

The first social contract? Situating the prophetic pledge of allegiance within the trend of global constitutionalism

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Abstract

Over the past decade, global constitutionalism has progressively sought to constrain the power of digital platforms. Nevertheless, existing frameworks largely rely on Western social contract traditions, often overlooking the structural inequities present in digitally mediated governance. This article argues that the prophetic pledge of allegiance (*bai'ah*) is fundamental covenantal form of the social contract, offering an alternative paradigm of political legitimacy distinct from liberal individualism. It utilises a qualitative, library-based methodology that integrates socio-historical reconstruction of early Islamic primary sources with normative-conceptual and comparative constitutional analysis. The article demonstrates that *bai'ah* produces four fundamental constitutional principles: mutual consent, normative constraints on authority, safeguarding of the public interest, and collective accountability. These findings indicate that legitimacy in the prophetic model is based not on superficial procedural adherence but on a morally binding and mutually accountable political relationship. This study reconstructs *bai'ah* as a foundation for constitutional ethics, thereby enriching current discussions on global and digital constitutionalism by providing a more diverse normative framework for reconsidering consent, accountability, and justice in platform governance. The covenantal logic of *bai'ah* offers a valuable framework for assessing and normatively limiting private digital power, especially when current governance structures inadequately safeguard vulnerable communities.

Keywords: *bai'ah*; social contract theory; Medina charter; Islamic political thought; global constitutionalism

Introduction

Over the past decade, global constitutionalism has shifted from a predominantly state-centred projection of constitutional principles onto the international sphere toward a broader concern with constraining power beyond the state (Viellechner, 2019). This shift has become urgent in the digital age, as platform corporations exercise quasi-public authority over speech, data, and civic participation in fragmented governance environments (De Gregorio & Radu, 2022). Constitutional questions are therefore no longer confined to how states should be limited, but also extend to how private

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infrastructures of digital power should be rendered accountable and normatively constrained (Golia, 2024). The emergence of platform governance has revealed an expanding disparity between the concentration of digital authority and the absence of valid, publicly justifiable normative frameworks to regulate it (Clemons et al., 2022).

Existing studies have responded to this transformation through two major trajectories. On the one hand, studies on social contract theory continue to treat consent, obligation, and legitimacy as central concepts for understanding political order, even while acknowledging that classical contractarian models remain deeply shaped by state-centred assumptions and liberal individualism (Holcombe, 2021; Tomasello, 2023). On the other hand, scholarship on global constitutionalism and digital constitutionalism has sought to translate constitutional values—such as the limitation of power, the protection of rights, and public accountability—into transnational and digital settings (Lang Jr, 2021). However, these frameworks face a significant limitation that they are predominantly tied to Western lineages and often fail to adequately address the structural imbalances inherent in digital capitalism and platform power (Terzis, 2024).

A related limitation is evident in recent studies of Islamic normative sources. Several studies have begun to recover the significance of early Islamic political documents, especially the Charter of Medina, as resources for rethinking political membership, contractual citizenship, and early Islamic political thought (Anello, 2021; Namazi, 2023). Other works have also highlighted renewed attention to Prophetic covenants and broader transformations in Islamic political ethics, including the shift from divine sovereignty toward popular sovereignty (Belhaj, 2025; Rane, 2022). However, this rehabilitation remains partial. The dominant focus continues to fall on the Charter of Medina, sovereignty, or intercommunal covenants, rather than on the prophetic pledge of allegiance (*bai'ah*) itself as a distinct source of constitutional ethics (Belhaj, 2025). More broadly, this lacuna reflects a wider disciplinary problem: non-Western traditions are still too often treated as secondary illustrations rather than as coequal sources of political theorisation, despite longstanding calls within comparative political theory to read them otherwise (Choat, 2021; Little, 2018).

