MIT Computational Law Report

Governance Accounts: Introduction

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Welcome to *Governance Accounts*, a column of the MIT Computational Law Report focused on the concept of "governance." As computational legal technologies proliferate, both in their adoption and technical scope, social systems across all forms of organized society will face challenges accounting for and adapting to them. This series will chronicle the mechanisms implemented by various social systems in relation to changing technological circumstances. Through these accounts, I hope to surface critical information and ideas concerning the interaction between society and novel legal systems.

The term "governance" as used in this column is intentionally inclusive, incorporating all methods by which actions, norms, rules or behaviors are regulated or maintained. The governance methods reviewed here may be undertaken by any number of entities, including sovereign states, supranational bodies, local governments, corporations, decentralized organizations or other informal networks. By exploring these various governance determinations and implementations, I believe we can gain valuable and important insights into the future of law and technology.

The Present Context

Adjoining the exponential development of communications and computing technologies throughout the last century has been innovation in the context of governance. Until recently, groups with governance authority were solely capable of administering their rulemaking capacities through written paper instruction sets enforced through *ad hoc* dispute resolutions. This can be seen through the familiar processes of lawmaking, in the context of state governments, or board resolutions, in the context of corporate governance. Historically, these governance mechanisms would be maintained by negotiated agreements written in the common language of the jurisdiction, subject to occasional review by courts or other arbitrators interpreting such language.

Rapidly, this context is shifting. Government and regulatory technologies are changing the languages used in authoring laws, streamlining the communication processes with the public, and enabling continuous evaluation of compliance by governance participants. The prospect of governance by algorithm, seldom discussed by lawyers even ten years ago, is quickly becoming a relevant consideration for commonplace relationships, interactions and transactions.

Furthermore, even where the *process* or *mechanism* of governance has not yet evolved, government entities are increasingly required to wrestle with the existence of

innovative technologies in their rulemaking. Legislative assemblies and regulatory bodies have begun to consider laws regarding a range of new technologies, including various applications of artificial intelligence, novel forms of legal organizations, and digital representations of identity.

Focus & Themes

Governance Accounts will therefore have a dual focus, concerned with both the technological improvements made toward governance processes themselves, as well as the actions taken by current authorities to regulate behaviors and account for technological change. Thematically, I would anticipate roughly four major areas of intrigue:

- **Legislation & Regulations** – agencies and lawmakers in federal and local governments must increasingly manage serious social consequences emanating from their technology policies. Even if a proposed rule or bill fails to become law, reviewing the discussions around the proposal could reveal important information for future considerations.
- **Regulatory Technologies** – government departments have begun developing in-house technologies which allow regulated parties to manage and review compliance with applicable rules and to obtain speedier access to government services. The proliferation of these tools informs visions of the future where interactions with social services and government systems are progressively responsive, adaptive and available.
- **Corporate Policies** – major technology companies maintain platforms through which large percentages of the public conduct online discourse, consume digital media and obtain information. The public policies disclosed and discussed by these companies will have a significant influence over the culture and evolution of the Internet and other forms of communication.
- **Decentralized Protocols** – blockchain based networks are promising a new paradigm in the means through which people organize activities. Most major decentralized protocols have developed governance processes where participants can vote on protocol updates or other parameter changes. The success of these forms of governance would lend credence to the idea that a distributed consensus could effectively self-govern certain digital ecosystems.

Structure & Content

Governance Accounts will explore these various governance activities and mechanisms, acting as a holistic review of the novel ways in which disparate social systems are accounting for rapid technological change. Each post in this series will begin with a brief executive summary, which will provide short bullet points describing the major action or technology being implemented and the public considerations made by the governing body in evaluating the updates to its processes or rule set.

The body of posts in this series will seek to address two basic questions: *What* happened and *Why*? I will be interested in understanding what the governance mechanism did, either as a technological enhancement to a process or a newly adopted rule. As a corollary, I will also discuss what *did not* happen. Were there other considerations mentioned in the conversations around the proposal and what did those concerns hope to address? Finally, the posts will seek to understand *why* a particular mechanism was adopted or enhanced. What was the context surrounding the change and why did the governance body feel that such an adjustment was necessary at the time?

In evaluating these questions, in addition to final rules and legislation, I will look to discussion notes from the legislative process, commentaries and public responses to regulatory rules, posts by decentralized governance participants, and other publicly available resources. This column may also act as a platform for people involved in these governance processes to comment on new developments and the contexts surrounding them. *Governance Accounts* is open to conducting short written interviews with governance participants to solicit their thoughts and feedback concerning the developments to their systems.

Closing Remarks

Thank you for your interest in *Governance Accounts*. I hope this series can act as a helpful resource to inform the readership of the exciting and significant developments in the technologies, processes and actions of governance.

In keeping with the ethos of adaptive governance – I want to hear from you! If you have a governance action or technology you think would be subject matter for this column, please fill out the Google Form below. If your suggestion is made into a post, I will be sure to acknowledge your contribution. Further, if you are personally involved with the governance action or technology, and are interested in taking part in an

interview, be sure to let me know by adding your information to the Google Form below!

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