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Beverley Hatcher-Mbu

Welcome to this mini series of "Data…for What?!" the Development Gateway podcast. Over the course of four episodes, we will explore open data, data governance and privacy, as well as the many challenges and opportunities within these topics.

00;00;14;10 - 00;00;15;28

Beverley Hatcher-Mbu

I'm your host, Beverley Hatcher-Mbu.

00;00;15;28 - 00;00;17;05

Beverley Hatcher-Mbu

In this episode,

00;00;17;05 - 00;00;24;23

Beverley Hatcher-Mbu

myself and Sean will discuss a number of different key themes to give us a framing discussion for talking about data governance.

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Beverley Hatcher-Mbu

First of all, what do we mean? What are the different models for data governance? We'll talk a little bit about structural agency justice,

00;00;30;17 - 00;00;32;20

Beverley Hatcher-Mbu

which is really about people participating in

00;00;32;20 - 00;00;34;01

Beverley Hatcher-Mbu

formation of systems.

00;00;34;06 - 00;00;35;04

Beverley Hatcher-Mbu

We'll talk a little bit about

00;00;35;04 - 00;00;38;05

Beverley Hatcher-Mbu

how data trusts are a tool for people building the systems

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Beverley Hatcher-Mbu

to create a fair and equitable

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Beverley Hatcher-Mbu

system that protects people's rights.

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Beverley Hatcher-Mbu

We'll also use

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Beverley Hatcher-Mbu

these general themes to talk about accountability, discussing structural issues about who owns what.

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Beverley Hatcher-Mbu

Who is responsible,

00;00;48;22 - 00;00;53;05

Beverley Hatcher-Mbu

and how actors along the data supply chain are responsible for safeguarding rights.

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Beverley Hatcher-Mbu

But let's get right to the episode.

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Beverley Hatcher-Mbu

today's guest, Sean McDonald,

00;01;00;09 - 00;01;16;23

Beverley Hatcher-Mbu

comes from a background of having co-founded frontline SMS that build digital systems in complex environments. The founder of Digital Public, which has all around sort of designing and building data governance and public interest institutions. He's also a prolific researcher and writer, focused mostly on data law

00;01;16;23 - 00;01;16;28

Beverley Hatcher-Mbu

and

00;01;16;28 - 00;01;18;22

Beverley Hatcher-Mbu

governance issues in practice.

00;01;18;29 - 00;01;23;14

Beverley Hatcher-Mbu

So Sean, how did you come to working on these intersection of issues?

00;01;23;15 - 00;01;37;11

Sean Martin McDonald

First, thank you and what a pleasure to be part of this launching effort. Been a longtime fan of DG's work and it's really great to have you specifically and the team more broadly exploring these issues.

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Sean Martin McDonald

I got basically started. I thought I was going to go into international development and help build out legal systems.

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Sean Martin McDonald

And in 2008, lawyers were sort of famous for lamenting the financial collapse. But I may be the one person who life was dramatically changed by a World Bank PDF, which

00;01;55;02 - 00;01;55;09

Sean Martin McDonald

was

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Sean Martin McDonald

the Making the Law Work for Everyone report, which basically said that law didn't really reach about 60% of the world, which, you know, I just spent three years on a system that I believe was important for equity, recognizing that it wouldn't have achieved a failing grade on a test.

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Sean Martin McDonald

so I took a structural approach and started thinking, okay, obviously, at that level of failure, you're not talking about a small change. You're talking about a structural design problem. And so I started looking at and thinking about legal systems as design systems and then basically figured that the next thing that you would do if you were designing for equity would be to focus on the platform that was adopted by and reached the most people, which at the time and still is SMS.

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Sean Martin McDonald

And so

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Sean Martin McDonald

my design approach was always how do we build, write, seeking tools from what is already used? And so that's what brought me to Frontline and what I essentially found is that trying to build a tech company, particularly a public interest social impact tech company,

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Sean Martin McDonald

was

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Sean Martin McDonald

really ambiguous.