Against this background, this article examines whether the prophetic *bai'ah* may be read as an early covenantal form of social contract and asks what constitutional principles may be reconstructed from it for contemporary debates on legitimacy, consent, and accountability. More specifically, it addresses three related questions: how *bai'ah* may be theorised as a form of covenantal political consent, how such a reconstruction challenges the dominance of Western social-contract genealogy in global constitutionalism, and how

its ethical-constitutional logic may illuminate present debates on digitally mediated governance. In doing so, the article makes three contributions. First, it repositions the *bai'ah* from the margins of dominant constitutional genealogies. Second, it connects Islamic legal-political theory with modern constitutional discourse, especially about platform governance and digital authority. Third, it advocates a justice-oriented constitutional lexicon grounded not solely in formal permission but also in reciprocal obligation, public protection, and collective accountability.

The core argument of this study is that the *bai'ah* may be read as an early covenantal form of social contract that offers an alternative model of political legitimacy beyond the liberal individualist premises of the dominant Western genealogy. Building on recent studies that position *bai'ah* as a central mechanism of classical legitimacy (Lubis et al., 2025), and Medina as a foundational political context for early Islamic political formation (Namazi, 2023), this article argues that *bai'ah* should be understood not merely as a historical episode in the formation of the early Muslim community but as a robust source of constitutional ethics. This covenantal logic provides a vital framework for rethinking legitimacy, consent, and accountability in contemporary global and digital governance.

Literature Review

Social Contract: Canon and Critique

In contemporary political theory, the social contract is a set of frameworks that elucidate the legitimacy of power through the concept of hypothetical consent to fundamental laws, institutions, and political authority. This tradition was fundamentally influenced by Hobbes, Locke, and Rousseau, who employed the social contract as an analytical framework to elucidate the transition from the state of nature to civil society, while also justifying obedience, political obligation, and the state's coercive authority (Seabright et al., 2021). In contemporary discourse, the social contract persists as a paradigm of rational justification: social norms are considered legitimate to the extent that they are perceived as the result of citizens' consensus, while the state is established as the entity that orchestrates cooperation and normatively binds its constituents (Holcombe, 2021). Consequently, the social contract canon rests fundamentally on three relatively stable postulates: consent as the source of legitimacy, the state as the centre of regulation, and the political subject as a rational individual entering civil society for the sake of security, order, and mutual benefit (Schmager et al., 2024).

In contemporary literature, readings of social contract theory can be mapped into at least three major streams of critique. First, the empirical-anthropological critique questions the classical contractarian tendency to oversimplify the complexity of human

behaviour and forms of social order beyond formal institutions. As a result, depictions of the state of nature and the necessity of a political contract often remain overly typological (Hillani, 2023). Second, the institutional critique highlights the weakness of the assumption of parity between parties; in practice, citizens never truly negotiate as political equals, while rules are frequently designed by elites and subsequently legitimised as though they represent the public interest (Sethi, 2024). Third, feminist, critical race, and decolonial critiques reveal that the universal subject within the social contract tradition is constructed upon the pseudo-universality of the white European male. Thus, the marginalisation of women, racialised groups, and colonised societies is not simply an external anomaly but an inherent component of the historical framework of liberalism itself (Choat, 2021; Velez, 2024). This mapping shows that although social contract theory is essential to the lexicon of contemporary political legitimacy, it cannot be regarded as neutral, universal, or sufficient without a critical examination of the power dynamics that uphold it.

Global Constitutionalism and Digital Constitutionalism

In modern literature, global constitutionalism is an interdisciplinary field that examines the principles, constraints, and disputes surrounding the norms governing the global political framework. Their development signifies a transition from seeking an abstract normative universality to interpretations that are more pragmatic, diverse, and contextually aware, especially in addressing transnational power dynamics that are increasingly non-state-centric (Lang Jr, 2021). Within this framework, scholarly attention has shifted toward articulating rights, limiting power, and promoting accountability in the arena of private governance beyond the state, as private actors, transnational networks, and non-state normative regimes increasingly shape global governance (Vielhchner, 2019). From this trajectory emerged digital constitutionalism as a conceptual specification that seeks to align the core values of constitutionalism—such as the limitation of power, the protection of rights, and accountability—with the structure of power relations in the digital society (Celeste, 2019).

