to this claim once outliers like China have been eliminated?

Elsewhere, the authors discuss the Business Process Outsourcing (BPO) sectors of India and the Philippines to justify the claim that the 'boom in data-enabled services creates opportunities for new entrants in global trade and may foster economic growth for countries traditionally lagging in access to global markets' (p. 100). Yet the authors fail to mention India's unique circumstances including its long-term investments into engineering skills (Dossani and Kenney 2007), its extensive emigrant networks (Saxenian, 2005) and the role of the import-substitution policies in helping to create the domestic conglomerates that later spun out into BPO (Kleibert and Mann, 2020). It also fails to discuss how early moving Indian firms have re-constituted value chains, re-organizing production in ways that remove higher value opportunities and may even potentially eliminate low-value opportunities due to automation (ibid.). Indeed, the Report does not explore the limitations of the Filipino sector where 93 per cent of BPO firms are

foreign-owned and where workers are overwhelmingly clustered in low-value activities within global BPO production networks (Kleibert and Mann, 2020; Padios, 2018). The authors similarly present the case of Mauritius as 'a fast-growing export-oriented digital business services industry' (p. 101) and use it as an example of how a country might diversify away from tourism in the context of the COVID-19 pandemic. Yet, once again, the authors fail to discuss the country's status as a low-tax jurisdiction for foreign investments into India and the external dependence this function breeds, relegating the country to a low-end position within the offshore financial service sector (Behuria, 2022). One of the very few econometric studies cited in the section that does specifically look at the potential of digital technologies for structural transformation (Hjort and Poulsen, 2019 cited on p. 158), uses Ethiopian data to argue that connectivity helps to strengthen manufacturing capabilities. Yet again, however, this study omits any discussion of Ethiopian industrial policy and the country's departure from neoclassical precepts (Oqubay, 2015).

Situating these case studies within their proper political economic and historical contexts would have encouraged more nuanced assessments, forcing the authors to think more critically about the relationship between digital connectivity and structural transformation. Of course, digital connectivity can boost development, but it is important for researchers and policy makers to carefully scrutinize the conditions and strategies that separate out positive experiences where countries have capitalized on connectivity to improve their standing in global production networks from those that have become trapped within disadvantaged positions within the global economy. Crucially, data governance may likely play a role in these divergent experiences. It would therefore be sensible to proceed cautiously with any international agreements and common governance frameworks until better evidence and understandings have become available.

That is not to say that the WDR 2021 is wholly uncritical. The authors make important observations about the developmental risks of digitization throughout, including concerns around lost taxes, and possibilities of widening international and domestic inequality. However, we can identify clear editorial patterns. Critical points are presented in more marginal sections, away from the core framework and thus do not appear to shape broader conclusions. Anticipated positive impacts are similarly presented as *fait accompli* benefits not requiring verification while anticipated negative impacts are presented as 'risks' (pp. 102, 227, 248, 262) that 'require more research' (p. 136). This framing supports a 'rush ahead' approach, encouraging firms to experiment without proper safeguards while placing the onus on others to demonstrate evidence

of harm. Readers might foresee the danger: powerful firms might become so embedded in markets and public services that policy makers struggle to hold them to account or alter course once the implications of regulatory decisions are better understood.

Thus, the Report sits on shaky empirical grounds. The cited econometric studies are indicative of potential benefits, but complexities and caveats have been removed. The frequent use of data from high-income countries and the loose reference to digital applications without verification provides readers with insufficient evidence about the implications for low- and middle-income countries. Yet the language is clearly trying to reassure; look at all these benefits and let us worry about the risks later on. Having reduced much of the complexity and contingency surrounding digital development, the Report then makes its case for a new 'social contract', a governance framework to which we will now turn.

