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Digital Constitutionalism and the Protection of Citizens' Rights in Indonesia's Democratic Era

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Abstract: Rapid digital transformation has reshaped democratic governance and created new constitutional challenges concerning the protection of citizens' rights in Indonesia. Existing studies generally discuss personal data protection, freedom of expression, or digital governance separately, while limited research integrates these issues within the framework of digital constitutionalism. This study aims to examine the role of digital constitutionalism in protecting citizens' constitutional rights, evaluate Indonesia's legal framework, and propose recommendations for strengthening constitutional governance in the digital era. The research employs a qualitative doctrinal legal method complemented by a socio-legal approach using constitutional, statutory, comparative, and case study approaches. Data were collected through documentary and library research and analyzed using normative legal and thematic qualitative analysis. The findings reveal that Indonesia has established an important constitutional and legal foundation through constitutional guarantees, personal data protection legislation, judicial oversight, and digital governance policies. However, fragmented regulations, inconsistent implementation, limited institutional capacity, and the absence of comprehensive governance for emerging technologies continue to weaken constitutional protection. The novelty of this study lies in proposing Digital Constitutionalism as an integrated constitutional framework for regulating both state institutions and private digital platforms while strengthening democratic governance and protecting citizens' rights.

Keywords: Digital Constitutionalism, Constitutional Rights, Digital Governance, Democracy, Personal Data Protection.

INTRODUCTION

The rapid digital transformation of society has fundamentally altered the relationship between citizens, governments, and private technology corporations. Digital technologies increasingly influence political participation, public discourse, government services, economic transactions, and social interactions. Consequently, constitutional rights that were originally conceived within physical public spaces must now be interpreted and protected within digital environments. The expansion of digital governance has also intensified

concerns regarding privacy, freedom of expression, access to information, and protection from unlawful surveillance, while raising fundamental questions concerning constitutional limitations on governmental and corporate power in cyberspace (Subekti et al., 2023).

Indonesia provides an important context for examining these developments because its democratic transformation following the Reformasi movement of 1998 fundamentally reshaped the constitutional landscape by strengthening human rights protection, limiting executive power, and reinforcing democratic institutions. The amendments to the 1945 Constitution of the Republic of Indonesia introduced a comprehensive catalogue of constitutional rights, particularly through Articles 28A–28J, which guarantee civil, political, economic, social, and cultural rights. Although these constitutional provisions were formulated before the rapid expansion of contemporary digital technologies, they have become increasingly relevant to issues concerning digital governance, online participation, privacy, and information rights. As Indonesian society becomes progressively digitalized, constitutional guarantees must therefore be interpreted dynamically to ensure that citizens continue to receive effective protection within digital environments (Subekti et al., 2023).

The increasing reliance on digital infrastructures has generated several concrete constitutional challenges. Government agencies and private digital platforms increasingly collect, store, and process personal information, thereby increasing the risks of unauthorized access, data breaches, identity theft, and misuse of personal information. Indonesia responded to these developments through Law Number 27 of 2022 concerning Personal Data Protection (PDP Law), which establishes legal obligations for public institutions and private organizations processing personal data while recognizing the rights of data subjects, including access, correction, deletion, and legal remedies. The protection of personal data should therefore be understood not merely as a regulatory matter, but also as part of a broader constitutional commitment to protecting human dignity and individual autonomy within digital society (Saputra et al., 2024).

Nevertheless, legislative development alone does not automatically guarantee effective constitutional protection. Important questions remain concerning institutional independence, supervisory authority, enforcement capacity, and coordination among government agencies responsible for digital governance (Saputra et al., 2024). Scholars have also continued to identify gaps in the implementation, oversight, and accountability mechanisms necessary to ensure effective protection of citizens' rights in the digital sphere (Simanjuntak, 2025; Reni et al., 2026). Similar constitutional concerns arise in relation to freedom of expression. Digital platforms have expanded opportunities for political participation, public deliberation, and the dissemination of information, yet they have also generated challenges relating to misinformation, hate speech, cyber harassment, and online defamation (Al Asyari, 2023). In Indonesia, the implementation of the Electronic Information and Transactions Law (ITE Law) has raised concerns regarding the adequacy of existing safeguards for digital rights and democratic values (Afisa et al., 2024). Several provisions have also generated debate because of their broad interpretation and potential impact on legitimate public expression, emphasizing the importance of legality, necessity, proportionality, and legal certainty in regulating freedom of expression in digital environments (Al Asyari, 2023; Hufron et al., 2026).

