



FEDERAL SUPREME COURT AND DIGITAL PLATFORMS: DIGITAL CONSTITUTIONALISM, DEMOCRACY AND THE CHALLENGES OF ARTIFICIAL INTELLIGENCE

SUPREMO TRIBUNAL FEDERAL E PLATAFORMAS DIGITAIS: CONSTITUCIONALISMO DIGITAL, DEMOCRACIA E OS DESAFIOS DA INTELIGÊNCIA ARTIFICIAL

CORTE SUPREMA FEDERAL Y PLATAFORMAS DIGITALES: CONSTITUCIONALISMO DIGITAL, DEMOCRACIA Y LOS RETOS DE LA INTELIGENCIA ARTIFICIAL



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ABSTRACT

This article examines how digital constitutionalism can rebalance economic freedom, innovation, and rights protection in the face of Big Tech's platform power and the data economy. It aims to analyze, historically and currently, the tension between market and regulation and answer whether self-regulation is sufficient to safeguard fundamental rights and state sovereignty. Methodologically, it adopts a literature review and comparative method, linking the metaphor of the medieval merchant to the contemporary performance of platforms and the recent Brazilian experience, focusing on the Supreme Federal Court's decision of June 26, 2025, which reinterpreted Article 19 of the Brazilian Civil Rights Framework for the Internet. Among the main findings, we highlight the direct liability of platforms for illegal content after extrajudicial notification, with safeguards for the inviolability of private communications and requirements for transparency and public reporting, establishing a new paradigm for digital governance. It concludes that only a robust framework of digital constitutionalism, integrated with data protection, combating disinformation, algorithmic transparency, and international cooperation, can contain asymmetries, preserve informational integrity, and guide socially responsible innovation.

Keywords: Digital Constitutionalism. Big Techs. Internet Civil Rights Framework. Federal Supreme Court (STF). LGPD.

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RESUMO

O artigo examina como o constitucionalismo digital pode reequilibrar liberdade econômica, inovação e proteção de direitos diante do poder de plataforma das Big Techs e da economia de dados. Objetiva analisar, historicamente e no presente, a tensão entre mercado e regulação e responder se a autorregulação é suficiente para salvaguardar direitos fundamentais e soberania estatal. Metodologicamente, adota revisão bibliográfica e método comparativo, articulando a metáfora do mercador medieval à atuação contemporânea das plataformas e à experiência brasileira recente, com foco na decisão do STF de 26 de junho de 2025, que reinterpreto o art. 19 do Marco Civil da Internet. Entre os principais resultados, destaca-se a responsabilização direta das plataformas por conteúdos ilegais após notificação extrajudicial, com salvaguardas à inviolabilidade de comunicações privadas e exigências de transparência e reporte público, configurando novo paradigma de governança digital. Conclui que apenas um arcabouço robusto de constitucionalismo digital, integrado por proteção de dados, combate à desinformação, transparência algorítmica e cooperação internacional, é capaz de conter assimetrias, preservar a integridade informacional e orientar uma inovação socialmente responsável.

Palavras-chave: Constitucionalismo Digital. Big Techs. Marco Civil da Internet. Supremo Tribunal Federal – STF. LGPD.

RESUMEN

Este artículo examina cómo el constitucionalismo digital puede reequilibrar la libertad económica, la innovación y la protección de derechos frente al poder de las plataformas de las grandes tecnológicas y la economía de datos. Su objetivo es analizar, histórica y actualmente, la tensión entre mercado y regulación, y determinar si la autorregulación es suficiente para salvaguardar los derechos fundamentales y la soberanía estatal. Metodológicamente, adopta una revisión bibliográfica y un método comparativo, vinculando la metáfora del comerciante medieval con el desempeño contemporáneo de las plataformas y la experiencia brasileña reciente, centrándose en la decisión del Supremo Tribunal Federal del 26 de junio de 2025, que reinterpreto el artículo 19 del Marco de Derechos Civiles de Brasil para Internet. Entre los principales hallazgos, destacamos la responsabilidad directa de las plataformas por contenido ilegal tras la notificación extrajudicial, con garantías para la inviolabilidad de las comunicaciones privadas y requisitos de transparencia e información pública, estableciendo un nuevo paradigma para la gobernanza digital. Concluye que solo un marco sólido de constitucionalismo digital, integrado con la protección de datos, la lucha contra la desinformación, la transparencia algorítmica y la cooperación internacional, puede contener las asimetrías, preservar la integridad de la información y guiar la innovación socialmente responsable.

Palabras clave: Constitucionalismo Digital. Big Techs. Marco de Derechos Civiles en Internet. Tribunal Supremo Federal (STF). LGPD.



1 INTRODUCTION

The digital age, as well as the periods of rupture that shaped constitutions in the past, imposes a challenge of equal magnitude: to build a legal framework capable of reflecting the ongoing transformations and, at the same time, safeguarding fundamental rights. The growing influence of global technological corporations and the accelerated digitalization of social and economic life demand a new way of thinking about Law, capable of dynamically balancing freedom, regulation and protection in the digital environment. In this scenario, **Digital Constitutionalism** emerges not only as an instrument to settle accounts with historical asymmetries, but as a normative horizon aimed at preserving democracy, sovereignty, and informational integrity.

The protagonism of the so-called *Big Techs*, new "merchants" that concentrate economic power, shape information flows, and influence political agendas, reveals the fragility of self-regulation as a mechanism to contain abuses. Just as medieval merchants sought autonomy from feudal lords, digital platforms push for light regulatory environments and the unrestricted expansion of their markets, often in tension with national legislation. This historical analogy is not just rhetorical: it offers an interpretative key to understanding how the dispute between economic power and political authority is reinvented in the digital age.

In Brazil, the tension between freedom and regulation gained decisive contours on **June 26, 2025**, when the Federal Supreme Court (STF) issued a paradigmatic decision that redefined article 19 of the Brazilian Civil Rights Framework for the Internet. By majority vote, the Court determined that digital platforms can be held directly liable for illegal content published by their users, as long as they are notified extrajudicially, without the need for a prior court order, an unprecedented measure that inaugurates a new regulatory paradigm and materializes, at the jurisprudential level, structuring principles of Digital Constitutionalism. This decision, which is part of a context of democratic crisis and disinformation campaigns amplified by national and international actors, reinforces the strategic role of the Judiciary in protecting the rule of law and digital sovereignty.

Starting from this framework, this article proposes to analyze, in an integrated way, the historical and theoretical foundations of Digital Constitutionalism and its practical developments in the contemporary Brazilian scenario. To this end, it is based on an investigation that combines comparative method and literature review, identifying parallels and contrasts between the *medieval lex mercatoria* and the regulatory strategies of large technological corporations, to then examine paradigmatic cases, such as the 2025 Supreme Court decision, and discuss the regulation of emerging technologies, such as artificial intelligence and Big Data.



The hypothesis that guides the research is that the self-regulation of the digital market, in the image of the autonomy sought by medieval merchants, is not enough to guarantee the protection of fundamental rights or state sovereignty. The test of this hypothesis is carried out through the analysis of the historical trajectory of the tension between market and regulation, its reflections on the digital environment and possible institutional solutions, with special attention to the Brazilian experience.

The text is structured in such a way as to advance from the historical and conceptual plane to the normative and propositional plane: it begins with the historical contextualization of the economic and symbolic role of merchants and Big Techs; addresses the democratic crisis and the challenges of digital governance; examines in depth the 2025 STF decision; discusses the regulation of artificial intelligence and the impacts on economic freedom, copyright and the environment; analyzes digital governance as an antidote to the crisis of confidence; and concludes with a reflection on the strategic role of data protection in the era of Big Data.