A 'NEW' SOCIAL CONTRACT

In advancing their data governance framework, the authors call for a new social contract for data that will be based on the 'principles of trust, value and equity' (p. 41) and which helps define how data can be 'safely used, reused and shared by all stakeholders, including government entities, international organizations, civil society and individuals, academic institutions and the private sector' (p. 41). They argue that their framework will create a suitable environment for the implementation of norms, laws and regulations, infrastructure policies and institutions to realize the full potential of data for development, and to prevent the misuse of data (p. 189). Such a framework would therefore provide confidence that rights around data are protected, that data protections are enforceable and that benefits are distributed equally (p. 39).

The authors also argue that one of the ways to ensure that data is safely used, reused and shared amongst different stakeholders through this new social contract is the use of data intermediaries — independent third-party stewards that can facilitate the sharing of sensitive data between 'data contributors' and users. According to the authors, data intermediaries can be individuals or legal entities, for example, third-party consent mangers such as those provided for in the draft data protection framework of India or trustees of data trusts (p. 280).

This framing, and the recommendations that follow, simplify existing data governance challenges. As numerous authors have described, data governance challenges are complex and are influenced by colonial and capitalistic logics embedded within global trade and financial architectures — logics which favour transnational corporations and the economies where they are headquartered (see Birhane, 2020; Couldry and Mejias, 2019; Mann, 2018). These encourage developing countries to liberalize their economies and facilitate technology transfers by large transnational corporations such as Google, Amazon and Facebook. These transfers not only give such corporations control over strategic information infrastructures such as search engines and algorithmic codes, all protected by intellectual property and trade secret laws, but also empower them to dictate data practices. Such practices can facilitate data extraction and exploitation (Zuboff, 2019: 57), unequal sharing of the value of data in favour of the corporations and powerful states (Spratt and Baker, 2015), and privacy infringements for market ends (Greenleaf, 2018). The authors' decision to frame governance failure simply as state regulatory failure conceals the wider politics of digitization, ignoring how power really operates and shapes the distribution of data benefits and harms. Examples of this can be seen at the global level when multinational firms lobby to align governance with their own interests and at the domestic level, when governments exclude marginalized groups from accessing services through the use of digital identity and biometric platforms to verify their identity and eligibility, such as with Aadhaar in India (see Masiero, 2019) and Huduma Namba in Kenya (see Nubian Rights Forum et al., 2020).

Therefore, the WDR 2021 presents a surprisingly naïve view of politics. Technological solutions are portrayed as institutional safeguards that can protect against corruption or harm. In particular, the report uses the case of Rwandan Imihigo performance contracts as a positive example of use of data in planning and policy making (p. 132) yet neglects Rwanda's highly unusual political settlement and the potential danger of data-driven surveillance for political repression. Indeed, the Rwandan case demonstrates how state capacity always exists within a political context: regimes are often incentivized to strengthen state capacity precisely to deepen political power and enhance legitimacy (Gagliardone and Golooba-Mutebi, 2016; Mann and Berry, 2016). As such, technocracy and 'good governance' are always political with 'state capacity' empowering certain interests but excluding others. Similarly, as the recent example of Afghanistan (Guo and Noori, 2021) shows, one might question the wisdom of promoting surveillance-based governance in situations where rapid regime shifts may take place.

Additionally, with respect to data governance, the authors argue in favour of the use of a governance model based on data protection and human rights-based frameworks. However, these frameworks do not always offer full rights protections. While international human rights frameworks can extend definitions beyond the 'current singular and narrow framings of harm' focused on bias or privacy risks (McGregor et al., 2019: 326), they fail to adequately regulate new forms of exploitation such as those that arise when people are collectively identified by algorithms and discriminated upon based on their affiliation with a particular network (Taylor and Mukiri-Smith, 2021). Such 'discrimination by network' is currently not recognized in human rights frameworks (Boyd et al., 2014: 54).