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Sean Martin McDonald

There aren't clear guidelines in a lot of places. The law wasn't. I mean, the law still isn't really there in a way that makes it easy to know what is and is not safe to do even with the best of intentions and a lot of cases. So the lawyer in me at that point, as you can imagine, started freaking out and I was going along.

00;03;14;10 - 00;03;41;28

Sean Martin McDonald

And then basically someone started using frontline SMS' research and work as an example of why they as a sort of graduate student, should be able to use back end call detail records during the Ebola outbreak and if there was a sort of face first point of inflection for me, I took that really seriously and ended up getting a research grant and writing a paper about whether or not it was legal and whether or not it was effective.

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Sean Martin McDonald

And what that really ended up showing me was how little guardrails there are in the pipeline between someone who has an idea that sounds like it's a good thing and is well-intentioned and getting deployed into a real world environment without any of the sort of diligence or testing that you would hope for for something of that sensitivity and scale.

00;04;04;15 - 00;04;26;06

Sean Martin McDonald

And so I've essentially done an enormous amount of research and then work trying to help organizations figure out what it means to do whatever they're trying to accomplish ethically and responsibly with data governance. But really, it's been a process of falling through windows face first and then trying to help other people do that slightly less painfully.

00;04;26;06 - 00;04;29;23

Beverley Hatcher-Mbu

what does a more robust global data governance regime look like to you?

00;04;29;25 - 00;04;37;25

Beverley Hatcher-Mbu

What are some of the key features we need to be thinking about from the national to the individual level to make a system of responsible data management that works for everyone?

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Sean Martin McDonald

good governance, but just like you said, you know, it's a really complex set of questions. But my own research ended up looking for what are the common aspects of good governance.

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Sean Martin McDonald

And I ended up sort of nerd-ily going through lots of different models and personally arriving at something along the lines of sort of structural agency justice. I mean, that's a horrible term and it's certainly not something anyone would want to say

Beverley Hatcher-Mbu

Really, really easy.

Sean Martin McDonald

I just sort of made it up here so probably shouldn't ever use it again. But the idea being that Elinor Ostrom won a Nobel Prize in 2009 for doing some of the world's first empirical research on commons governance, commons resource governance.

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Sean Martin McDonald

And she, one of the most incredible writers and researchers and thinkers on this topic. Unfortunately, she's past, but her work has been sort of distilled to these eight rules, which are about the way that communities interact to do that governance. And there are a lot about essentially people being able to participate in the formation and adaptation of systems that affect their rights.

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Sean Martin McDonald

And I think at a really basic level, whether you think about formal legal traditions and equity or more casual ones, it's really about building integrity and systems and integrity in the sense of like I am able to do a certain amount of work to say that the rights that I say I'm going to protect, I can do that and do, and then also to be held accountable to that.

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Sean Martin McDonald

And so being able to be brought into constructive enforcement inquiry. And I think that what we've seen is that there's a lot of sort of top down, but not very much accountability.

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Beverley Hatcher-Mbu

So when you say top down, you mean in terms of like how things are being enforced or how people are really engaging with the system of being able to control their own information?

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Sean Martin McDonald

both. I think the former one, you know, there's been a lot of recent coverage specifically because of the Facebook oversight board and its first round of decisions. But no matter the platform you're talking about, there are a lot of discussions about essentially they get to decide the rules. They get to decide how they enforce those rules and with what degree of clarity and adherence.

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Sean Martin McDonald

That's not to say these things are not complex. They're very complex. And that's part of the problem of that degree of centralization, is that, you know, you have one group of people trying to make rules for…

Beverley Hatcher-Mbu

for everybody

Sean Martin McDonald

…2 billion others. And it's full of errors.

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Beverley Hatcher-Mbu

So I love this concept of sort of structural justice. When we were prepping for this episode, you talked about

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Beverley Hatcher-Mbu

how we need to be thinking about data rights in terms of what is a

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Beverley Hatcher-Mbu

existing topic for other people, and especially in the human rights space, which is around access to justice.

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Beverley Hatcher-Mbu

So could you talk a bit more about how you see that access piece, framing some of these solutions for a more functional data governance system?