The constitutional challenges of digital governance are further intensified by the expansion of government surveillance and the emergence of artificial intelligence (AI). Governments increasingly employ digital technologies for cybersecurity, law enforcement, public administration, facial recognition, predictive analytics, automated decision-making, and digital identity verification. While these technologies may improve governmental efficiency and support legitimate public objectives, they also raise concerns regarding proportionality, transparency, algorithmic bias, discrimination, opacity, explainability, and

reduced human accountability (Saputra et al., 2024). The use of AI by state institutions may therefore require clearer constitutional limitations and safeguards, particularly where automated technologies influence decisions affecting citizens and their fundamental rights (Atmaja & Maulana, 2026).

These developments demonstrate that digital governance cannot be understood merely as a matter of technological or administrative regulation. The concept of Digital Constitutionalism has emerged as an important normative framework for translating established constitutional values into digital environments. Rather than creating an entirely new constitution for cyberspace, Digital Constitutionalism seeks to extend principles such as human dignity, liberty, equality, accountability, proportionality, democracy, and the rule of law to the governance of digital technologies (Celeste, 2019). This perspective enables digital transformation to be examined through the broader relationship between technological power, constitutional values, and the protection of fundamental rights (Duarte, De Gregorio, & Golia, 2023). Accordingly, Digital Constitutionalism provides a conceptual basis for understanding digital governance as a constitutional issue involving the exercise and limitation of power, accountability, democratic governance, and the protection of citizens' rights (Atmaja & Maulana, 2026).

An important characteristic of Digital Constitutionalism is its movement beyond the traditional state-centric understanding of constitutional power. Private technology companies operating search engines, social networking services, messaging applications, cloud computing systems, and artificial intelligence increasingly determine how information is distributed, moderated, prioritized, and monetized. Their decisions and algorithmic systems may influence political communication, public opinion, access to knowledge, individual autonomy, and democratic participation. Constitutional questions in the digital era therefore extend beyond the conventional relationship between citizens and the state to include private actors exercising significant influence over the enjoyment of fundamental rights (Subekti et al., 2023; Duarte et al., 2023). At the same time, judicial review remains an essential mechanism for ensuring that restrictions on constitutional freedoms in digital environments comply with the principles of legality, legitimate purpose, necessity, and proportionality, highlighting the increasingly significant role of the Constitutional Court in responding to emerging digital rights issues (Hufon et al., 2026).

Although recent scholarship has contributed substantially to understanding Indonesia's digital legal landscape, important research gaps remain. Existing studies generally examine personal data protection, cybercrime regulation, freedom of expression, internet governance, or particular dimensions of digital rights separately. Comparatively few studies integrate these interconnected issues within the theoretical framework of Digital Constitutionalism while simultaneously examining their implications for Indonesia's constitutional democracy, institutional accountability, judicial oversight, technological innovation, and the protection of citizens' constitutional rights. Accordingly, this study examines the role of Digital Constitutionalism in protecting citizens' constitutional rights in Indonesia's democratic era, evaluates the adequacy of the existing constitutional and legal framework, and formulates recommendations for strengthening constitutional governance in response to continuing digital transformation.

METHOD

This study employs a qualitative doctrinal legal research design complemented by a socio-legal perspective to examine the implementation of digital constitutionalism in protecting citizens' constitutional rights within Indonesia's democratic constitutional system. The research object comprises constitutional norms, statutory regulations, judicial decisions, and legal doctrines governing digital rights, together with their interaction with contemporary

digital governance. The research adopts constitutional, statutory, comparative, and case study approaches to evaluate the consistency of Indonesia's legal framework with constitutional principles and selected international standards on digital constitutionalism.

The research relies exclusively on secondary legal materials obtained through documentary and library research. Primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, legislation concerning personal data protection, electronic information and transactions, human rights, public information disclosure, Constitutional Court decisions, and other relevant regulations. Secondary legal materials consist of peer-reviewed journal articles, academic books, doctoral dissertations, policy reports, and publications issued by international organizations. The literature reviewed was primarily published between 2019 and 2026, while earlier seminal works were also included where necessary to establish the theoretical foundations of constitutionalism and digital constitutionalism. The literature was retrieved through Google Scholar, Scopus-indexed journal databases, Web of Science, HeinOnline, and official institutional repositories, using keywords including *digital constitutionalism*, *digital rights*, *constitutional rights*, *personal data protection*, *freedom of expression*, *digital democracy*, *government surveillance*, and *artificial intelligence governance*. The selected literature was limited to sources that were relevant to the research objectives, directly addressed constitutional or legal dimensions of digital governance, provided theoretical or empirical insights into the protection of fundamental rights, and were published in peer-reviewed journals, academic publications, or authoritative institutional reports. Tertiary legal materials, including legal dictionaries, encyclopedias, official government databases, and other authoritative legal repositories, were used to clarify legal concepts and support the interpretation of relevant legal materials. Documentary research and systematic literature review served as the principal instruments for collecting, selecting, and organizing the materials analyzed in this study.