Human rights frameworks also do not place binding obligations on corporations for human rights breaches (although UN Guiding Principles on Business and Human Rights require states to address third party harms and establish principles for corporations to comply with the human rights) (United Nations, 2011). Data protection measures, meanwhile, offer inadequate rights protections. For example, the 2018 European General Directive on Data Protection (GDPR) provides insufficient protection to data subjects with respect to algorithmic discrimination despite being used as a reference document by other countries outside of Europe. This directive gives individuals little opportunity to control how corporations use personal data to draw inferences and provides insufficient power to states to regulate the 'accuracy of inferential analytics and decision-making processes' (Wachter and Mittelstadt, 2019: 45). Data protection measures also do not provide remedies to challenge such inferences (ibid.: 6). Additionally, data protection provisions are based on individual consent, yet we know that consent does not always work in practice, as most people do not read or understand privacy agreements and those who do often only spend a few seconds reading often long and vague terms of agreements, thus are therefore not in a position to provide informed consent (Barocas and Nissenbaum, 2009; Koops, 2014).

Furthermore, data protection measures operate according to 'individual rights orderings', and are therefore better suited to protect against 'individualist informational harm' (Viljoen, 2021) rather than population-level harms. In particular, the proposed new social contract, neglects governance challenges raised by what Viljoen terms 'data relationality' or 'how data relates people to others' (ibid.: 578). This is problematic because algorithms can redline groups — based on race, ethnicity, gender and economic class, and thereby perpetuate population-level historical biases (Birhane, 2020; Buolamwini and Gebru, 2018; Eubanks, 2018). Redlining is made possible

by the fact that algorithms rely on data to obtain insights on individuals and groups. Gathering of insights is made possible because 'data about people are dense with patterns' (Williams et al., 2018: 83). For example, seemingly harmless information like a consumer's retail preferences can be used as proxies for race (Hurley and Adebayo, 2017: 152). Similarly, the use of retail preferences or other behavioural data for credit scoring purposes may lead to whole populations or geographies being categorized as risky justifying their exclusion from accessing loans (Aitken, 2017: 290). These dangers are compounded by the fact that algorithmic discrimination is difficult to identify due to what Cohen terms, secret enclosures (Cohen, 2018) — the use of intellectual property law and contract law by transnational corporations to retain exclusive control over algorithmic code. In this way, by advocating for the continued use of data and data analytics primarily to serve market aims as outlined above in the section summarizing the Report, the WDR 2021 fails to grapple with how algorithmic systems might undermine social solidarity and equality within countries as well as across them and the limits of data protection and human rights frameworks.

The authors also justify the implementation of their 'social contract' by appealing to the notion of collective action, defining collective action to include non-governmental institutions and others that may enhance institutional legitimacy, transparency and accountability (p. 265). Yet by calling for a social contract that encourages the involvement of private sector actors in data governance (p. 271) the authors implicitly promote a form of self-regulation (see Farthing and Sooriyakumaran, 2021; Tambini, 2018). The recent testimony by a Facebook employee-turned-whistle blower before the United States Senate Commerce subcommittee reveals the dangers of such self-regulation; in this case, Facebook failed to keep harmful content off its platforms and did little to counter hate and violence driven by its algorithm (Stening, 2021). The authors assume that non-governmental organizations are neutral and can impose checks on governments in the name of public interest (p. 271). However, big tech firms often form alliances with development organizations in the data economy (Gabor and Brooks, 2017; Iazzolino et al., 2020). It may not therefore be possible for these organizations to check government action and vice versa due to conflicting interests.

The authors' definition of collective action also empowers data intermediaries, specialist actors independent from data holders and users, who help government and private actors share and use

data equitably (p. 265). Their inclusion echoes recent steps taken by the European Union in its proposed 2020 Data Governance Act, which contains several provisions aimed at increasing peoples' trust of data intermediaries in an effort to strengthen data sharing across borders. It seeks to 'make public-sector data available for re-use; facilitate data sharing among businesses; [and] allow for personal data to be used with the help of a "personal data-sharing intermediary"' (Council of the European Union, 2021: 2). The Report argues that this model is particularly suited to countries they regard as having weak data protection and enforcement (p. 280) and encourages them to use mechanisms such as data commons (which promote the common pooling of resources), data cooperatives (organizations controlled by members who normally have mutual interests) and data trusts (which are modelled after legal trusts and impose fiduciary responsibilities on trustees of the trust) (p. 279). All three models allow individuals to delegate control over their data to intermediaries in exchange for collective social and personal benefits (p. 280). Yet the Report ignores the work of scholars who have highlighted the risks of such data intermediation.