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Sean Martin McDonald

Frank Pasquale is actually the person who kind of put me on most of this thinking.

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Sean Martin McDonald

But when you think about the design, particularly of American Democratic governance, but in the way that democratic constitutions sort of echo in many parts of the world, participating in court, participating in justice, is a system duty. It's like citizenship, It's like voting. So it's meant to be an inclusive process. It's meant to be something that is not so formal or expansive or scary or asymmetrical that no sane person would ever involve themselves in the process.

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Sean Martin McDonald

And the reason it's designed that way is because courts are designed to adapt law. So where where rule works in one place but doesn't work in another place? The difference in court

jurisdiction and decision is supposed to help us interpret that in an appropriate way for the context and what happens when people are no longer able to really meaningfully go and bring cases.

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Sean Martin McDonald

And just a quick baseline here, the World Justice Report is a global resource that empirically analyzes access to justice issues across the world. They've noticed a sort of steady decline, specifically in the last three years in areas of law that you would want for data governance to be effective. So effective corporate and commercial kind of engagement from the public sector, private rights of action, you know, human rights enforcement have all been on the decline for a number of years.

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Sean Martin McDonald

Freedom House has recently reported its index and has basically said that the state of governance in democracy has been in decline for, I believe, 15 years consecutively and by the largest margin in this past report during that 15 year period, all of which is to say

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Sean Martin McDonald

I think these two things together are not a coincidence that this aspect of our ability to help interpret rules to be in appropriate for our contexts has been severed.

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Sean Martin McDonald

And that happened long before technology would have it been very dynamic in the way that we've designed justice systems. But it has also been significantly compounded by the complexity of tech, you know, the way it adds international jurisdictional issues among many, many others. But until we are able to participate in the systems that define rules for us in really meaningful and effective ways, it's kind of hard to imagine anyone getting it right at the scale at which, you know, some of these tech interventions operate.

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Beverley Hatcher-Mbu

One of the sort of ongoing vehicles that's been used to test this out is through data trusts. So I don't know if that's necessarily the be all and end all in terms of increasing some of these addressing some of these access issues that you're talking about.

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Beverley Hatcher-Mbu

what are some practical ways for people who think, okay, yeah, we know that the world is going directions that we might not love.

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Beverley Hatcher-Mbu

So what does that mean for us? How can we sort of halt some of that decay

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Beverley Hatcher-Mbu

on a practical level?

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Sean Martin McDonald

a lot of all we're talking about is design, right? And I think that sometimes we don't think about like, when is that moment?

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Sean Martin McDonald

at which I should be considering these issues?

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Sean Martin McDonald

what how does that working grow to scale?

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Sean Martin McDonald

there's not a lot of really great law on data governance, as it turns out. And there's a lot of need and a lot of really important things that move through that ecosystem anyway.

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Sean Martin McDonald

There is actually a type of law for exactly that situation. It's called equity. Equity isn't really about is there a is this a violation of a preexisting statute? It much more broad brushstrokes here, but approaches questions and disputes from the angle of what seems fair given the context

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Sean Martin McDonald

trusts started as and are largely a product of equity law.

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Sean Martin McDonald

It's historically almost always been about property, but there is this giant grenade of definitional ambiguity in the way that law approaches this. And we we can kind of get into why and all of that. But the the things that are really important is that trusts start creating relational duties. Now, they're just the expectations that we have of people that we work with or do things with.

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Sean Martin McDonald

So when you hire a lawyer, you expect them to represent your interests even selflessly, if necessary. In court. Same with the doctor, right? Those duties are fiduciary, even though the things that they're essentially brokering on your behalf aren't really a property, you could kind of in some cases you can make it about property. But trusts start from this idea that we need to be able to trust the people who are making decisions that affect our rights and that in order to do that, in order to build some of that integrity, we've got to be working through systems of equity systems of duty where we can't wait in a lot of places for the legislature to

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Sean Martin McDonald

pass a law and then someone else to investigate it and then someone else to enforce it in some cases. And so a data trust is a legal tool for assigning the rights and duties that arise in the management of data. Data trusts are

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Sean Martin McDonald

a kind of toolset that people who are building ecosystems or who want to be considering want to create duties and accountability, who want to create integrity essentially in the way that they represent someone else's interests or someone else's data rights.