As the field has evolved, studies on global and digital constitutionalism can be categorised into three main currents. First, the current of institutional and comparative adaptation focuses on how constitutional values are operationalised in internet governance and how platform regulatory strategies compare across jurisdictions, particularly between the United States and the European Union (De Gregorio & Radu, 2022). Second, the political-economy critique highlights the liberal biases and structural limitations of this discourse, asserting that constitutional idioms will remain blunt if they

fail to dismantle the socio-economic asymmetries and corporate power relations underlying digital platforms (Golia, 2024). Third, the contemporary normative reconstruction no longer perceives digital constitutionalism as a fixed institutional category but reconceptualises it as a progressive, normative-hortatory discourse encompassing interpretations of hybrid institutions (Da Conceição, 2024). This mapping indicates that the domain of digital constitutionalism is still seeking an ethical foundation that can equilibrate digital governance while avoiding the pitfalls of Western liberal bias or superficial proceduralism.

The *Bai'ah* in Islamic Political-Legal Thought

In the Islamic legal-political thought, the *bai'ah* serves as a normative mechanism that connects the legitimacy of authority, political duty, and communal affiliation. This concept is closely tied to questions of leadership (*imamah*), representation, and political authorisation, as it serves as a form of consent that structures the relationship between the leader and the community. This trajectory is evident in reinterpretations of the Sunni tradition regarding *imamah*, where legitimacy is a trust (*amanah*) constrained by law, public interest (*maslahah*), and responsibility toward the *ummah* (Ahmad, 2025; Lubis et al., 2025). The concepts of legitimacy and representation remain pivotal in Islamic political thought, as the discourse evolves from the traditional caliphate model to inquiries into popular sovereignty, governance ethics, and power constraints (Belhaj, 2025). The *bai'ah* is a pivotal element in the framework of Islamic politics, embodying consent, mutual obligation, and the moral aspects of political authority.

In recent literature, we can map the *bai'ah* into three main tendencies. First, several studies address it indirectly through the Charter of Medina and the theme of contractual citizenship, emphasising principles of commonality, social security, and collective political attachment (Anello, 2021; Namazi, 2023). Second, other studies examine it through the lens of Prophetic covenants and early Islamic treaties, thereby interpreting the *bai'ah* as an element of a wider culture of legal-political allegiance in the early Islamic tradition (Hasan et al., 2025; Rane, 2022). Third, there are studies on legitimacy, representation, and the constraints of power within Islamic political thought that are closely related to the *bai'ah* but have not prioritised it as the central focus of analysis (Belhaj, 2025; Lubis et al., 2025). This mapping illustrates that while the adjacent field of study continues to grow, the *bai'ah* has not yet been fully established as an independent constitutional concept within Islamic legal-political discourse.

Method

This study utilises a qualitative, library-based methodology that combines socio-historical reconstruction with normative-conceptual analysis in comparative legal and political theory. The article functions at the convergence of intellectual history, political theory, and constitutional analysis through this interdisciplinary design. The principal unit of analysis in this study is the prophetic *bai'ah*, regarded as an initial covenantal form of political allegiance, along with its associated constitutional rationale, which includes mutual consent, normative constraints on authority, safeguarding of the public interest, and communal accountability. This constitutional reasoning is abstracted and then engaged in discourse with current discussions on global constitutionalism and digital governance.

The study is underpinned by a data collection process conducted through systematic and thematic literature retrieval, focusing on two main categories of sources. First, primary Islamic sources were gathered by selecting early historical-normative texts, including biographical/historical (*sirah*) literature and historical accounts of the *bai'ah* during the formative phase of the Muslim community in Medina. Second, secondary sources were compiled by tracing and examining recent, state-of-the-art scholarship on social contract theory, global constitutionalism, digital constitutionalism, comparative political theory, and Islamic political thought. This dual data-collection strategy ensures that the analysis has both robust historical grounding and cutting-edge theoretical relevance.