Intermediaries can be useful because they have legally binding responsibilities to act in the interests of their beneficiaries and may have some form of power to negotiate safeguards and balance out information and power asymmetries (Delacroix and Lawrence, 2019). Yet, the use of intermediaries does not guarantee equitable and open distributions of benefits (Bodó et al., 2021: 23-24). Success is largely determined by geopolitics and local politics, and thus reflects power asymmetries between states, individuals and corporations, and between individuals and governments. In particular, the classification of data as personal data commons can lead to disempowerment as it can create enclosures for data use by few industry actors at the expense of others (Purtova, 2017: 177).

This section has highlighted the limits of the 'new social contract', and the ways in which the report's one-size-fits-all data governance approach fails to consider the limitations of existing legal frameworks and effectively entrenches the interests of dominant firms and countries. Indeed, by creating a 'trusted' environment for data flows, the Report seeks to remove obstacles for incumbent firms to penetrate new markets. The next section demonstrates how the Report simultaneously hides potential opposition to its vision by mischaracterizing alternative governance frameworks and by actually omitting the participation of representatives from developing countries in key debates.

FORECLOSING CHOICE IN GLOBAL GOVERNANCE

The authors of the Report claim that 'the growing literature on data' has 'largely [been] written from a high-income country perspective' and that the WDR 2021 can help 'fill the large gap in the literature on the effects of data on poor people and poor countries' (p. 25). This wording suggests a welcome orientation towards the perspectives and concerns of developing countries. Yet, as we shall see, the authors in fact omit the actual arguments made by representatives from developing countries on these issues. While we cannot determine if this omission is due to ignorance or subterfuge, the Report certainly gives the impression that its own model is uncontroversial and sensible. Yet, as digital technologies become more and more integrated into our economies and lives, the question of who gets to determine the rules governing cross-border data flows has grown more heated. How does data governance fit into longer-term debates over trade and economic governance within the global economy? This final section helps to answer this question by explaining what the Report leaves out.

Political economists, policy makers and diplomats have long grappled with the need for common rules to regulate states and limit conflict, and the need, on the other hand, for flexibility, particularly for developing nations, to adopt policies to accommodate their developmental needs (Chang, 2002, Mansfield and Rudra, 2021; Ruggie, 1982). In recent decades, the expansion and deepening of trade and investment agreements at multilateral, regional and bilateral levels have shrunk policy space and arguably reduced the ability of developing nations to adopt policies to promote their economic and technological development (Amsden, 2003; Shadlen, 2005).

The rapid expansion of the digital economy has altered this trajectory. While states were preoccupied with 'traditional' trade concerns within multilateral and regional/bilateral agreements, new forms of cross-border transactions have grown rapidly and are beginning to challenge existing economic governance regimes. For example, while the World Trade Organization (WTO) regime regulates trade in services through 'modes of delivery', it remains contested how online services fit into existing modes (Meltzer, 2019). Similarly, a cornerstone of the trade regime is the distinction between goods and services, but due to a lack of definitional clarity, it remains unclear where digital products fit (Fleuter, 2016). Further, the expansion of the digital economy has created new types of cross-border data flows, prompting negotiations over their nature and the appropriate

form and arena for regulation (Aaronson, 2019). The absence of strong binding rules in these areas has provided flexibility for states to adopt or consider alternative policy frameworks that might boost their domestic digital industries while increasing the spill-over benefits of global digital firms operating within their borders (Azmeh et al., 2020). Risking a degree of simplification, it can be argued that while the international political shifts were closing policy space in 'traditional' economic sectors, the expansion of the digital economy has given states greater latitude to adopt interventionist policies.