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Sean Martin McDonald

Data trusts are a really legally recognized tool

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Sean Martin McDonald

that you can use to do that.

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Beverley Hatcher-Mbu

In the little that I've dug into data trust, I think that there's some that

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Beverley Hatcher-Mbu

potentially really valuable vehicles when used well. But

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Beverley Hatcher-Mbu

how do non-experts or sort of more regular people think about both engaging with data trusts, setting them up

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Beverley Hatcher-Mbu

what is a basic way to approach it without having necessarily a legal background.

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Sean Martin McDonald

there are really good questions about whether or not data trusts are good collective action vehicles. What we know for sure is that they are good at creating liabilities and responsibilities that increase the integrity of working ecosystems.

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Sean Martin McDonald

And so for this stage of thinking about where is their use most valuable or most proven, it's creating independent oversight over critical functions in sensitive data ecosystems.

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Sean Martin McDonald

one of my favorite examples of this, Johns Hopkins University is also a famous learning hospital. And as you can imagine, they generate extraordinarily valuable and important data through treatment. And they have an enormous body of very talented researchers to try and make sense of it.

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Sean Martin McDonald

But obviously there's a need for an intermediary because you don't just go to the hospital and then immediately sign yourself over to research. And so there's a Johns Hopkins data trust. And what they essentially do is a a multistep and multi-stakeholder analysis and sort of management of the integrity of the division between data from the hospital and data for research.

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Sean Martin McDonald

And they do that by also using very high standards and clear legal liability to justify then the sharing that they do do. Right. And so I think it's the easiest way to think about it is if you need to prove that you're good at something, independent oversight is not a bad way to do it. And independent oversight that takes legal responsibility for its impact is even better.

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Sean Martin McDonald

And data trusts are a great way to do that.

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Beverley Hatcher-Mbu

I think that's such a good point because I think increasingly some of this hand-wringing around data governance, data privacy issues, I think we have to keep reminding people we don't have to reinvent the wheel. There's a lot of examples we can pull from the health space, from the education space, where they've been doing data sharing for years in order to do sort of produce the kinds of innovations that are that are valuable to the world.

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Beverley Hatcher-Mbu

We don't have to start this over. We can look to those and see what can be adapted.

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Sean Martin McDonald

I think that there's been a lot of time and energy and money sunk into the idea that we don't have those as a sort of benefit to various actors. Right. In fact, we have not only do we have protections from the sort of substantive areas or the industries that you're describing, we also have procedural protections, right?

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Sean Martin McDonald

Human subjects research is not a new thing. We have managed the sort of pipeline from idea to use in ethical and mature fields in a broad range of contexts already. So there is as you say, a huge amount to draw from. And we do ourselves a service as a data governance community. When we do that, I think pretending that we're going to invent new relational liabilities, I think that pretending as though these are sort of blank slate problems is a net negative for everybody.

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Beverley Hatcher-Mbu

What are some of the key items that you think are missing from the global data governance discussion that you think are critical for our understanding and for helping us shape solutions?

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Sean Martin McDonald

One of the ones that I find most interesting and really most bewildering is how little we treat well, what I think of as the kind of legal logic of representation into how we exchange data.

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Sean Martin McDonald

Right. And what I mean by this is if you talk about privacy law or data protection law, these are areas of law that are most triggered by when we exchange data. And the idea is that we can say this is or is not appropriate sharing of data based on the substance of the relationship. But what we're really doing is exchange representations of fact.

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Sean Martin McDonald

No one collects Excel sheets. They're not they're not Pokemon, right?

Beverley Hatcher-Mbu

Like I wish they were Pokemon.

Sean Martin McDonald

Do you? I would, there be so many. They're already such a mess, but you know, it would be a lot more fun. Did you play Pokemon? Do you play Pokémon Go?