By articulating past and present, theory and practice, this article is anchored in the metaphor of the "merchant" to contribute to the design of a digital environment that is, at the same time, a safe harbor and an open sea: free for innovation, but firm in the non-negotiable defense of fundamental rights, democracy, and the sovereignty of States.

To answer the central question, the article is organized into five interdependent analytical axes. Initially, the historical and conceptual path that underlies digital constitutionalism is presented, taking as a reference the metaphor of the medieval merchant and his search for autonomy from the authorities, in dialogue with the contemporary rise of Big Techs. Next, the Brazilian legislative and jurisprudential evolution is examined, with emphasis on the interpretation of article 19 of the Civil Rights Framework for the Internet by the Federal Supreme Court.

Next, the paradigmatic decision of June 26, 2025 is analyzed, placing it in the global political, economic, and informational context. The subsequent chapter connects this decision to the dynamics of the attention economy and narcissistic-depressive subjectivity, exploring the impact of geopolitical and economic factors on digital governance.

Finally, the text expands the scope to debate the impacts of artificial intelligence on economic freedom, copyright, and environmental sustainability, articulating these challenges with an integrated vision of the Democratic Rule of Law in the digital age.

2 THE RISE OF THE MEDIEVAL MERCHANT: BETWEEN ECONOMIC FREEDOM AND FEUDAL CHALLENGES

The medieval merchant emerges as a catalyst for social and economic transformations, capable of challenging the rigid structures of the feudal system and projecting new possibilities for integration between regions. Between the tenth and twelfth centuries, the increase in trade routes, especially in the Mediterranean axis, and the growing demand for consumer goods stimulated the circulation of products, capital and ideas. Acting as intermediaries between producers and consumers, merchants gave the economy a more dynamic rhythm, marked by the desire for autonomy and the need to overcome the obstacles imposed by the feudal order (CORRÊA et al., 2024; FRANCO JÚNIOR, 2001a; 2001b).⁹

Figure 1

Generated by artificial intelligence from authorial description



Source: produced by the authors.

One of the greatest challenges of this period lay in the fragmentation of political power and the multiplicity of "taxes" (understood in a broad sense, as various forms of collection). Each feudal lord, exercising full authority over his territory, imposed taxes and tolls on

⁹ "The material ascent of the Merchant, retarded by the scorching system of feudal taxes and surcharges, knocking at the door of each baron of the Land and lowering his average rate of profit, led him to aspire to a new political situation, of a rational nature, which would allow him to pay a single tribute. In the traditional alliance, in force in the Christian Kingdoms, the uncomfortable situation, absurd as it may seem, was circumscribed to the King, who was, in a factual way, a Viceroy of himself, owing allegiance to the true King, who was the Pope, bearer of the insignia of the divine origin of power, who bequeathed them to this or that, crowning him in the name of God, for themselves and for the Church. The King's secret aspiration was to cease to be, in fact, Viceroy, and to become, effectively, King: autonomous, uncontested, absolute. The problem of the Christian King lay in the fact that the material foundation of his authority, without which power does not exist, belonged to the Church, which had become a notable Feudal Lady, receiving land as a donation, by the delivery of the plenary indulgence to potentate sinners. Now, concentration of authority, with the transformation of the Christian Kingdom into a Sovereign Nation State: it was the emerging, spiraling, accelerating wealth of the Merchant. The new alliance had arrived: KING + MERCHANT X POPE + BARON OF THE EARTH" (FALCÃO & CORRÊA, 2016, p. 152).



merchants in transit, making operations more expensive and restricting the expansion of trade. From this experience was born the aspiration for centralized mechanisms of collection and normative standardization, capable of reducing costs, providing predictability and favoring a safer economic environment. Although such a project did not materialize in the Middle Ages, it reveals an acute perception of the structural limits to economic integration (COPELLI et al., 2018; CORRÊA et al., 2024).¹⁰

The fairs, often installed in border areas or under the jurisdiction of more flexible masters, assumed a central role in economic and cultural life, functioning as poles of material and symbolic exchange. These spaces, by bringing together merchants from different origins, not only boosted economic growth, but also favored the circulation of information, techniques and social practices (BRAUDEL, 1992). In a way, they anticipated the logic of interconnection and network exchange that characterizes contemporary cyberspace, despite the differences in scale, speed and reach.

The rise of the medieval merchant, therefore, demonstrates a recurrent historical pattern: the tension between freedom of economic initiative and the need for regulatory bodies that ensure stability and equity in exchanges (BLOCH, 1961; PIRENNE, 1963; 2014). This tension, experienced in the context of maritime routes and medieval ports, resurfaces, in new guises, in the digital economy of the twenty-first century.

Just as merchants sought to escape feudal constraints, Big Techs operate in cyberspace pushing for minimally interventional regulatory environments, where they can expand without significant hindrance. However, history warns of the risks of this asymmetry of power: in the absence of robust institutional counterweights, the concentration of resources and influence can be instrumentalized by authoritarian leaders, gradually eroding democratic foundations and centralizing strategic decisions in the hands of a few (LEVITSKY; ZIBLATT, 2018, p. 13-14, 60).¹¹

¹⁰ "The Feudal Lord was a co-participant in the construction of the Market, benefiting from it, without realizing that, historically, he would devour it, considering that the Merchant was the type born, par excellence, for the exchange and monetary economy, dissociated from the logic of use and barter, in its non-territorial origin: urban, port and business. The drama of the Merchant consisted of having to move from the village to the fiefdoms, knocking on the door of each one, in the feudal world and atomizing, to be taxed and overtaxed, by the sequence of Barons of the Earth, in which each one was an autarchy, an autonomy, a county in itself" (FALCÃO & CORRÊA, 2016, p. 147).

¹¹ Levitsky and Ziblatt (2018, pp. 13-14 and 60), argue in their work that: "Once an aspiring dictator succeeds in coming to power, democracy faces a second crucial test: will he subvert democratic institutions or be constrained by them? Institutions alone are not enough to contain elected autocrats. Constitutions have to be defended, by political parties and organized citizens, but also by democratic norms. Without robust norms, constitutional checks and balances do not serve as the bastions of democracy that we imagine them to be. Institutions become political weapons, brandished violently by those who control them against those who do not. This is how elected autocrats subvert democracy — rigging courts and other neutral agencies and weaponizing them, buying off the media and the private sector (or intimidating them into silence), and rewriting the rules of politics to shift the field and turn the tables on opponents. The tragic paradox of the electoral road to authoritarianism is that the murderers of democracy use the very institutions of democracy — gradually, subtly



The ideal of a borderless digital market, as vast as the horizon, evokes the imaginary of freedom and mobility of the past, but it also carries the same dilemmas that haunted medieval merchants. Preserving the innovative momentum without compromising the integrity of rights, fiscal justice and the sovereignty of peoples requires understanding how this historical tension between economic power and political authority is reinvented in the digital age. It is on this comparative reading, anchored in history, that the need for a Digital Constitutionalism capable of regulating the new forms of transnational economic power is founded, balancing the boldness of innovation with the non-negotiable protection of fundamental rights.

This historical reading is not limited to the past. Rather, it provides an interpretive framework that illuminates the current dynamics of power and regulation in the digital space. As in the Middle Ages, the expansion of economic frontiers today is driven by technological forces, the internet, artificial intelligence, and big data, which reshape the logic of exchange and reconfigure the relations between market and state. The data economy, the core of the digital age, has become a field of strategic dispute, in which platform power overlaps, in scope and speed, with many of the traditional competencies of the State. It is at this point that it is necessary to examine how these technological transformations challenge economic constitutionalism, requiring new normative provisions capable of balancing freedom, innovation, and protection of rights in the twenty-first century.