We thus observe a growing trend toward the adoption of digital interventionist policies by states, including both developed and developing economies. Some are concerned by privacy, personal data protection and consumer protection; others by security and law enforcement fears. Others are driven by economic motivations aimed at mitigating the negative impact of global digital firms and/or improving their own firms' positions within the global digital economy. Policies in this regard include mandates of domestic storage of data through what became known as 'data localization' policies, privacy policies, tariffs on digital goods and services, taxation of digital services, and policies related to transfer of digital technology such as local content requirements. While evidence on their effectiveness remains limited, a growing number of states are considering such policies.

The WDR 2021, however, underplays the contested nature of all these important discussions. Firstly, it does not address whether the trade regime is the suitable forum for governing digital issues; in places, the authors present it as the 'natural' forum, recommending, for instance, that 'multilateral trade agreements, especially under the umbrella of the WTO, should be at the forefront of rules on digital trade' (p. 245). Secondly, the Report underplays the economic motivations leading developing countries to adopt interventionist policies, focusing primarily on rationales linked to privacy and security. For example, it (p. 238) argues that:

> Domestic data regulation can either enable or hinder cross-border digital trade. A strong regulatory framework for privacy, security, and consumer protection is critical to supporting digital transactions. At the same time, burdensome regulations on the cross-border transfer and use of data can impose substantial costs on businesses, especially micro, small, and medium enterprises (MSMEs), deterring international exchanges.

Thirdly, by ignoring recent debates around these issues, the Report misrepresents the participation of developing countries, portraying them as holdouts unwilling to participate or as under-informed. The authors write:

> Low-income countries remain underrepresented in digital trade talks. Only one low-income country, Burkina Faso, has so far joined the Joint Statement discussions on rules for digital trade under the WTO, compared with 52 high-income countries. This uneven representation hampers the inclusiveness of the potential rules under discussion and risks leading to a one-size-fits-all approach on global rules driven by the more advanced players. Although no WTO rules may ultimately be imposed on members without their explicit approval, the lack of voice of low-income countries means that legitimate development concerns may be overlooked. (p. 244)

However, various states, experts and non-governmental organizations have indeed raised serious questions about the suitability of the trade regime as the appropriate forum and have voiced concerns about the direction of governance currently being advanced by high-income economies. Contrary to how the report portrays them, developing and low-income countries have been very active in these discussions. In the WTO, for example, the African Group has played a very important role in e-commerce debates, expressing strong opposition to expanding WTO negotiations on e-commerce and digital trade. Through a number of events and submissions, the African Group has raised questions about the suitability of the WTO as a forum to negotiate these issues, and the potential impact that binding rules could have on their policy space, arguing:

> the propaganda that new e-commerce rules will be good for developing countries has been highly contested. Hence, if developing countries cannot find relief in the current mandates and rules in a Multilateral Trading System that is intended to serve all its Members, then any attempt to adopt new rules on new issues — particularly if those rules are meant to further marginalize poor economies as exemplified by TPP [Trans-Pacific Partnership] e-

> commerce rules, then new rules would entrench existing imbalances and further constrain the ability of our governments to implement industrial policy and catch-up.[3]

In the same communication, the African Group questioned the emerging narrative around MSMEs:

> The narrative is that multilateral rules on e-commerce will leapfrog development through the power of MSMEs. Yet, the proposed typology of rules is that MSMEs as we understand the scope of this definition to be, are the least likely to be able to effectively compete with multinational corporations, who have become global digital leaders, and have decimated smaller companies and who have benefitted from digital industrial policies such as subsidies, R&D [research and development] subsidies, development of, and access to, and ownership of technologies, economies of scale, government-sponsored infrastructure, tax benefits, etc. We can therefore conclude that given the narrative on MSMEs in recent months, and their sudden prioritization in e-commerce is not to address the problems faced by MSMEs, but to advance an agenda for rules.[4]