Beverley Hatcher-Mbu

That phone game, the app thing? No, because I heard that it was just exposing all kinds of information because people were just following your activities all over the world.

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Beverley Hatcher-Mbu

I was again. No, I'm good. I don't need to play that game.

Sean Martin McDonald

Like I think that that's the thing that single consideration is what I believe is the organizing moment for data governance. It's not atrocity, unfortunately. We've seen atrocities be embedded and abetted by technology. It's it's this recognition that we have already put an enormous amount of dependance of reliance on digital infrastructure and digital relationships.

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Sean Martin McDonald

And we're now starting to see that basically every single touchpoint at least can be exploited to be that. How much data can we get about you and who can we resell it to style of market and

that insecurity that that's suspicion has leaked into video games and newspapers and banking interactions and health, you know, vaccinations now?

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Sean Martin McDonald

the data politics of all of this are fundamentally undermining the legitimacy of the analog institutions.

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Sean Martin McDonald

It's not just like, do we or do we not trust tech? It's because they're using tech this way. Can we trust the public health system? And at that point, you know, I feel like that to me is is one of the reasons we're starting to see at least more serious attention being paid to how to form out some of these issues and some of these rules.

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Beverley Hatcher-Mbu

there's so much emphasis on what private companies are doing, which is legitimate. But also the reality is when so many of your public services are now happening online, how are we holding governments accountable?

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Beverley Hatcher-Mbu

How are we holding sort of the service providers who support government to put these things online accountable as well in terms of building and this goes back to your point around design, like building in like feedback and participation opportunities for people who are engaging daily with these systems that that piece of the conversation we don't hear about enough.

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Beverley Hatcher-Mbu

And we need to acknowledge that like data and sort of digital digital governance is going to change every like every aspect of how we engage.

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Sean Martin McDonald

The structural dynamic too, is really worth mentioning, which is to say that my, my work in this kind of vein started with Ebola and contact tracing. And basically, like if you had been mis profiled, what could you do? You know, what if things were happening?

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Sean Martin McDonald

You know, how are we how are we enabling people to interrogate whether or not these systems worked at all, let alone whether or not they were privacy, protecting and secure and data protecting and what have you, and what that exploration really sort of chased down or more realistically found face first. Is that to your point about how do we check public systems?

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Sean Martin McDonald

What does pass through liability? Look like? So for those not afflicted with a legal degree at home, when a government hires a private company to do something, they sign a contract. And that contract essentially says, this is what you're responsible for and this is what you're not responsible for. Generally speaking, public institutions have a higher responsibility. They have to, you know, be able to prove that they're not being biased, for example, against a number of categories.

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Sean Martin McDonald

That kind of responsibility doesn't always pass through that contract. So you might have a private company implementing a service on behalf of a public institution, but not necessarily to the same degree of responsibility or the same degree of due process or, you know, they might not give you the same rights that you would otherwise have if the government was implementing the service directly.

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Sean Martin McDonald

And so you bring it up and it's like that makes sort of obvious sense in the public to private divide. But even in the private to private divide, you know, very often it's I'm hosted over here. My data provider is this other organization over here. I'm using a third party, a I service to do the processing of this data.

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Sean Martin McDonald

And so all of a sudden, what was once, you know, I can go and file a complaint or raise an issue with one company, I'm now having to go find, you know, the entire component part. You're

really looking at the whole supply chain now versus just one or two examples in order to figure out who I who you who you submit your complaint to.

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Sean Martin McDonald

Yeah, exactly. And I think that that's it's that that structural issue is another one of those things that that feels really missing from the data governance debate because it's until we have it's how we're treating supply chains and supply chains as opposed to disconnected actors who use who all draw from the same openly licensed commons, it'll be very difficult to ever hit a baseline or a reliable floor of care.

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Sean Martin McDonald

Right. We can't if you can just outsource your responsibilities away, then well, companies tend to. A lot of people do too. And so then it becomes this notion of how do you build duties or how do you build responsibility that creates integrity, that creates long term value. If you're not participating in both sides, you know, being able to participate in the design and in the interpretation, you lose that investment in long term integrity, in my opinion.