3 TECHNOLOGICAL TRANSFORMATIONS AND ECONOMIC-REGULATORY CONSTITUTIONALISM

Driven by the internet, artificial intelligence (AI), Big Data, and the rise of Big Tech, the digital age reignites a tension as old as it is persistent: *the dispute between economic freedom and state regulation*. In this scenario, what Paixão (2018, p. 104) calls "constitutionalism of fear" emerges, the need to create legal instruments that prevent the imbalance between the force of the market and the preservation of rights and sovereignty. Just as constitutions are erected to prevent setbacks, so too must contemporary society regulate the digital space to avoid the repetition of historical abuses, from the uncontrolled exploitation of labor to the extreme concentration of economic power.

and even legally – to kill it." *And elsewhere, they reinforce this argument when they mention:* "Thus, instead of negotiating with the leaders of Congress, Fujimori flogged them, calling them 'unproductive charlatans.' He attacked uncooperative judges, characterizing them as 'lackeys' and 'scoundrels.' Even more disturbing, he began to circumvent Congress, opting for executive decrees. Government officials began to complain that Peru's constitution was "rigid" and "restrictive," reinforcing fears that Fujimori's commitment to democratic institutions was weak. In a speech to business leaders, Fujimori asked: 'Are we really a democracy? ... I find it hard to say yes. We are a country that has actually always been governed by powerful minorities, oligopolies, cliques, lobbies'..."



New technologies, like the great ruptures of the past, fit into what Francisco Balaguer Callejón (2022) calls "emergencies", events that impose a redefinition of the way in which the Law organizes the political dispute around collectively binding decisions. In the digital context, national sovereignty and the protection of fundamental rights face unprecedented threats, which require the expansion and reinvention of spaces for political participation and democratic deliberation. The deregulation advocated by Big Techs, echoing the search for autonomy of medieval merchants in the face of feudal restrictions, reintroduces the risk of social instability that, in other historical periods, such as nineteenth-century Brazil, precipitated deep crises¹².

The mere formal existence of laws and constitutions does not ensure, by itself, the preservation of rights or democratic vitality (LEVITSKY; ZIBLATT, 2018, p. 78-79).¹³ Historical experiences reveal that political stability also depends on solid informal norms, such as mutual tolerance and moderation in the exercise of power (*idem*, p. 83-84). The absence of these practices, visible in the defense of self-regulation by Big Techs, paves the way for democratic erosion and the concentration of power. Just as the fear of slave revolts in colonial Brazil motivated the creation of mechanisms of social control, the contemporary risk of a "digital rebellion", marked by the erosion of privacy, the expansion of inequalities and institutional fragility, imposes the formulation of regulatory frameworks capable of protecting rights, guaranteeing sovereignty and preserving the rule of law (CELESTE, 2021, p. 64; PAIXÃO, 2018; CORRÊA et al., 2024).

Putting Digital Constitutionalism into effect requires going beyond the formal regulation of technology companies. Inspired by the experience of the 1988 Constitution, the result of a "reinvention of politics" led by civil society, it is necessary to mobilize such collective engagement to shape an inclusive and equitable digital environment. Regulation, in this sense, does not constitute a barrier to economic freedom, but an instrument of democratic protection, a brake on the concentration of power, and an antidote to structural inequalities

¹² Cf. That is why Balaguer Callejón, in his work, speaks of a Constitution that today regulates: "a world that in part does not exist is socially irrelevant" (p. 14) and of the need for a "constitution of the algorithm that can analyze digital reality from the point of view of the ruptures that is generating and that has a constitutional dimension" (p. 16), as "proposing solutions that allow mitigating these ruptures and facilitating a constitutional response" (pp. 16-17). Along these lines, Balaguer declines the aforementioned changes by identifying five different "constitutional ruptures": the cultural context of the constitution; the constitution as a unitary cultural reference; the physical reality with the virtual reality; the configuration of reality; and the economic constitution. According to him: Ruptures that recuerdan cómo, aunque la evolución tecnológica ha unleashed nuevos mecanismos, estos se insertan en una crisis de la democracia pluralista que ya había toma forma.

¹³ Briefly, these authors say that the Argentine and Philippine Constitutions were strongly inspired by the North American model, but this did not prevent abuses of power in both countries. In Argentina, electoral fraud and military coups participated, while in the Philippines, President Marcos ignored constitutional restrictions by declaring martial law in 1972.



that, as the Brazilian constitutional trajectory demonstrates, resist overcoming (PAIXÃO, 2018; HOFFMANN-RIEM, 2022).¹⁴

The influence of Big Techs on social behavior and consumption, mediated by algorithms that determine the content viewed by each user, raises serious concerns about cultural sovereignty and the integrity of democratic processes, especially in electoral periods (HOFFMANN-RIEM, 2022). Karl Popper (2015)¹⁵ already warned that the concentration of information and resources in a few actors threatens not only the plurality of ideas, but also political freedom and democratic stability.

Digital Constitutionalism, in this context, presents itself as a response to the need to transpose the structuring principles of traditional constitutionalism into cyberspace (CELESTE, 2021, p. 69), reaffirming in the digital environment the guarantees that sustained democratic life. A global legal order is proposed that imposes limits on the power of digital platforms, protects fundamental rights and reaffirms the sovereignty of states. Regulating Big Tech does not mean stifling innovation, but creating an ecosystem in which it flourishes without eroding citizen autonomy, ensuring that, at the core of the digital world, freedom and justice go hand in hand.

The search for autonomy, a recurring trait in the historical trajectory of the merchant, gains a new chapter in the age of AI. This aspiration for free markets, while legitimate, must be confronted with contemporary risks, such as the extreme concentration of economic power and the potential of artificial intelligence to deepen inequalities. The possibility of "capture of the arbiters", in which powerful actors control institutions to ensure impunity and neutralize opponents (LEVITSKY; ZIBLATT, 2018, p. 67 and 69),¹⁶¹⁷ represents a concrete threat to the state's ability to protect citizens and ensure compliance with the law. It is in this sense that Bill No. 2,338/2023, currently pending in the Federal Senate, emerges as an attempt to

¹⁴ According to HOFFMANN-RIE: (...) "The cross-border possibilities of digital transformation have facilitated the establishment of global positions of power and their concentration in a few corporations. This is particularly true for the so-called *Big Five* (Facebook, Google, Microsoft, Amazon, Apple), which have managed to form global oligopolies in important sub-markets and occupy other market segments – including *cross-media*. (cross-media)".

¹⁵ Cf. This was a consequence of what Popper called the "paradox of freedom". In this theory, he argues that total freedom leads to the suppression of the weak by the strong, believing that freedom, in the sense of the absence of restrictive control, should lead to greater restriction. Popper argues that any kind of freedom is only possible if it is guaranteed by the State." (KINLEY, 2013, p. 161 *apud* POPPER, 1945, Notes to the Chapters, Chap. 7, Note 4).

¹⁶ According to the authors: Governments use control over the judiciary to marginalize opposition media, often through libel or defamation lawsuits. Rafael Correa, Ecuador's president, exemplified this when he won \$40 million in 2011 against the owners and publisher of the newspaper *El Universo*.