Other developing members expressed similar positions. In 2018, India and South Africa called for a re-thinking of the 1998 WTO Moratorium on Customs Duties on Electronic Transmissions, which committed states not to impose tariffs on electronic transmissions. Their communication highlighted the potential revenue loss for developing countries as well as constraints on their ability to achieve digital industrialization, writing:

> Tariffs play an important role in protecting infant domestic industries from more established overseas competitors until they have attained competitiveness and economies of scale. Customs duty free imports of digital products may also hinder the growth of the infant digital industry in developing countries.[5]

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[3] 'Statement by the Africa Group', 20 October 2017. WTO Communication JOB/GC/144; https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/Jobs/GC/144.pdf&Open=True
See also 'Communication from the African Group', 20 July 2017. WTO Communication JOB/GC/133; https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/Jobs/GC/133.pdf&Open=True

[4] 'Statement by the Africa Group', 20 October 2017. WTO Communication JOB/GC/144; https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/Jobs/GC/144.pdf&Open=True

[5] 'Communication by India and South Africa', 4 June 2019. WTO Communication WT/GC/W/774.

The WDR 2021 ignores practically all such debates. By citing the limited participation of low-income countries in the Joint Statement on Electronic Commerce,[6] a plurilateral initiative that was launched in 2017 by 71 WTO members, particularly more advanced economies, the authors ignore that the joint statement was launched precisely as a result of the opposition of developing, including many low-income, countries to new multilateral digital rules. Through this mischaracterization, the Report fails to provide deeper analysis of global digital economic governance and how developing countries might balance the need for harmonized regulations with sufficient policy space to develop their own digital economies and mitigate the negative impacts of global digital firms. In effect, it presents its own model as a common-sense approach while occluding alternative models from developing countries themselves.

CONCLUSION

If you go to the website of the Report and glance at the 'main messages', you will see that the first bullet point ends with the claim that 'the voice of low-income countries needs to be heard in the global debate on data governance'.[7] Yet, as we have demonstrated, this report draws disproportionately from data from high-income countries, presents a model of data governance model that reflects the interests of incumbent firms and countries, and actively misrepresents the voices of developing country representatives in important debates. As such the Report certainly fails to heed its own call and one might reasonably question the sincerity of that call.

Digital infrastructures and data technologies undoubtedly hold out great promise for developing countries, but policy makers must carefully scrutinize the policies and circumstances that have allowed some countries to use them for their own structural transformation and those that have locked countries into disadvantaged positions within digitally mediated production systems. This Report unfortunately advances one particular vision of data governance as *the* standard 'common sense' approach while sidelining or actively occluding discussions of more

[6] See 'Joint Statement on Electronic Commerce', 13 December 2017; https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN17/60.pdf&Open=True
[7] See www.worldbank.org/en/publication/wdr2021

context-informed alternatives, which might better ensure adequate protection of individual and collective data rights and promote a more equal sharing of data benefits for developing countries. Its governance model seeks to ease the flow and speed of existing data flows and is thus likely to entrench the power of incumbent firms while limiting developing countries' policy space to craft markets and governance and regulatory frameworks to fit their own developmental needs.

In the 1990s, the late economist, Thandika Mkandawire (1999) argued that attempts to restrict the policy space of African countries could result in a condition of 'choiceless democracy', where domestic policy makers and politicians find themselves unable to tailor global frameworks to meet domestic needs. Mkandawire was talking about structural adjustment but, in many ways, the social contract embedded within this Report reproduces this same dynamic in the digital age. By pushing countries to adopt common rules at the national level while doing little to address global inequalities, it remains unclear how such a 'new' social contract can lead to equitable international outcomes. Mkandawire described how such international conditionalities foreclose domestic debate and disconnect domestic policy makers from the demands and concerns of their own citizens (ibid.). By advancing the commercial interests of high-income countries in contested discussions about data governance, there is a danger this report may lead to a model of data governance out of step with popular needs and concerns. One is left wondering whether the WDR 2021 envisions data as making lives better for people in developing countries or for global corporate elites. This report reflects a Washington DC state of mind.

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