Data analysis in this research employs three integratively applied approaches. A socio-historical approach is utilised to situate the *bai'ah* within its formative political context, thereby avoiding ahistorical doctrinal abstraction (Bell, 2003); a normative-conceptual approach is employed to reconstruct its core constitutional principles; and a comparative constitutional approach is applied to bring these principles into a critical dialogue with contemporary governance debates (Golia, 2024; March, 2009). These three approaches are operationalised through four analytical stages: (1) reconstructing the historical and normative meaning of the Prophetic *bai'ah* through a close reading of primary sources; (2) identifying the constitutional principles that can be derived from it; (3) placing these principles in a critical dialogue with classical social contract theory as well as global and digital constitutionalism; and (4) exploring the contemporary relevance of the *bai'ah's* logic in responding to problems of consent, accountability, and justice in digital governance.

Results and Discussion

The *Bai'ah* as an Early Covenantal Form of Social Contract

Historically, the prophetic *bai'ah* emerged during the formative phase, when the early Muslim community shifted from tribal affiliation to a political bond constituted by a public pledge and collective commitment (Ibn Hisham, 1990). The account of *Bai'at al-'Aqabah* shows that this event was a pledge that preceded the *Hijrah* and paved the way for the formation of a new political order in Medina (Rahman, 2020). The content of the *bai'ah* as narrated by 'Ubada ibn al-Samit further demonstrates that this commitment contained concrete normative stipulations—such as the prohibition of associating partners with God, stealing, adultery, killing children, and slander, as well as the obligation to obey only what is right (*ma'ruf*)—so that from the outset, *bai'ah* functioned as a moral-political bond:

Narrated 'Ubada ibn Al-Samit, who took part in the battle of Badr and was a Naqib (a person heading a group of six persons), on the night of Al-'Aqaba pledge: Allah's Apostle said while a group of his companions were around him, "Swear allegiance to me for: (1) Not to join anything in worship along with Allah; (2) Not to steal; (3) Not to commit illegal sexual intercourse; (4) Not to kill your children; (5) Not to accuse an innocent person (to spread such an accusation among people); (6) Not to be disobedient (when ordered) to do a good deed." The Prophet Muhammad, peace be upon him, added: "Whoever among you fulfils his pledge will be rewarded by Allah. And whoever indulges in any one of them (except the ascription of partners to Allah) and gets the punishment in this world, that punishment will be an expiation for that sin. And if one indulges in any of them, and Allah conceals his sin, it is up to Him to forgive or punish him (in the Hereafter)." 'Ubada ibn Al-Samit added: "So we swore allegiance for these." (points to Allah's Apostle) (Al-Bukhari, 2009).

Furthermore, this normative dimension is also emphasised by the Qur'an, which refers to the pledge to the Prophet as an agreement that carries religious and moral consequences; it explicitly entails an articulated commitment that includes the involvement of women within the political and moral horizons of the community.

Indeed, those who pledge allegiance to you, [O Muhammad], they are actually pledging allegiance to Allah. The hand of Allah is over their hands. So he who breaks his word only breaks it to the detriment of himself. And he who fulfils that which he has promised Allah, He will give him a great reward. (Al-Fath [48]: 10)

Certainly, Allah was pleased with the believers when they pledged allegiance to you, [O Muhammad], under the tree, and He knew what was in their hearts, so He sent down tranquillity upon them and rewarded them with an imminent conquest. (Al-Fath [48]: 18)

O Prophet, when the believing women come to you pledging to you that they will not associate anything with Allah, nor will they steal, nor will they commit unlawful sexual intercourse, nor will they kill their children, nor will they bring forth a slander they have invented between their arms and legs, nor will they disobey you in what is right - then accept their pledge and ask forgiveness for them of Allah. Indeed, Allah is Forgiving and Merciful. (Al-Mumtahanah [60]: 12)

Thus, at the primary data level, the *bai'ah* is better understood as a compact or covenantal commitment that links acceptance of leadership to the community's normative attachment (Lubis et al., 2025; Namazi, 2023).