¹⁷ "Elected autocrats often try to silence cultural figures, such as artists and intellectuals, whose popularity or moral stance poses a threat. When Jorge Luis Borges became a critic of Perón, the government transferred his charge to a library for an irrelevant function, as described by himself. This type of repression reflects the fear of authoritarian leaders in the face of the influence of cultural figures."



establish a regulatory framework for AI, aimed at ensuring that its use is ethical, transparent, and socially responsible.

If the twenty-first century redefines the boundaries of economics and politics in the digital environment, it is in the **structuring role of Digital Constitutionalism** that the possibility of balancing forces and mitigating risks lies. The regulation of Big Techs, the protection of fundamental rights, and the reaffirmation of sovereignty are not only legal requirements, but civilizing tasks that require a long-term vision and global articulation. It is precisely this dimension, where history, technology and constitutionalism meet, that guides the analysis of the next chapter.

4 THE STRUCTURING ROLE OF DIGITAL CONSTITUTIONALISM IN THE TWENTY-FIRST CENTURY

Digital Constitutionalism faces, among its most complex challenges, the regulation of the concentrated power of Big Techs. Like medieval merchants, these corporations cross borders, some visible, some invisible, driven by an incessant search for autonomy and the reduction of state interference to a minimum. Such an analogy is not just rhetorical: it reveals a recurring pattern in history, in which large-scale economic actors operate in the interstices of public authority, straining the limits of consolidated sovereignties.

History shows that the disproportionate concentration of economic power, when not contained by solid regulatory mechanisms, produces social instability, intensifies forms of exploitation and erodes democratic bases. This phenomenon, already observed in previous periods, today takes on unprecedented features, enhanced by the technological infrastructure that exponentially expands the capacity of influence and control of these companies. As Celeste (2021, p. 65) observes, digital regulation must be part of a legal architecture capable of anticipating threats and not just reacting to them.

In the contemporary scenario, regulating Big Techs is more than a normative expedient; It is a political and civilizing gesture. It is, as Paixão (2018, p. 103) reminds us, about "settling accounts" with a recent past marked by asymmetries and abuses, laying the foundations of a digital future that unites innovation and justice, freedom and equality, sovereignty and global cooperation. It is in this horizon that Digital Constitutionalism reveals its structuring function: to guide technological governance according to constitutional parameters, so that the advance of networks does not translate into democratic regression.

The monetary-digital strategy conducted by Elon Musk, according to Perpetual and Grigori (2024), played an important role in Donald Trump's victory in the 2024 US presidential elections. However, after the inauguration, a well-documented political-moral pattern became



evident: Trump adopts an opportunistic pragmatism, guided primarily by his own interests, breaking ties with allies who are no longer useful, without lasting loyalty. This conduct, although situated in a particular context, echoes recurrent practices in personalistic and authoritarian regimes, in which alliances are mere disposable instruments.

Below, historical cases are summarized that exemplify how leaders, in different eras and political systems, used the instrumental rupture of alliances as a strategy of personal consolidation and neutralization of rivals:

Table 1

Authoritarian leaders and patterns of political disruption

Leader (regime/country)	Behavior pattern	Emblematic example of rupture/purge	Institutional consequence
Adolf Hitler (Nazi Germany, 1933–45)	Opportunism and elimination of allies when they became a political cost.	"Night of the Long Knives" (1934): purge of the SA and Röhm.	Reinforcement of personalism; submission of the Armed Forces; concentrated power in the Chancellery.
Joseph Stalin (USSR, 1928-53)	Political paranoia and disposable loyalties.	Great Purges (1936–38): trial/execution of former comrades.	State Terror; bureaucracy loyal to the leader; erosion of internal brakes.
Benito Mussolini (Italy, 1922–43)	Alliances of convenience and abandonment of partners.	Ruptures with dissident fascist factions; foreign policy pivots.	Weakening of the party; dependence on Germany; final collapse of the regime.
Mao Zedong (China, 1949-76)	Rotation of allies/enemies according to schedules.	Cultural Revolution (1966–76): persecution of CCP cadres.	Institutionalisation; cult of personality; prolonged instability.
Saddam Hussein (Iraq, 1979–2003)	Preventive and family purges as the nucleus of power.	Ba'ath session (1979): identification/execution of "conspirators".	Police state; loyalties out of fear; erratic strategic decisions.
Francisco Franco (Spain, 1939–75)	Integration and selective disposal of factions.	Marginalization of monarchists/Falangists when inconvenient.	Stable but personalistic authoritarian regime; anemic internal pluralism.
Fidel Castro (Cuba, 1959-2008)	Reconfiguration of internal and external alliances.	Removals/purges (e.g., Ochoa, 1989) when agendas clashed.	Decision-making centralization; disciplined party; neutralized opposition.
António de Oliveira Salazar (Portugal, 1932-1968)	Authoritarian conservation with gradual exclusion of opponents and technocratic centralization.	Marginalization of influential political figures and tight control of the opposition.	Consolidated corporatist state; suppression of freedoms; maintenance of stability through social control.
Hugo Chávez (Venezuela, 1999-2013)	Charismatic centralization and redefinition of alliances according to	Ruptures with critical military and civilian leaders, such as Raúl Baduel.	Institutional weakening; concentration of power in the



	loyalty to the Bolivarian project.		Executive; erosion of the autonomy of control bodies.
Jair Bolsonaro (Brazil, 2019–2022)	Instrumental alliances, confrontation with institutions and abandonment of strategic supporters.	Removal of key allies (e.g., Sérgio Moro – current Senator of the Republic) and anti-democratic acts of 1/8/2023, investigated as an attempt to subvert the democratic order.	Fragmentation of the support base; coordinated reaction of the Three Powers; federal intervention in the security of the Federal District; strengthening judicial responses and intensifying the debate on platform regulation and combating disinformation.

Source: produced by the authors.

By aligning Trump with this tradition, a mechanical equivalence between contexts or ideologies is not suggested, but rather a point of convergence in the *modus operandi*: the centrality of one's own image and the primacy of personal interests over institutional commitments. This pattern imposes risks on democracies, especially when enhanced by the reach of digital platforms and the speed of network communication.

Mass surveillance, electoral manipulation through disinformation, and selective censorship on social networks are not isolated events, but interconnected parts of a broader process: the private appropriation of digital public space. Surveillance compromises the right to privacy, creating a climate of self-censorship; electoral manipulation threatens popular sovereignty and distorts public debate; Selective censorship reduces information pluralism. Together, these practices transfer the power of political mediation to private actors with unprecedented technological and economic capacity.

Without a robust regulatory framework, guided by constitutional principles adapted to the digital age, the promise of an open and democratic internet risks becoming a controlled environment, where rights become negotiable and citizenship becomes passive. It is at this point that Digital Constitutionalism presents itself not as an alternative, but as a legal and political imperative to balance innovation, freedom, and democratic protection.

As Marilena Chauí states in an interview with Pedro N. Jordão (CNN, 2024),¹⁸ the digital world does not only represent a technological change, but a civilizational mutation. For the philosopher, this environment forges a subjectivity marked by structural narcissism, in

¹⁸ CHAUÍ, Marilena. *Virtual world causes mutation in society, reflects philosopher Marilena Chauí*. Interview with Pedro N. Jordão. CNN Brasil, São Paulo, 06 nov. 2024. Available at: <https://www.cnnbrasil.com.br/tecnologia/mundo-virtual-provoca-mutacao-na-sociedade-reflete-filosofa-marilena-chauil/>. Accessed on: 3 ago. 2025.



which "existing" means "being seen", and whose validation depends on the gaze of others mediated by visibility metrics controlled by private platforms.