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Sean Martin McDonald

I think that's certainly one of the reasons that we see so many cracks in the foundation, essentially.

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Beverley Hatcher-Mbu

Who are some of the the voices of some of the areas from outside, sort of the traditional makers of data governance policy, who we think who you think are going to be a big part of the discussion going forward as we try to move towards some kind of consensus.

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Sean Martin McDonald

I think we're going to see people with rights get really tired of not having them respected. And I think that we're seeing it become possible enough to bring those rights holders together and really engage them. So you're seeing increases in class action lawsuits and data governance.

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Sean Martin McDonald

I think those are really important. We're seeing, you know, increased movements for people to talk about private rights of action. So even the most optimistic estimates of regulators, maybe they see something like 2% of total cases and they adjudicate 2% of those. And they investigate 2% of those. So if you think about how effective a regulator is ever likely to be compared to the total number of problems that that could fall under their mandate, you know, it's not a complete solution.

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Sean Martin McDonald

So that piece sort of thinking about what are the more like structural and creative ways to politically engage people who have rights that are just either not being recognized or not being particularly well enforced. And then I think we're also going to see and this is maybe the optimism in me shining through,

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Sean Martin McDonald

But, you know, a lot of the reason that I came to Frontline at SMEs was because of the access to justice process and recognizing that there is a huge sort of communication and logistics layer of why legal systems only meet the needs of a really small minority of people. Totally. That layer of the work, we're going to see more and more creative mechanisms, I believe, and more dispute resolution design patterns and systems take over.

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Sean Martin McDonald

Not everything should be a court case. That doesn't mean that we shouldn't

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Sean Martin McDonald

regulated at all. And so I think hopefully we're going to see more people get involved and we're also going to see more mechanisms get designed and rolled out to get people involved. And I think that those two sides are both really important and really positive ways in which digital governance advocacy is going to grow.

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Beverley Hatcher-Mbu

We've woven through all of these different threads. I guess I do like to be an optimist. I do like to end on an era of like, okay, if we have a starting point or a couple starting points, where do

we start? So essentially, what do you see as the low hanging fruit where some of this change can begin to happen sooner rather than later?

00;24;12;22 - 00;24;23;22

Sean Martin McDonald

A lot of the answer to that question kind of depends on what you're trying to solve for. So let me start with just saying what I'm trying to solve for, what I'm trying to solve for, but I hope my work contributes to is

00;24;23;22 - 00;24;33;29

Sean Martin McDonald

making the tools for higher integrity systems easier and more available. Low hanging fruit is a really difficult one because it makes it sound like it's going to be easy.

00;24;34;01 - 00;24;57;00

Sean Martin McDonald

And I think that none of this is going to be particularly easy. What I often try and look for are places where the incentives are toward integrity. So in medicine, if the data is bad and the treatment doesn't work, it matters. There are a lot of places in a lot of digital markets where it's less important or it's less provable when something goes wrong, kind of like the predictions we were talking about.

00;24;57;00 - 00;25;29;01

Sean Martin McDonald

And so the places where there's a strong drive and a strong dependance on public trust and legitimacy, there's going to be a equally sort of increasing amount of pressure to be able to demonstrate things like the supply chains of data rights that accompany data or representations. I think we're going to see more and more professional ecosystems and capital ecosystems drive to longer term investment because short term investments are flattening out left and right.

00;25;29;04 - 00;25;48;03

Sean Martin McDonald

It's not as suggests they're not doing fine. I don't I don't mean that I think the market's going to correct itself. But what I mean is, is that where there are strong incentives and bases for rights, I think we're going to see not only action, but we're going to also see more opportunities for the creation of procedural rights.

00;25;48;03 - 00;26;00;22

Sean Martin McDonald

So essentially, the initial cases will make it easier for future cases, and future cases will then breed even more change. And so I think we're starting to see some of the enforcement questions get settled. And

00;26;00;22 - 00;26;09;16

Sean Martin McDonald

I think that one thing that is really promising is that we are seeing and this isn't specific to the Biden administration, but we're seeing the trajectory of the American government getting involved.

