

Global Essay Competition 2026

Title: Governing Without a Constitution: Power and Legitimacy in the Digital Public Sphere

Essay:

Introduction

Power in the digital public sphere is increasingly exercised through mechanisms that resemble governance rather than mere influence. Platforms define rules of participation, adjudicate disputes and shape the boundaries of public visibility (DeNardis, 2014; Klonick, 2018). In doing so, the platforms operate as de facto political institutions whose authority is widely complied with. Yet the legitimacy of this authority remains weakly articulated, a tension that now sits at the centre of debates on digital governance (Gilbert et al., 2024). The platforms do so without the formal authorization traditionally associated with constitutional authority, not because such authorization has been denied, but because no institutional framework exists to articulate it. This shift has occurred gradually, through design choices and procedural norms, rather than through explicit political designation. The central puzzle is therefore not whether digital platforms affect democratic life, but how governing power can operate at scale in the absence of a constitution. Platforms govern without elections, codified separation of powers and without a shared framework of accountability, while still commanding widespread compliance. This form of authority is neither accidental nor purely economic; it is institutional in practice, even if informal in origin.

This essay argues that the defining challenge of the digital public sphere lies in a growing gap between power and legitimacy. While platforms increasingly perform governance functions, the normative foundations that traditionally justify rule-making remain underdeveloped. Contemporary democracies confront a constitutional gap within the digital public sphere. Digital platforms increasingly function as political institutions, shaping the conditions under which democratic participation occurs, without being subject to the norms that traditionally govern political authority. Existing responses, centred on regulation, content moderation or competition policy, look at important concerns but fail to confront this deeper institutional mismatch. To respond to this challenge, the essay proposes the concept of Time-Bound Digital Constitutions (TDCs), context-specific governance frameworks designed to align platform power with

democratic legitimacy during periods of heightened political significance. Such a proposal is made by reframing platform governance as a constitutional rather than purely regulatory problem. So the essay advances a governance model capable of addressing the political realities of the digital age.

Existing regulatory and constitutional frameworks struggle to address this gap because they were designed for territorial states and not transnational infrastructures. By examining platforms as political institutions rather than technological intermediaries, the essay reframes current debates from democratic decline to institutional design. Through two selected case studies, it demonstrates how governance without constitutional grounding becomes normalized, and why legitimacy rather than control or efficiency emerges as the central unresolved question. The analysis concludes by outlining the contours of a governance horizon in which authority in the digital public sphere is no longer treated as exceptional, but as a structural feature requiring deliberate institutional thought.

Platforms as Political Institutions

Digital platforms were not originally designed to function as political institutions. Their emergence was driven by commercial innovation, technological experimentation and the pursuit of connectivity. However, scale has transformed function. Today, platforms play a central role in structuring political communication by determining which content is amplified, which voices gain visibility, and which forms of participation are prioritised or marginalised. Through algorithmic curation, moderation policies and design choices, platforms shape public discourse in ways that directly affect political outcomes. Scholars have increasingly recognised this transformation. Platforms no longer merely host political speeches; they organise it (Helberger et al., 2018; Sunstein, 2017). Decisions about ranking, recommendation and removal influence what citizens see, how they interpret political events and how collective narratives form. These decisions are often automated, opaque and continuously evolving. Yet their effects are comparable to those of agenda-setting by traditional media or procedural rules established by electoral authorities.

Despite this reality, platforms continue to be treated primarily as neutral intermediaries. This classification reflects their private ownership and transnational operation, but it obscures the public character of the power they exercise. Unlike traditional political

institutions, platforms are not bound by constitutional mandates, electoral accountability or judicial oversight. Their governance frameworks consist largely of terms of service and internal policies, enforced through discretionary and frequently changing mechanisms. The result is a form of political authority that is both pervasive and institutionally under defined. Treating platforms as neutral intermediaries is no longer a defensible position for democratic governance.

The Constitutional Gap in the Digital Public Sphere

The absence of constitutional constraints on platform power creates what can be described as a constitutional gap in the digital public sphere. Recent scholarship has increasingly pointed to civil society as a critical intermediary in this legitimacy gap. Rather than functioning solely as external critics, civil society actors are beginning to operate as participants in the co-construction of platform governance, translating diffuse public values into procedural demands for transparency, accountability, and contestability (Palladino et al., 2025). Constitutions exist to define who may exercise power, under what circumstances and for how long. Constitutions also establish procedural safeguards, protect fundamental rights and provide mechanisms for accountability. In digital spaces where political life increasingly unfolds, comparable structures are largely absent. This gap becomes most visible during periods of political intensity. Consider a closely contested national election followed by widespread online mobilisation. In such a context, a major platform may adjust the visibility of political content to limit the spread of disputed claims. While framed as a technical safeguard, this decision significantly alters which political messages reach large segments of the population. It is made internally, without transparent justification, external oversight or even clearly defined temporal limits. As a result, a private platform exercises influence comparable to electoral regulation without democratic authorisation. This episode demonstrates how platforms wield constitutional-level power in practice, even though they remain constitutionally unrecognised.

The problem is not that platforms intervene during crises, but that such interventions occur without a governing framework that renders them democratically legible. Platforms govern continuously when stakes are low and reactively intensify governance when stakes are high. This oscillation between routine invisibility and emergency intervention undermines both legitimacy and trust. As Klonick (2018)

observes, platforms increasingly function as private governors, yet without the procedural norms that characterise public authority.