This dependence, typical of the attention economy, makes narcissism and depression inseparable: without the external gazes that guarantee self-affirmation, an emptiness is installed that precipitates depressive states. Such logic generates a narcissistic-depressive subjectivity, dependent on symbolic mediators such as influencers and *coaches*.

This subjective mutation directly impacts the digital public sphere. The maintenance of this psychic vulnerability is functional to the interests of the platforms, as it sustains the massive collection of data and prolongs the permanence of users connected. Recognizing that such a process stems from the digital infrastructure itself, Digital Constitutionalism must expand its scope, including the protection of autonomy and mental health as dimensions of informational integrity and democratic preservation.

From this perspective, the first pillar of this architecture is the **protection of personal data**. Laws such as the General Data Protection Law (LGPD) (Law No. 13,709/2018)¹⁹ in Brazil and the *General Data Protection Regulation (GDPR)*²⁰ in the European Union set parameters for the processing of information, giving citizens back control over their data.

The second pillar is the **structured fight against disinformation**, with independent fact-checking agencies and holding platforms accountable for the dissemination of false content, preserving the integrity of the public debate.

The third pillar is the **regulation of algorithms**, imposing transparency and preventing discrimination and inequalities. Opaque filtering and hierarchical systems directly influence access to information, goods and opportunities, unequally affecting different social groups.

The fourth pillar is **international cooperation**. In a deterritorialized digital environment, laws restricted to one state are insufficient. It is essential to harmonize legislation, create minimum standards of data protection and establish permanent channels of exchange between States and international organizations. Without coordinated global governance, loopholes are formed that are exploited by corporations and authoritarian governments.

Information and Communication Technologies (ICTs) have caused a profound cultural change, transforming data, especially personal data, into central assets of social and commercial interactions. This scenario has intensified surveillance and altered the

¹⁹ General Law for the Protection of Personal Data (LGPD), wording given by Law No. 13,853, of 2019.

²⁰ It is a regulation of the European Parliament and the Council of the European Union, which establishes rules on the privacy and data protection of citizens of the European Union and the European Economic Area. In the best translation it would be: General Data Protection Regulation (the author). Cf. More information at the Fundação Instituto de Administração (FIA): <https://fia.com.br/blog/gdpr/>. Accessed on 16 Nov. 2024.



relationship between information and power, especially through the massive use of Big Data (SARLET & SARLET, 2023; HOFFMANN-RIEM, 2019).²¹

Between incessant data flows and invisible algorithms, **information integrity** emerges as the guardian of Digital Constitutionalism. When disinformation corrodes and data is distorted, democracy loses support. It is necessary, as Callejón (2022) reminds us, to cultivate an integrity, transparent, and reliable informational ecosystem, so that artificial intelligence acts as an ally and not as a threat to a just society.

If the previous chapter demonstrated the structuring function of Digital Constitutionalism as an instrument for containing the power of platforms and preserving the public sphere, the next chapter deepens the analysis of one of its most disruptive vectors: artificial intelligence. Its impacts on economic freedom, copyright, and environmental protection will be examined, revealing how the same technology capable of increasing efficiency and innovation can, if not regulated, reinforce inequalities, erode legal guarantees, and compromise sustainability.

5 THE REGULATION OF SOCIAL NETWORKS AND THE 2025 SUPREME COURT DECISION: CHALLENGES AND IMPLICATIONS FOR DIGITAL CONSTITUTIONALISM IN BRAZIL

Throughout the previous chapters, the rise of Big Techs as new merchants of the twenty-first century, the impact of their concentration of power on democracy, and the challenges posed to digital governance were explored. In this context, the role of national institutions, especially the Federal Supreme Court (STF), becomes decisive in containing abuses, safeguarding fundamental rights, and reaffirming legal sovereignty in the digital environment. It is in light of this conjuncture that the recent decision handed down on June 26, 2025, which inaugurates a new paradigm of accountability for digital platforms in Brazil and redefines the contours of Digital Constitutionalism in the country, is inserted.

The decision, taken within the scope of Extraordinary Appeal (RE) 1.037.396/SP, Topic 987 of the general repercussion, with the rapporteurship of Justice Dias Toffoli, substantially changed the interpretation of article 19 of the Brazilian Civil Rights Framework for the Internet (Law No. 12,965/2014). By a majority of eight votes to three, the STF established that digital platforms are now directly responsible for illegal content published by

²¹ Cf. With reference to law, Hoffman-Riem (2019, pp. 15-16) clarifies that: "The effects associated with digital technologies, including AI, may – for example, from the point of view of ethics, social policy or economic policy – be desirable or undesirable. Depending on the result of this assessment, it may become important to inquire whether the creation and/or use of AI needs to be addressed by law and, especially, to be detailed in regulation to promote individual and collective interests or protect against negative effects."



their users, as long as they are notified extrajudicially, dispensing with the requirement of a prior court order. Such a modification breaks with the previous model, which conditioned liability to inertia after a specific judicial determination, signaling a transition to a more proactive and protective regulation in the digital space.

The judgment was marked by the joint analysis of another appeal, RE 1.057.258 (Topic 533), written by Justice Luiz Fux, in which the obligation of hosting and social media companies to monitor and remove offensive or illegal content without prior intervention by the Judiciary was discussed. Both Toffoli and Fux defended the unconstitutionality of the restrictive liability model, arguing that it creates a kind of civil immunity for platforms, favoring inertia and allowing the viral dissemination of harmful content.

The argument of the president of the STF, Justice Luís Roberto Barroso, reinforced this understanding by arguing that article 19, as originally drafted, does not guarantee sufficient protection for fundamental rights such as the dignity of the human person and values essential to democracy. Barroso emphasized that, in the face of notifications about content of a criminal nature, such as fake profiles, child pornography, incitement to violence, terrorism or human trafficking, there is no constitutional basis to maintain a regime that encourages the passivity of companies. However, it maintained the need for a court order for removal in cases of crimes against honor, in order to avoid undue censorship and preserve freedom of expression.

The Court thus established a list of obligations that includes the swift removal of notified infringing content, the automatic exclusion of replications already declared illegal by the Court, accountability in cases of paid promotion or use of automated networks for the dissemination of illicit acts, as well as the creation of clear self-regulation rules and public content moderation reports. Fundamental safeguards were maintained, such as the non-direct liability of e-mail services and instant messaging for private communications, preserving the inviolability of intimacy.

In addition to the legal impact, the decision projects far-reaching political and regulatory consequences. By imposing a duty of care on Big Techs, which does not require indiscriminate active monitoring, but action to reduce systemic risks and negative impacts on rights and democratic stability, the STF outlines a transitional normative model, valid until the National Congress enacts a specific law. In this sense, Barroso called on the Legislature to create a legal regime that regulates risk assessment and mitigation measures, defines sanctions and institutes a regulatory body for the sector.

This set of measures reflects the recognition of the seriousness of the effects of massive disinformation, anti-democratic speech, and manifestations of hatred enhanced by



algorithmic architectures. In the political context of 2025, marked by institutional tensions and the action of national and foreign actors in the erosion of public trust, the STF's decision configures not only a legal precedent, but a political gesture in defense of the rule of law and democratic integrity.

Implementation, however, faces technical, institutional and international challenges: the construction of large-scale moderation mechanisms, the harmonization between the protection of rights and freedom of expression, and transnational cooperation in the face of the global nature of networks. Effectiveness will also depend on complementary public policies, such as media literacy and the encouragement of information plurality.