00;26;09;19 - 00;26;20;11

Sean Martin McDonald

And because a lot of the actors and bad actors or whatever you consider them actors fall under U.S. jurisdiction. It's encouraging to see the momentum gathering.

00;26;20;11 - 00;26;39;29

Sean Martin McDonald

I think that a lot of times what happens in data governance debates is that people have such a strong attachment or relationship to one issue or one theory of rights that we get locked into debates about whether or not it's a privacy issue or a human rights issue or a property law issue.

00;26;40;01 - 00;26;42;13

Sean Martin McDonald

And my perspective here is that

00;26;42;13 - 00;27;07;24

Sean Martin McDonald

right? There's not going to be one. In fact, data as a dynamic that is happening across sector and then as a vertical itself is developing its own sort of professional treatment. Theories of rights and law. And so I think the one other really, really positive thing to look forward to is that I think we're past the idea that we're going to have one single theory of rights that are going to, you know, perfectly manage the issues raised by digital transformation.

00;27;08;00 - 00;27;16;14

Sean Martin McDonald

I think that that gives way to a lot of really creative and interesting opportunities for people with rights to engage in this conversation and in this

00;27;16;14 - 00;27;28;14

Sean Martin McDonald

process. I think that's so fitting in the 21st century, because I think back to how we first started this conversation about is this the new, you know, is this the international Human rights Consensus 2.0?

00;27;28;14 - 00;27;54;05

Sean Martin McDonald

And it's so appropriate because much of the criticism of the human rights system has been about the fact that there is one convention that is supposed to apply to 100 and some countries, and it doesn't work that well because it doesn't adjust for local context. So it's really, I think a little bit the nerd in me is very excited to see that we might actually have a chance to develop some frameworks that are really nuanced, acknowledging that the harms and the opportunities are not the same across the board and with how people engage with, with digital technology.

00;27;54;05 - 00;27;56;06

Beverley Hatcher-Mbu

What are you reading, watching or listening to?

00;27;56;15 - 00;28;23;10

Sean Martin McDonald

So I'll give you two answers. There's the nerdy answer and the real answer. The nerdy answer is there's a book called The World of Trusts, which is it's actually an output of an academic conference, and it's a series of essays by some of the most, like, interesting fiduciary scholars in the world talking about different international case studies and the sort of parallels and challenges of building fiduciary, legally accountable fiduciary duties at the international level.

00;28;23;12 - 00;28;28;29

Sean Martin McDonald

And the thing is, I'm so deep into this particular lens that I end up seeing it in places where, you know, I shouldn't

00;28;28;29 - 00;28;55;18

Sean Martin McDonald

So I have been an on and off comic book nerd my entire life. One of the things that I think is fascinating about the sort of modern generation of comic book writing is that it provides a number of examples of how do we govern or how do we deal with people who have exceptional power that they often don't understand, is controlled by someone who is flawed and has the potential to really impact or

00;28;55;18 - 00;29;23;07

Sean Martin McDonald

hurt lots of other people, whether they mean to or not. And it sounds like a really ridiculous thing, but there are a number of really thoughtful and sort of beautifully done takes about that

question. And in a lot of ways, I see a lot of parallels essentially between how do we talk about the responsibilities of someone with exceptional power who essentially isn't regulated by the government or the police in any particular way?

00;29;23;07 - 00;29;44;00

Sean Martin McDonald

And how do we compare that to the moments or the ways that we think about people with growing amounts of wealth or growing amounts of digital power or centralization, decision making, those connections, I think, are both fun way to take a lighter approach to some of it and not always, like you say, make it completely about work. But also there are thousands of those stories.

00;29;44;00 - 00;30;07;01

Sean Martin McDonald

So you've got lots and lots of versions of where it goes right and wrong and what can and maybe does and doesn't work. And it's a really interesting philosophical way to go through it. And I will say I belatedly discovered streams of thought Volume three by Black Thought and am slightly late to Jay-Z's 444 and have been enjoying both of those.