Limits of Existing Regulatory Approaches

Current policy responses largely focus on regulating platform behaviour through content moderation rules, competition law or data protection regimes. These approaches address important concerns related to harm, market dominance and privacy. However, they do not resolve the underlying constitutional problem. Regulation typically constrains outcomes without redefining authority. It assumes that platform power can be limited externally while leaving its internal governance role intact. For instance, content moderation frameworks focus on what speech should be removed or restricted. While necessary, they often rely on reactive enforcement and lack transparency. Competition policy seeks to address market concentration but does little to clarify how political power is exercised within platforms. Data protection regimes guard individual rights but do not address collective democratic processes. Taken together, these approaches regulate symptoms rather than structure. At the other extreme, calls for sweeping state control or platform nationalisation risk undermining freedom of expression and innovation. Heavy-handed intervention may replace private discretion with political control, creating new risks for democratic pluralism. Therefore, the challenge is not to choose between platform autonomy and state domination, but to develop institutional arrangements that recognise platform power while embedding it within democratically grounded frameworks.

Governance Failure under Democratic Stress

During a period of mass digital mobilisation following a contentious policy announcement, coordinated online campaigns rapidly gain traction across platforms. This scenario reflects a recurring governance pattern observed across multiple democratic contexts rather than an isolated incident. In response, platforms selectively suspend accounts and demote content deemed disruptive. These interventions significantly affect the visibility and momentum of political participation. Yet the criteria guiding these decisions remain opaque and their duration undefined. There are limited avenues for appeal and no clear mechanisms for public accountability. Power is exercised decisively, but without the procedural safeguards typically associated with legitimate political authority. This episode is not an anomaly; it is a recurring feature of

platform governance during moments of democratic stress. As Bennett and Segerberg (2012) show, digital mobilisation operates through connective action and forms of participation that platforms structurally shape through enforcement choices, thereby positioning them as implicit governors of political momentum. When platforms intervene in these processes without institutional constraints, they effectively govern political participation without democratic authorisation. These cases expose the inadequacy of existing governance models and highlight the need for a constitutional response.

Youth and Digital Political Socialisation

The demographic dimension of platform governance intensifies its democratic significance. Young populations, particularly in societies experiencing demographic growth, rely disproportionately on digital platforms as primary sites of political engagement (Sunstein, 2017). For many first-time voters and activists, political participation begins online rather than in traditional civic institutions. This shift alters the processes of political socialisation and reshapes expectations about authority and legitimacy. Digital platforms have undoubtedly expanded opportunities for participation. They lower barriers to entry, enable rapid mobilization and facilitate new forms of political expression. However, when these opportunities are mediated by privately governed systems lacking constitutional safeguards, democratic participation is redefined in subtle but significant ways. Norms of visibility, engagement and enforcement are shaped by platform design rather than democratic deliberation.

Over time, this institutional mismatch risks normalising governance without accountability. If younger generations experience political participation primarily through platforms where rules are opaque and authority is discretionary, democratic expectations may shift accordingly. The issue is not youth engagement itself, but the absence of institutional frameworks that align this engagement with democratic principles.

Time-Bound Digital Constitutions

Addressing the constitutional gap in the digital public sphere requires moving beyond the binary choice between regulation and autonomy. What is needed is an intermediate institutional layer that recognises platform power while subjecting it to democratically legible constraints. Time-Bound Digital Constitutions offer such an approach. TDCs

are temporary governance frameworks activated during clearly defined political periods such as national elections, referenda or moments of large-scale civic mobilisation. Rather than imposing permanent constitutional status on platforms, TDCs acknowledge that the intensity and impact of platform power fluctuate over time. When democratic stakes are high, governance standards should rise accordingly.

Under a TDC, platforms would operate according to publicly articulated principles for a fixed duration. These principles could include transparency requirements for algorithmic adjustments, procedural safeguards for content moderation decisions and mechanisms for independent oversight. Crucially, TDCs would specify not only what platforms may do, but also when extraordinary powers must expire. Temporality thus becomes a safeguard against both overreach and institutional inertia.

This temporal design distinguishes TDCs from existing regulatory models. Permanent regulation risks rigidity or regulatory capture, while crisis-driven interventions are reactive and inconsistent. TDCs shift platform governance from ad hoc crisis management to anticipatory institutional design, making governance predictable without making it permanent.

Feasibility and Democratic Legitimacy

Questions of initiation and oversight are central to the viability of TDCs. In practice, TDCs would require coordination between public authorities, platforms, and independent bodies. States would define the political contexts that trigger activation, platforms would implement agreed frameworks, and independent oversight mechanisms would monitor compliance. This arrangement does not transform platforms into state actors, nor does it subordinate democratic processes to corporate control. Instead, it clarifies roles precisely when platform power intersects most directly with democratic legitimacy.

Critics may argue that such arrangements are unrealistic in a fragmented global digital environment. However, complete uniformity is neither necessary nor desirable. Constitutional systems already vary across democracies and TDCs can be adapted to local political cultures while adhering to shared principles. Their strength lies not in universal design, but in institutional recognition of a problem that existing frameworks leave unresolved.

Conclusion

Democracy has never been static. Its institutions have evolved in response to social transformation, technological change, and demographic shifts. This essay has argued that the core challenge of platform governance is constitutional rather than purely regulatory. By proposing Time-Bound Digital Constitutions, it offers a governance framework that aligns digital power with democratic legitimacy while preserving flexibility and innovation. TDCs do not represent a final solution, but they constitute a necessary step toward governing the digital public sphere by design rather than by accident.

In practice, debates over content moderation, platform accountability and digital rights can no longer be treated as technical or sectoral regulatory issues alone. Legislators, courts, and civil society actors must recognize platforms as sites of quasi-constitutional power and respond accordingly. Without such a shift, democratic societies risk normalizing a form of private governance in which fundamental rights are shaped by corporate discretion rather than public legitimacy. Meeting the democratic challenges of the digital age requires not only policy innovation, but constitutional imagination—one capable of anchoring digital power within time-bound and democratically accountable frameworks.

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