Thus, the decision of June 26, 2025 should be understood as a watershed in Brazilian Digital Constitutionalism, paving the way for future regulations, including on artificial intelligence, that reconcile technological innovation, preservation of rights, and strengthening of democracy. It is a proactive and coordinated regulatory framework, capable of responding to the power asymmetries of the platforms and reaffirming the centrality of the Constitution in the information age.

Returning to the reflection previously developed, the emerging subjectivity in the digital world, marked, according to Marilena Chauí, by a "structural narcissism" in which "existing" is equivalent to "being seen", proves to be particularly relevant for understanding political strategies that depend on continuous exposure. In the attention economy, as Chauí observes, the absence of external validation precipitates a void that requires constant replacement through media stimuli, configuring a narcissistic-depressive subjectivity dependent on sociotechnical amplification (CHAUÍ, CNN, 2024).²²

In this context, the imposition of retaliatory tariffs of 50% on all Brazilian exports, effective as of August 1, 2025, reveals not only a measure of economic pressure, but an instrument that indirectly tensions the ecosystem that sustains such a logic of visibility. By focusing on the economy and, consequently, on transnational information flows, the measure weakens the ability of figures like Donald Trump to maintain the constant pace of media insertions and shock narratives that structure their political presence. In contexts like this, the drop in the frequency and intensity of informational chaos reduces the potential to capture public attention and, with that, weakens one of the symbolic pillars of its performance: the

²² Cf. CNN BRASIL. *Marilena Chauí talks about digital narcissism and the attention economy*. 2024. Available at: <https://www.cnnbrasil.com.br/entrevista-marilena-chauí-narcisismo-digital>. Accessed on: 3 ago. 2025.



conversion of everyday scandal into political capital (AGÊNCIA BRASIL, 2025)²³; (CARTA CAPITAL, 2025)²⁴element.

This tariff measure, imposed by letter on July 9, 2025 and justified as a response to the lawsuit against Jair Bolsonaro, greatly affects the digital economy and discourages the production of sensationalist content aimed at the Brazilian public (RE 1.037.396/SP on digital constitutionalism should limit informational impunity)⁵. Politicians with a profile like Trump's depend on this chaotic flow to maintain an audience: daily bombshell news disperses public attention, erodes the rule of law, and threatens multilateralism. Pricing expresses, therefore, an attempt at symbolic political sanitization by limiting the reach of platforms and, consequently, the visibility of the chaos that feeds such a figure (VEJA, 2025)²⁵.

This interface between international political economy, digital subjectivity, and legal regulation indicates that the regulation of visibility, whether via robust digital constitutionalism or via economic shock, can result in a drop in the popularity of agents who sustain themselves in the informational storm. Understanding this dynamic is essential to deepen the debate on the regulation of disinformation and the political impact of digital governance. (BBC NEWS BRASIL, 2025)²⁶element.

This articulation between international political economy, digital subjectivity, and legal regulation demonstrates that the dispute for control of visibility and public narrative transcends the sphere of social networks and is projected onto other decisive fields of contemporary technology. Among them, artificial intelligence emerges as an even more disruptive vector of transformation, capable of increasing productive efficiency, redefining economic chains, and reconfiguring the very notion of intellectual authorship, but also of reproducing and intensifying structural inequalities.

If in the case of digital platforms the central tension gravitates around accountability for content and the preservation of informational integrity, in AI the dispute expands to include issues of economic freedom, copyright protection, and environmental sustainability. Thus, the transition from the debate on Digital Constitutionalism applied to social networks to the critical examination of the impacts of artificial intelligence is not a thematic rupture, but the logical deepening of the same agenda: the construction of a technological ecosystem that unites

²³ Cf. CNN BRASIL. *Marilena Chauí talks about digital narcissism and the attention economy*. 2024. Available at: <https://www.cnnbrasil.com.br/entrevista-marilena-chaui-narcisismo-digital>. Accessed on: 3 ago. 2025.

²⁴ Cf. CARTA CAPITAL. *Impacts of tariffs on the digital economy and international politics*. Carta Capital, 2025. Available at: <https://www.cartacapital.com.br/economia/tarifas-economia-digital-2025>. Accessed on: 3 ago. 2025.

²⁵ Cf. VEJA, "Regulation of digital platforms and effect on sensationalism", *Veja*, 2025. Available at: <https://veja.abril.com.br/politica/plataformas-digitais-regularizacao-2025>. Accessed on: 03 ago. 2025.

²⁶ Cf. BBC NEWS BRASIL, "Digital governance and regulation of disinformation", *BBC News Brasil*, 2025. Available at: <https://www.bbc.com/portuguese/noticias/governanca-digital-2025>. Accessed on: 03 ago. 2025.



innovation and justice, preserving, on all fronts, the foundations of the Democratic Rule of Law (AGÊNCIA BRASIL, 2025)²⁷; (UOL NOTÍCIAS, 2025)²⁸element.

If Digital Constitutionalism applied to social networks is already challenging in the face of the asymmetry of power and the speed of dissemination of content on platforms, artificial intelligence projects this dilemma on an even more complex and transversal scale. In this new scenario, it is not only a matter of holding informational intermediaries accountable, but of defining the legal and ethical contours of systems capable of generating, manipulating, and distributing content autonomously, influencing economies, democracies, and ecosystems. The next section examines, therefore, how AI simultaneously stresses economic freedom, copyright protection, and environmental preservation, proposing a normative framework that is capable of harmonizing innovation and justice, preventing the same risks identified in the regulation of social networks from expanding uncontrollably in the next technological cycle.

6 IMPACTS OF ARTIFICIAL INTELLIGENCE: ECONOMIC FREEDOM, COPYRIGHT, AND THE ENVIRONMENT

The advancement of generative artificial intelligence (AI), capable of producing original content from large volumes of data, poses an unprecedented challenge to copyright protection. The use of protected works to train AI systems raises debates about authorship, intellectual property, and fair remuneration for creators. The dilemma lies in finding a balance point that makes technological progress feasible without compromising cultural diversity or weakening the legal certainty of authors. In this sense, Bill No. 2,338/2023²⁹, by proposing the creation of "compensatory remuneration" mechanisms (SENADO FEDERAL, 2023), explains the urgency of normative updating in the face of the transformations imposed by the digital age (SANTOS, 2024, p. 210-211).

AI simultaneously strains the relationship between free markets, copyright, and environmental sustainability. On the one hand, the automation and efficiency provided by AI open up new possibilities for economic autonomy, allowing process optimization, cost reduction, and market expansion. On the other hand, technological concentration in a few corporations increases the risk of digital monopolies and asymmetries of economic power

²⁷ Cf. AGÊNCIA BRASIL. *Retaliatory tariffs of 50% on Brazilian exports come into force in August 2025*. Agência Brasil, June 25, 2025. Available at: <https://agenciabrasil.ebc.com.br/noticia/2025-06/tarifas-exportacoes-brasil>. Accessed on: 3 ago. 2025.

²⁸ f. UOL NOTÍCIAS, "Artificial intelligence: challenges and regulation in Brazil", *UOL Notícias*, 2025. Available at: <https://noticias.uol.com.br/tecnologia/ia-regulacao-2025>. Accessed on: 03 ago. 2025.

²⁹ Bill No. 2,338/2023 (Federal Senate), authored by Senator Rodrigo Pacheco (PSD/MG), which "Provides for the use of Artificial Intelligence", provides in its "Art. 2 The development, implementation, and use of artificial intelligence systems in Brazil are based on: I (...) IV – the protection of the environment and sustainable development.



that compromise competition and innovation. As Siqueira (2021) warns, the regulation of AI is essential to ensure that economic freedom does not become a vector of inequality and exclusion.