00;30;07;04 - 00;30;34;27

Sean Martin McDonald

That is fantastic particular point because you see these issues and that's this actually I think goes back to your point earlier about almost domesticating these issues that people can engage with them in their regular lives. Like we were talking about Pokemon Go. I think that the to the extent that people begin to see these and they begin to see these issues everywhere, we're more

likely to get sustained engagement and like there's nothing like art and culture and Coke, copious Netflix streaming to help us to zero in on that.

00;30;34;29 - 00;30;54;21

Sean Martin McDonald

I originally had something like a super like professional focus on surround. Like some of the stuff I've been reading over at CGI, but actually I've become latently like a massive Star Trek fan. I had never watched Star Trek before the pandemic began, but I like it gives me like, yeah, it's like a great escape. But it's also it answers.

00;30;54;21 - 00;31;13;25

Sean Martin McDonald

It asks so many questions, I think, about what collaboration looks like as we are trying to move into this new space, literally. And figuratively, of how we use information to go places. And I love Star Trek for the way like many of the different iterations of how they engage with these issues. I had this property law professor who she was a wonderful teacher.

00;31;13;25 - 00;31;14;10

Sean Martin McDonald

She would

00;31;14;10 - 00;31;18;20

Sean Martin McDonald

show us episodes of Star Trek in class. I mean, the whole episodes

00;31;18;20 - 00;31;33;02

Sean Martin McDonald

you know, like the one with the trial about data in the next general

Beverley Hatcher-Mbu

Oh, my gosh.

Sean Martin McDonald

I mean, exactly. You know,

Beverley Hatcher-Mbu

That was such a good episode!

Sean Martin McDonald

But I mean, this is this is it. These are the questions, right? Like these issues of agency.

00;31;33;02 - 00;31;52;00

Sean Martin McDonald

And we were talking earlier, I mentioned that one of the things that happens to people who have rights is that they get convinced that those rights are having any real place in their life and then they don't go and act on. And these, you know, pop culture stories are an incredibly important part of this. Being able to see the dynamics and say, Oh, I recognize that.

00;31;52;00 - 00;32;16;28

Sean Martin McDonald

And oh, that's happening here. Obviously, that's wrong is an important part of the education piece of it. The greatest trick tech ever pulled was to convince people that their rights didn't exist. And seeing cultural stories where the technology is not mystifying and right systems do exist, and we see things like justice being attempted no matter how fantastical. I think that that's really powerful.

00;32;17;01 - 00;32;39;12

Sean Martin McDonald

A number of really wonderful artists are working on more and more now is creating hopeful versions of those stories without so much of the sort of warning dystopian tale. And then people like thinking those were good ideas and building it anyway. That finding the stories that are rich with humanity in the way that humans go. Yeah, exactly is.

00;32;39;14 - 00;32;56;07

Sean Martin McDonald

And that's it.

Beverley Hatcher-Mbu

When you get excited about these issues, I think the top of mind, even when you're supposedly watching TV, even when you're, you know, working at your actual job. So I'm so glad you're you're like the perfect candidate for the special. I knew we would be able to just sort of vibe and chat about things. So thank you so much for making the time to do this.

00;32;56;07 - 00;32;57;13

Sean Martin McDonald

Oh, absolute pleasure.

00;33;01;10 - 00;33;03;00

Beverley Hatcher-Mbu

Special thanks to our guests.

00;33;03;00 - 00;33;08;00

Beverley Hatcher-Mbu

And thanks to our producers behind the scenes: Lindsay Fincham and Analisa Goodmann and Becca Warner.

00;33;08;00 - 00;33;11;18

Beverley Hatcher-Mbu

This episode was produced by Lindsay Fincham and edited by Analisa Goodmann.

00;33;11;18 - 00;33;14;00

Beverley Hatcher-Mbu

Our theme music was created by Mark Hatcher.

00;33;14;00 - 00;33;21;11

Beverley Hatcher-Mbu

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