From this historical-normative structure, *bai'ah* contains at least four main elements. First, the element of political agreement, because authority does not merely exist as a fact of empirical power but requires acceptance expressed through a public pledge (Ibn Hisham, 1990). Second, the element of mutual obligation, as the loyalty given in *bai'ah* is always correlated with moral and political duties that bind the relationship between the leader and the community (Belhaj, 2025). Third, the orientation towards communal order, namely the formation of a shared system that supports security, reciprocal protection, and the willingness to sustain collective life in Medina (Anello, 2021).

Fourth, the ethical-legal binding power functions as an instrument that binds the public, rather than serving merely as an expression of personal support or symbolic acclaim. The Madinah Charter contextualises this trend, illustrating that early Islamic political commitment evolved to encompass the regulation of collective responsibilities, communal defence, and the establishment of the ummah as a distinct political entity. As a result, the *bai'ah* appears to signify a form of covenantal political allegiance rather than merely a symbol of submission to the sovereign (Hasan et al., 2025).

The *bai'ah* can be interpreted as a theoretical early form of a covenantal social contract. The term “early” does not refer to a definitive, universal timeline; instead, it denotes a preliminary normative model within the Islamic tradition that exemplifies how political legitimacy can be attained through consensus, reciprocal obligations, and an emphasis on communal order (Rahman, 2020). The covenantal nature of the *bai'ah* is also important because its foundation is not liberal individualism but an ethical commitment that binds the leader and the community within a shared moral horizon, as seen in the relationship between loyalty vows, obedience in goodness, and political trustworthiness contained in these primary sources. Thus, the *bai'ah* is indeed not identical to the modern Western social contract. However, it is precisely this difference that is analytically valuable, because it shows that, outside Western genealogy, there exists an alternative model of political legitimacy that also relies on agreement but is framed by

trustworthiness, moral loyalty, and normative restrictions on power (Anello, 2021; Lubis et al., 2025).

Constitutional Principles Reconstructed from the *Bai'ah*

The *bai'ah*, which is a political commitment of a covenantal nature, has generated legitimacy and contains a set of fundamental constitutional principles. These principles serve as a minimum normative structure that makes political relations legitimate, binding, and directed towards a common order. This is evident from primary sources indicating that *bai'ah* is always related to public acceptance, promises of obedience in good matters, and a commitment to maintaining the shared order (Ibn Hisham, 1990). In the same context, Namazi (2023) and Anello (2021) explain that the logic of this political commitment develops towards regulating collective obligations, mutual protection, and the formation of ummah as a structured political community.

The first principle is mutual consent, because legitimacy in the *bai'ah* does not solely rest on empirical power but requires a normative acceptance from the community. In this sense, authority appears as an authorised relationship, not merely as an imposition. Leadership gains its legitimacy from public attachment that is consciously expressed through a pledge of allegiance (Ibn Hisham, 1990). However, this consent does not stop at mere loyalty; it also introduces the second principle: the normative restriction of authority. The content of the *bai'ah* narrated in the hadith of 'Ubadah shows that the category of *ma'ruf* strictly frames obedience. Therefore, authority cannot be understood as absolute power but rather as a trust that operates within the horizon of norms, responsibility, and moral-political limitations (Belhaj, 2025). Thus, the *bai'ah* holds that power is always bound: it gains legitimacy through acceptance but remains limited by the obligations that accompany that acceptance (Lubis et al., 2025).

As the supporting pillars, the third and fourth principles, which are interconnected, are the protection of the common interest and communal responsibility. The initial Islamic political commitment was not directed solely at formal obedience but at the formation of a shared order that underpins social security, coexistence, and the continuity of the community (Namazi, 2023). Therefore, the *bai'ah* conveys a clear orientation towards protecting the collective order, namely, making power meaningful insofar as it safeguards the common interest rather than merely maintaining the leader's dominance. At the same time, the *bai'ah* also encompasses the idea of shared responsibility because political order is not solely placed on the shoulders of the leader but also on the community's commitment to uphold the promise, security, and loyalty to the agreed-upon order (Anello, 2021).