The collected legal materials are analyzed using normative legal analysis integrated with thematic qualitative analysis. Normative legal analysis is applied to assess the conformity of constitutional provisions, legislation, and judicial decisions with the principles of constitutionalism, the rule of law, democracy, and the protection of fundamental rights. Thematic analysis is subsequently employed to identify recurring constitutional and legal themes concerning digital constitutionalism, privacy, freedom of expression, personal data protection, democratic governance, and governmental accountability. The findings are interpreted through the theoretical framework comprising Constitutionalism Theory, Digital Constitutionalism Theory, Human Rights Theory, Democratic Theory, and Rule of Law Theory to formulate recommendations for strengthening Indonesia's constitutional framework in responding to digital transformation.

RESULTS AND DISCUSSION

Results

Constitutional Challenges in Indonesia's Digital Era

The documentary analysis conducted in this study demonstrates that Indonesia's constitutional system is undergoing significant transformation in response to rapid digitalization. The increasing use of digital technologies in governance, commerce, education, finance, healthcare, and public communication has expanded opportunities for economic development and democratic participation. However, these developments have simultaneously generated new constitutional challenges concerning privacy, freedom of expression, government surveillance, and the governance of artificial intelligence (AI). These findings indicate that constitutional law can no longer be confined to regulating the relationship between citizens and the state in physical spaces but must also govern digital

environments where both governments and private technology companies exercise significant influence over citizens' constitutional rights (Celeste, 2019; De Gregorio & Radu, 2022).

Personal Data Protection

One of the principal findings of this research concerns the protection of personal data as a constitutional right. Indonesia's rapid digital transformation has significantly increased the collection, storage, and processing of personal information by both government agencies and private digital platforms. Electronic government services, online banking, digital health systems, social media, and e-commerce platforms rely extensively on personal data, thereby increasing the risks of unauthorized access, data breaches, identity theft, and misuse of personal information.

The enactment of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) represents an important milestone in Indonesia's constitutional protection of informational privacy. The law establishes legal rights for data subjects, obligations for data controllers, and sanctions for unlawful data processing. The documentary analysis indicates that the PDP Law incorporates internationally recognized principles such as legality, transparency, purpose limitation, accountability, and data security, reflecting developments in global digital governance.

Nevertheless, the findings reveal that the effectiveness of the PDP Law remains constrained by several institutional factors. These include the need for a fully operational supervisory authority, limited institutional coordination, inconsistent enforcement, insufficient technical capacity, and relatively low levels of public awareness regarding digital privacy rights. Consequently, the existence of comprehensive legislation alone does not guarantee effective constitutional protection unless accompanied by strong institutional implementation.

From the perspective of Digital Constitutionalism Theory, privacy should be understood not merely as an administrative right but as a constitutional guarantee closely linked to human dignity, autonomy, and democratic citizenship (Celeste, 2019). Digital constitutionalism therefore requires governments to ensure that digital governance respects constitutional rights while balancing legitimate objectives such as cybersecurity, innovation, and national security.

The analysis demonstrates that the principal issue in Indonesia's personal data protection framework is not merely the availability of legal provisions, but the gap between normative recognition and effective constitutional protection. Although the PDP Law provides an important legal foundation, its effectiveness depends on adequate institutional supervision, enforcement, and accessible remedies. Therefore, this study finds that personal data protection should be positioned not only as a matter of regulatory compliance but as a constitutional mechanism for protecting individual autonomy and limiting the exercise of digital power.

Freedom of Expression

The study further finds that freedom of expression remains one of the most complex constitutional issues within Indonesia's digital democracy. Digital communication technologies have substantially expanded opportunities for political participation, civic engagement, public deliberation, and access to information. Social media platforms have become important spaces for democratic discourse, allowing citizens to participate more actively in governance and public policy debates.

However, documentary evidence indicates continuing debate regarding the implementation of the Electronic Information and Transactions (ITE) Law. Although the law seeks to address cybercrime, online fraud, hate speech, and misinformation, several of its provisions have generated concerns because of their broad interpretation and potential impact

on freedom of expression. Recent scholarship argues that certain provisions have created uncertainty regarding the constitutional boundaries between legitimate criticism, public participation, and criminal liability, thereby affecting democratic participation in digital spaces.

The findings demonstrate that constitutional protection of freedom of expression should be interpreted consistently with Articles 28E and 28F of the 1945 Constitution, while recognizing that constitutional rights may be restricted only where such restrictions satisfy the principles of legality, necessity, proportionality, and judicial oversight. These constitutional safeguards are essential for preventing arbitrary interference while maintaining democratic order.