In this context, the integrity of the information that feeds AI systems assumes central relevance. Data proliferation and algorithmic complexity make it difficult to detect structural biases, disguised advertising, or subtle manipulations of behavior. Algorithms trained with biased data not only reproduce, but amplify historical discrimination, for example, in job selection processes or in the granting of credit with differentiated interest rates by socioeconomic profile. Decision-making opacity compromises fundamental rights and threatens the democratic architecture itself. Regulation, therefore, must prioritize the reliability of databases, algorithmic transparency, and the auditability of systems, ensuring protection against unfair and discriminatory automated decisions (MATOS, 2024, p. 92-93; FERRARO, 2024, p. 158-159 *apud* MENDES; FERNANDES, 2023, p. 7).³⁰

Bill No. 2,338/2023 also points to an often overlooked aspect: the environmental impact of AI. The development, training, and operation of large-scale systems require computationally intensive infrastructure and high energy consumption, potentially increasing greenhouse gas emissions and exacerbating the climate crisis. Regulation should therefore stimulate the creation of more efficient and sustainable technologies, encouraging the use of renewable energies and mitigating the environmental impact of data centres. At the same time, AI can become an ally in tackling the environmental crisis, contributing to the monitoring of ecosystems, the optimized management of natural resources, and innovation in low-impact technologies.

The Brazilian case illustrates the need to align technological innovation and sustainability. With one of the greatest biodiversity on the planet, the country needs to adopt policies that associate investments in clean technologies and efficient digital infrastructure with the preservation of its natural resources. The energy demand of digital activities, exemplified by the global consumption of cryptocurrency miners, equivalent to that of countries such as Australia or Spain, highlights the urgency of this transition.

In this sense, Brazil's performance in multilateral forums, such as the G20 and COP29³¹, demonstrates its commitment to leading innovative solutions, including proposals

³⁰ "Currently, in the Brazilian legal system, the legal framework that deals with the liability of digital platforms is Law 12.495/2014 (Civil Rights Framework for the Internet), which in its article 19 emphasizes that, under the pretext of guaranteeing freedom of expression and preventing censorship, the internet application provider could only be held civilly liable for damages arising from content generated by third parties if, after a specific court order, not to take measures within the scope and technical limits of its service and within the indicated period" (FERRARO, 2024, p. 159)

³¹ While not directly addressing digital literacy, the G20 will discuss the importance of information integrity in combating disinformation, hate speech, and threats to public institutions *online*. Promoting information integrity



to tax billionaires, tax the plastics industry, and regulate crypto assets. COP30, to be held in November 2025 in Belém, in the state of Pará, consolidates this leadership by placing sustainability and social justice at the center of the global debate (NAKAMURA, 2024; FOLHA DE SÃO PAULO, 2024).

If in this chapter we observe how artificial intelligence reconfigures the boundaries between economic freedom, copyright protection, and environmental preservation, the next chapter turns to an equally structuring challenge: digital governance. It is about understanding how institutional and normative mechanisms can restore trust in the online public sphere, mitigating systemic risks and ensuring that regulatory architecture is able to sustain democracy in an increasingly volatile informational ecosystem.

7 DIGITAL GOVERNANCE: AN ANTIDOTE TO THE CRISIS OF TRUST IN THE DIGITAL AGE

The digital age, marked by the massive proliferation of data, algorithmic opacity, and the intensive use of artificial intelligence (AI), has triggered an unprecedented crisis of confidence. The asymmetry of information, the improper capture of personal data, and the opaque manipulation of decision-making processes feed a scenario of discredit in relation to large technology corporations, governments, and automated systems themselves. In this context, digital governance emerges as a normative and institutional architecture aimed at reestablishing social trust, based on principles of responsibility, transparency, and ethics in the use of technology (HOFFMANN-RIEM, 2022 apud FLORIDI; CELESTE, 2021, p. 87; PEAR TREE; KELLER, 2022, p. 2673, 2679-2680).

The influence of Big Techs on information flows and the formation of public opinion places regulation at the center of democratic debate. Private control over communication circuits, enhanced by digital platforms with a global reach, directly impacts freedom of expression and pluralism of ideas (LEVITSKY; ZIBLATT, 2018, p. 152-153). The concentration of informational power increases the risk of selective censorship or manipulation of narratives, requiring mechanisms that preserve the diversity of voices and prevent the suppression of dissenting positions. Both traditional media and new platforms

requires citizens to be able to: *Critically evaluate information*: Identify fake news, discern between reliable and unreliable sources, and understand how information can be manipulated. *Understand how digital technologies work*: know the mechanisms behind algorithms, digital platforms and social networks, and how these elements can influence the dissemination of information. *Participate consciously and responsibly in the digital environment*: use digital technologies ethically, respecting the privacy and rights of others, and contributing to the construction of a safer and more reliable digital environment. Available at: <https://www.g20.org/pt-br>. Accessed on 02 Nov. 2024.



play a decisive role in promoting a qualified and plural public debate on the direction of digital transformation.

The crisis of confidence manifests itself in multiple dimensions. Disinformation and data manipulation erode informational integrity. Algorithmic opacity, in which decisions are made without citizens understanding underlying criteria or logics, undermines institutional legitimacy (HOFFMANN-RIEM, 2022). And the concentration of control over access to and mediation of information in the hands of a few technology companies raises structural concerns about democracy, privacy, and the balance of powers. Addressing this crisis requires digital governance capable of articulating transparency, accountability, and citizen participation in decision-making processes (ROBL FILHO et al., 2022, p. 35-36).

Among the main challenges, the effective regulation of Big Techs stands out. The construction of national and international mechanisms that ensure the responsible operation of these corporations is indispensable for the protection of fundamental rights and the preservation of state sovereignty. Aspects such as personal data protection, combating disinformation, ensuring competition, and fair taxation must be part of a coherent regulatory framework. In this process, international cooperation is imperative, as digital platforms operate in multiple jurisdictions, which makes any strictly national approach ineffective (PEREIRA; KELLER, 2022, p. 2672-2673, 2680 *apud* SUZOR, 2018, p. 2; DE GREGORIO, 2022, p. 3). The balance between regulation and incentive to innovation is, therefore, a key element for the viability and legitimacy of this effort.

Another essential axis is the promotion of digital literacy and critical thinking. The absence of in-depth digital skills in the population increases social vulnerability in the face of informational manipulation and data exploitation. Digital education, integrated from the earliest years of schooling, must go beyond the technical domain, incorporating a critical understanding of the functioning of algorithms, the ability to identify misinformation, and awareness of the social and political impacts of technology. In this regard, the 2024 G20 Leaders' Summit has already recognized digital literacy as a strategic priority to address systemic risks and foster qualified citizen participation.

Public policies aimed at digital education should, therefore, be part of a broader governance strategy, articulating the State, civil society and the private sector. The critical education of citizens strengthens the collective capacity for democratic vigilance over the informational ecosystem and increases social resilience in the face of threats such as algorithmic manipulation, abusive content segmentation, and non-consensual use of data.

In summary, digital governance is a strategic instrument to overcome the contemporary crisis of confidence, rebalancing the relations between political, economic, and



informational power. Regulating Big Tech, ensuring transparency and accountability, protecting personal data, combating disinformation, and promoting digital education are not isolated measures, but interdependent components of a democratic architecture for the 21st century. Its implementation requires convergence between governments, international organizations, and civil society, with the aim of ensuring that technology is a vector of social justice, inclusion, and democratic strengthening.