Reframing Global Constitutionalism Beyond Western Social Contract Genealogy

The *bai'ah*, which functions as a political commitment of a covenantal nature and gives rise to principles such as mutual agreement, restriction of authority, protection of public interests, and communal responsibility, has direct implications for how we interpret global constitutionalism today (Lubis et al., 2025). These implications are significant because global constitutionalism itself has shifted from the pursuit of abstract normative universality to a more practical, pluralistic, and context-sensitive reading of the ongoing changes in global power configurations (Lang Jr, 2021). Here, the *bai'ah* demonstrates that politically based legitimacy rooted in agreement does not solely originate in the European contractual tradition but also develops within the early Islamic normative archives, with a different moral and communal essence (Belhaj, 2025).

Therefore, the significance of the concept of *bai'ah* is not merely to add an 'Islamic example' to an established canon but to correct the genealogical assumption that language of legitimacy based on consent must always be derived from Hobbes, Locke, or Rousseau (Choat, 2021; Little, 2018). In other words, the *bai'ah* opens the possibility of reframing global constitutionalism as a normative project not closed to a single line of intellectual descent but open to sources of political legitimacy emerging from non-Western traditions (Lang Jr, 2021).

The need to reframe this stems from a knowledge structure that still places the Western canon at the centre of political theory. At the same time, non-Western traditions are often treated merely as peripheral illustrations or supplementary objects for theories already deemed universal (Little, 2018). This bias not only undermines the richness of diverse political thought but also perpetuates a narrow understanding of legitimacy that fails to account for alternative frameworks of governance and authority. A similar problem appears in the discourse of global constitutionalism and digital constitutionalism. Global and digital power are still frequently interpreted through liberal and state-centred assumptions, whereas contemporary power actually operates through transnational networks, private governance beyond the state, and platform infrastructures that regulate public space privately (De Gregorio & Radu, 2022; Viellechner, 2019). Moreover, according to Golia (2024) and Terzis (2024), constitutional language will remain limited unless structural asymmetries and socio-economic power relations that underpin platform dominance are dismantled.

In this context, the *bai'ah* becomes relevant because it provides an alternative legitimacy model that binds agreement with the concepts of trust, moral loyalty, and normative restrictions on authority (Lubis et al., 2025). Thus, reframing global

constitutionalism through the *bai'ah* entails redirecting emphasis from the exportation of Western paradigms to the pursuit of a more contemplative, pluralistic, and suitable normative framework for interpreting the redistribution of power within the modern global and digital landscape (Golia, 2024; Lang Jr, 2021).

The *Bai'ah* and the Contemporary Crisis of Consent

The *bai'ah*, built on mutual agreement and normative restrictions on authority, has major consequences for how to interpret the crisis of consent in contemporary digital governance. A legitimate agreement is not merely a formal act of approving rules but must encompass a reciprocal legitimacy relationship between authority and community (Namazi, 2023). In the digital landscape, this dimension often disappears. The relationship between users and platforms is generally formed through terms of service, data management, and highly asymmetric design choices. As a result, consent tends to resemble procedural compliance rather than meaningful public authority (Burkhardt et al., 2023).

According to De Gregorio and Radu (2022) and Da Conceição (2024), platforms now perform regulatory functions that influence freedom of expression, access to information, and public participation, while the legitimacy of this authority is often merely anchored in thinly normative private approval mechanisms. Even Golia (2024) and Terzis (2024) offer sharp criticism, arguing that the problem is not merely a lack of transparency but the tendency of digital constitutional discourse to continue relying on liberal-formal idioms that do not sufficiently unpack how consent is formed under conditions of structural inequality. From this perspective, the *bai'ah* provides a crucial normative correction, asserting that consent only gains legitimising weight when tied to reciprocal responsibility rather than mere clicks, unilateral acceptance, or technical compliance with platform rules (Lubis et al., 2025).

The consent crisis in digital governance is rooted in a structure that combines information asymmetry, market power, and platforms' capacity to simultaneously act as creators, implementers, and interpreters of rules within the digital public space (Kausche & Weiss, 2025). This structure is reinforced by platforms' ability to shape the regulatory options available to states and the public so that even legal frameworks designed to limit them can end up legitimising their position as gatekeepers of the internet. Agreements considered 'voluntary' often do not meet the criteria of adequate understanding and control when users face information inequality and systemic dependence on platforms (Burkhardt et al., 2023; Mangold, 2023).

In this context, the relevance of the *bai'ah* lies in its ability to shift the focus from consent as a thin individual agreement to consent as a relation of legitimacy that demands the readability of norms, the responsibility of authorities, and the protection of shared interests (Namazi, 2023). Therefore, discussions about the crisis of consent cannot be adequately addressed by increasing notifications, privacy policies, or formal approval mechanisms alone but require a re-reading of the normative conditions that render consent valid within increasingly digitalised power relations (Golia, 2024; Terzis, 2024).

The *Bai'ah*, Digital Governance, and Mutual Accountability

The concept of *bai'ah* encompasses mutual agreement and normative restrictions on authority, carrying direct implications for digital governance. This indicates that legitimacy is not merely supported by formal compliance but must be linked to reciprocal accountability between authority and the affected community (Belhaj, 2025; Zaman, 2024). In the digital context, this need becomes urgent because platforms are no longer just technical intermediaries. They have evolved into regulators of the public space that influence speech, access to information, and political participation on a transnational scale (De Gregorio, 2022). This shift demands the limitation of platform power and the institutionalisation of more adequate accountability mechanisms, as corporate private decisions now have impacts that functionally resemble public decisions (Da Conceição, 2024). Thus, the *bai'ah* offers a crucial normative correction. This concept views authority as a legitimate trust only so long as it is accompanied by the obligation to protect, explain, and act within the framework of the common interest (Namazi, 2023). From this perspective, mutual accountability in digital governance cannot simply be reduced to user compliance with platform rules. Instead, it must include the obligation for platforms to be questioned, limited, and held accountable to the public whose lives they regulate (De Gregorio, 2022).

Further tracing the issue, accountability problems in digital governance are rooted in monopoly structures, in which platforms simultaneously act as rule-makers, rule-implementers, and ultimate interpreters of the rules they create. As a result, power relations become asymmetrical from the outset (Da Conceição, 2024). The platforms' ability to restrict and shape the regulatory options available to states and the public reinforces this structure. Ironically, even legal frameworks initially designed to limit them often end up legitimising their position as gatekeepers of the internet (Kausche & Weiss, 2025), thereby perpetuating the very power imbalances they were meant to address. In fact, constitutional language remains limited if it only demands procedural balance

without daring to dismantle the logic of domination, value extraction, and structural dependence underpinning platform power (Terzis, 2024).

In this context, the relevance of the *bai'ah* lies in its theoretical capacity to shift the focus from unilateral accountability to reciprocal accountability, a relationship in which authority must be justified through acceptance, protection of the public interest, and openness to normative correction by the community (Belhaj, 2025). Here, the *bai'ah* can reframe digital governance as a fundamental issue of how private power with public impact can be subjected to a more democratic, relational, and just logic of accountability (Golia, 2024; Kausche & Weiss, 2025).

The *Bai'ah*, Inclusion, and Justice-Oriented Constitutionalism

The *bai'ah* concept is built upon mutual agreement, the protection of the common good, and communal responsibility. It implies that the presence or absence of consent does not merely measure political legitimacy but also who is involved and who is protected within the political order that is formed (Lubis et al., 2025). The concept of *bai'ah* encourages a constitutional reading oriented towards justice. A legitimate political relationship must integrate authorisation, protection, and the involvement of the community affected by power (Belhaj, 2025). This implication becomes relevant for digital governance, as digital constitutionalism itself was born to adapt the protection of rights, the limitation of power, and accountability to the new power structures operating through digital platforms and infrastructure (De Gregorio & Radu, 2022).