By addressing digital governance as a systemic response to the crisis of trust, we outline a normative and institutional framework that seeks to rebalance power in the *online environment*. However, the effectiveness of this governance depends on one critical pillar: data protection on a global scale. The next chapter will examine the era of Big Data, its intrinsic challenges, and the urgency of building solid mechanisms for informational protection, an indispensable condition for preserving privacy, autonomy, and the very integrity of the democratic space.

8 THE ERA OF BIG DATA: CHALLENGES AND THE URGENCY OF DATA PROTECTION

The digital age, as well as the periods of rupture that marked constitutional history, calls us to rethink, in new terms, the relations between power, freedom and justice. The lessons of Brazilian constitutionalism, with its achievements and weaknesses, offer references for shaping a digital future that is simultaneously just, inclusive, and democratic. To this end, the mobilization of civil society is indispensable. Forming broad coalitions, capable of uniting digital activists, researchers, parliamentarians, and even technology companies aware of the need for regulation, is a strategic step to ensure effective digital governance, protection of rights, and state sovereignty (LEVITSKY; ZIBLATT, 2018, p. 167). In this movement, individual engagement is no longer peripheral: it becomes a structural element for technology to operate in favor of the common good and the construction of a more egalitarian society (SARLET; SARLET, 2023, p. 28-29, 34; CELESTE, 2021, p. 67).

Big Data, the economic and political core of digital transformation, requires a rigorous and permanent approach to personal data protection. In this context, the **General Data Protection Law (LGPD)** is consolidated as a central regulatory framework in Brazil, ensuring individuals control over their information. Inspired by the European experience of the **General Data Protection Regulation (GDPR)**, the LGPD adopts the logic of the **precautionary principle**, preventing potential risks inherent in the massive use of data, especially at the most uncertain frontiers of artificial intelligence. By establishing mechanisms such as **Personal Data Protection Impact Assessments (RIPDP)** and the right to review automated



decisions, the law integrates accountability and transparency as structuring requirements for ethical and safe technological development (BIONI; LUCIANO, 2019, p. 2, 13, 24).

The application of the precautionary principle to the digital field, originally forged in the environmental debate, expands state and corporate responsibility for the systemic effects of AI. Preventing damage, not just remedying it, means incorporating governance practices that anticipate social, economic, and political impacts. The LGPD, in this sense, is not a brake on innovation, but a catalyst for sustainable models of data exploitation, in which competitiveness and respect for fundamental rights go hand in hand.

The effectiveness of this legal framework depends on two complementary fronts: **robust inspection mechanisms and social awareness about the importance of data protection**. Without inspection, norms become declarations of intent; Without citizen awareness, the defense of privacy remains vulnerable to setbacks. Contrary to the fear that regulation will hinder innovation, companies that internalize compliance with the LGPD as a strategic value tend to strengthen their position in the market, building relationships of trust with consumers and partners (BIONI, 2019, p. 6).

In this process, the metaphor of the "organized wardrobe" proposed by Bruno Bioni (2019, p. 7) is elucidative: just as order makes it easier to find the right piece for each occasion, efficient data management allows companies to transform raw information into social and economic value. Regulatory compliance, far from being a mere bureaucratic requirement, can become a competitive differential.

The global nature of Big Data operations and the cross-border nature of information flows impose the need for an **international regulatory pact**. Harmonizing legislation, ensuring interoperability between systems, and creating minimum data protection standards are conditions for building a secure and reliable digital environment (SARLET; SARLET, 2023, p. 9-10). Isolated, national legislation has limited scope in the face of corporations with a multinational presence and distributed infrastructure in multiple countries.

But the normative dimension is only one face of the problem. Digital **education focused on privacy** emerges as a condition of possibility for citizens to consciously exercise their informational rights. Without this basis, the massive collection of data by companies and governments may continue to be used to create behavioral profiles, influence consumption choices and, in more serious scenarios, manipulate electoral processes. The construction of a **culture of data protection**, supported by transparency, responsibility, and respect for constitutional rights, is the axis on which the democratic future in the digital environment must revolve.



At the end of this journey, from the medieval merchant to the contemporary algorithm, from the *lex mercatoria* to digital governance, it becomes clear that **Digital Constitutionalism** is not a mere technical update of law, but a political-civilizational project. Regulating Big Techs, protecting data, ensuring informational integrity, and preserving democratic plurality are inseparable tasks in the era of Big Data.

The dispute is not only about programming codes, but about the political code itself that will define who exercises power, who controls the flows of information, and who remains visible or silenced in the public space. If traditional constitutionalism was born to contain territorial tyrannies, its digital heir must confront distributed, invisible, and global tyrannies. The challenge is monumental, but it is also the opportunity to rewrite, for the twenty-first century, the pact between technology and humanity, a pact that is not limited to regulating, but that proposes to transform.

9 FINAL CONSIDERATIONS

The present research was based on the hypothesis that the self-regulation of the digital market, similar to the autonomy sought by medieval merchants, is insufficient to guarantee the protection of fundamental rights and the preservation of state sovereignty. Through a comparative method and a historical analysis, it was demonstrated that the tension between economic freedom and state regulation, present since the feudal period, takes on unprecedented contours in the twenty-first century with the rise of Big Techs as new "merchants" of the digital space.

The decision of the Federal Supreme Court, of June 26, 2025, on the direct liability of digital platforms, constituted a central regulatory and political framework, confirming the diagnosis of this research. By reinterpreting article 19 of the Brazilian Civil Rights Framework for the Internet and requiring the swift removal of illegal content through extrajudicial notification, the Court not only responded to the legislative omission, but consolidated a new paradigm of digital governance. This decision reaffirms the role of national institutions as guardians of democracy and informational integrity, while also projecting guidelines for the future regulation of emerging technologies.

The study also showed that globalization and the transnational nature of the digital environment amplify the economic and symbolic power of platforms, making it difficult for strictly national regulations to be effective. In this context, the concentration of data, the use of opaque algorithms, and the massive dissemination of disinformation represent concrete threats to democracy, pluralism, and human dignity.



Instruments such as the General Data Protection Law (Law No. 13,709/2018) and Bill No. 2,338/2023, pending in the Federal Senate, emerge as necessary responses, albeit partial. The LGPD, by protecting informational self-determination and establishing safeguards for the processing of personal data, provides a robust normative basis for Digital Constitutionalism. PL 2,338/2023, by proposing guidelines for the ethical and environmentally responsible regulation of artificial intelligence, complements this effort, signaling the importance of aligning innovation and protection of rights.

However, the effectiveness of these instruments will depend on the concrete implementation and articulation with public policies aimed at media literacy, the promotion of algorithmic transparency, and the strengthening of digital governance at the international level. Cooperation between States, multilateral organizations, civil society and the private sector is an indispensable condition for facing the structural challenges of the digital age.

Thus, the research concludes that Digital Constitutionalism is not a mere technical adaptation of norms to the virtual environment, but a civilizing project that replaces the Constitution as a normative reference in cyberspace. It demands the creation of mechanisms capable of balancing freedom and responsibility, innovation and justice, market and rights, based on a democratic pact that protects both the integrity of institutions and the autonomy of individuals.

The digital future will depend on the ability of states, supported by an active civil society, to establish a regulatory ecosystem that is both inclusive, secure and innovative. In this horizon, the STF's decision of 2025 should not be seen as a point of arrival, but as an initial milestone of a continuous journey, in which the defense of the Democratic Rule of Law and informational pluralism will be tested in the face of rapid and unpredictable technological transformations.

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