However, the digital space does not affect everyone equally, because limitations in access, literacy, service design, and the ability to use technology actually deepen exclusion for groups that have been vulnerable from the outset (Kuźelewska et al., 2025). From this perspective, *bai'ah* provides a highly important normative correction, as legitimacy must be measured not only by the procedural validity of a rule but also by the capacity of the order to support inclusion, protection, and recognition for diverse communities (Namazi, 2023).

The issue of inclusion in digital constitutionalism is fundamentally rooted in structures that dictate access, visibility, and participation opportunities, driven by technical and economic corporate interests that lack neutrality. Vulnerable groups face greater exclusion, excessive monitoring, or misrepresentation in the digital space (Djarmiko et al., 2025). Platforms increasingly reinforce these structures by combining regulatory functions with architectural designs that directly dictate user actions. In this context, injustice not only manifests at the level of access distribution but also extends to

the formation of voices, representation, and influence within the digital public sphere (Da Conceição, 2024). Internal critiques of digital constitutionalism also emphasise that constitutional language will become sterile if it discusses rights only in abstract terms, without dismantling structural dominance, the digital divide, or the forms of exclusion actively produced by platform governance itself (Golia, 2024; Hoeksema, 2024; Terzis, 2024).

In this case, the concept of *bai'ah* can shift the focus from purely procedural legitimacy to relational and just legitimacy. This approach is a vision of an order in which authority is justified only to the extent that it upholds mutual protection, ensures community engagement, and bears responsibility for those most affected by collective decisions. Therefore, justice-oriented constitutionalism inspired by the logic of *bai'ah* will not be satisfied with merely demanding formal accountability from platforms. It also calls for digital governance that is radically more inclusive, participatory, and sensitive to vulnerabilities—including gender inequalities and new forms of exclusion arising from the use of technology itself (López-de-Arana Prado, 2025).

Conclusion

The prophetic pledge of allegiance, or *bai'ah*, functions not merely as a historical element of early Islamic political formation but also as a robust early covenantal form of social contract. The central insight emerging from this reconstruction is that consent-based political legitimacy is not the exclusive preserve of Western liberal individualism. Amid the current crisis of consent in digital governance, the *bai'ah* signifies that legitimacy cannot be confined to mere procedural adherence, such as passive acquiescence to ambiguous platform terms of service. Valid authority must be grounded in mutual obligation, normative constraints, and a continuous dedication to communal safeguarding. Ultimately, the reconstructed rationale of the *bai'ah* indicates that any social contract—be it physical or digital—diminishes its moral and constitutional authority when it no longer safeguards the vulnerable and fails to uphold mutual accountability.

The contribution of this study lies in its effort to decentre dominant Western genealogies of global constitutionalism by bringing Islamic legal-political thought into contemporary constitutional debate. By reassigning the prophetic *bai'ah* from the margins of historical inquiry to the centre of political theorisation, this article challenges the disciplinary predominance of Hobbesian and Lockean frameworks in discussions of consent and legitimacy. It also enhances discussions on digital constitutionalism by

providing a justice-oriented constitutional lexicon grounded not solely in formal consent but also in reciprocal obligation, public protection, and communal responsibility. The covenantal logic of the *bai'ah* offers a normative framework for examining structural asymmetries, unilateral power, and exclusionary systems in modern platform governance.

However, this study acknowledges several limitations. First, as a normative-conceptual and socio-historical analysis, it operates primarily at the level of theoretical reconstruction. It therefore does not provide detailed positive legal instruments or technical regulatory mechanisms to enforce mutual accountability among transnational technology corporations. Second, its historical scope is intentionally limited to the formative prophetic period in Medina and does not examine the later transformations, appropriations, or abuses of *bai'ah* in subsequent dynastic contexts. Therefore, future research may proceed in at least three directions: translating this covenantal logic into more concrete institutional designs for digital governance, extending the analysis to later phases of Islamic political history, and exploring how other non-Western ethical traditions might similarly contribute to the urgent project of pluralising global constitutionalism.

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