From the standpoint of Digital Constitutionalism Theory, online freedom of expression represents a constitutional right that should be protected against both governmental overreach and disproportionate restrictions imposed by digital platforms. As digital platforms increasingly influence political communication through content moderation and algorithmic recommendation systems, constitutional accountability should extend beyond state institutions to include private actors exercising significant public power.

Based on the findings above, this study identifies a continuing constitutional tension between the state's authority to regulate harmful digital content and the protection of legitimate freedom of expression. The analysis indicates that the existence of legal restrictions alone does not guarantee constitutional legitimacy; their application must remain consistent with the principles of legality, necessity, and proportionality. Thus, the challenge for Indonesia lies in ensuring that digital regulation protects public interests without creating disproportionate restrictions on democratic participation and constitutional freedoms.

Government Surveillance and Constitutional Privacy

Another significant finding concerns the expansion of government surveillance through digital technologies. Governments increasingly employ digital monitoring systems for cybersecurity, law enforcement, border control, public health, and national security purposes. While these objectives are constitutionally legitimate, the research identifies important constitutional concerns regarding proportionality, transparency, accountability, and judicial oversight.

Constitutional democracies require that surveillance activities be conducted pursuant to clear legal authority, independent supervision, and effective judicial review. Excessive or indiscriminate surveillance may undermine the constitutional rights to privacy, freedom of association, and freedom of expression by creating a chilling effect on democratic participation.

The findings therefore suggest that Indonesia should strengthen constitutional safeguards governing surveillance by introducing clearer statutory standards, proportionality assessments, transparent oversight mechanisms, and effective legal remedies. Such safeguards would ensure that digital surveillance remains compatible with constitutional democracy and the rule of law rather than becoming an instrument of arbitrary governmental power.

The findings indicate that the expansion of digital surveillance has not yet been fully accompanied by equally developed constitutional safeguards. While surveillance may serve legitimate purposes, this study finds that its constitutional legitimacy depends on clear legal authority, proportionality, independent oversight, and effective mechanisms for accountability. Without these safeguards, technological capacity may expand governmental power beyond the limits necessary for the protection of citizens' constitutional rights.

Artificial Intelligence Governance

Artificial intelligence has emerged as one of the most significant constitutional challenges in contemporary digital governance. AI systems are increasingly used in public administration, predictive policing, public service delivery, financial regulation, healthcare, and judicial administration. Although AI improves administrative efficiency, it also raises concerns regarding algorithmic bias, discrimination, transparency, explainability, and accountability.

Recent legal scholarship emphasizes that AI governance should incorporate constitutional safeguards including human oversight, explainability, transparency, and accountability to prevent algorithmic decisions from undermining equality before the law and procedural justice. Indonesian scholarship similarly argues that existing legislation—including the PDP Law and the ITE Law—requires further development to address constitutional issues arising from AI governance.

From the perspective of Digital Constitutionalism, algorithmic decision-making affecting constitutional rights should always remain subject to constitutional review and human supervision. Constitutional guarantees should therefore guide AI governance to ensure that technological innovation strengthens rather than weakens democratic governance and human rights.

The analysis shows that AI presents a constitutional challenge because existing legal principles have not yet been fully translated into specific safeguards for automated and algorithmic decision-making. This study therefore finds a need for clearer standards concerning transparency, explainability, human oversight, and accountability, particularly when AI systems influence decisions affecting citizens' rights. Technological innovation should consequently remain subject to constitutional control and should not create forms of decision-making that are beyond meaningful legal review.

Digital Constitutionalism as a Protective Framework

The documentary analysis demonstrates that Digital Constitutionalism provides a comprehensive normative framework for addressing the constitutional challenges identified above. Rather than creating an entirely new constitutional order, digital constitutionalism extends traditional constitutional principles—including human dignity, the rule of law, accountability, judicial review, democracy, and human rights—into digital environments where governments and private technology companies increasingly exercise public power (Celeste, 2019).

Rights-Based Regulation

The first finding concerns the importance of rights-based regulation. Digital governance should prioritize constitutional rights at every stage of policy formulation, implementation, and enforcement. Rather than regulating technology solely from economic or security perspectives, constitutional values should become the primary benchmark for digital legislation.

Rights-based regulation ensures that technological innovation remains compatible with privacy, equality, freedom of expression, access to information, and due process. Such an approach reflects the central objective of digital constitutionalism, namely ensuring that technological advancement enhances rather than diminishes constitutional democracy.

Based on the preceding analysis, this study finds that Indonesia's digital governance requires a stronger shift from a technology-centered regulatory approach toward a rights-based constitutional approach. Privacy, freedom of expression, equality, due process, and individual autonomy should not function merely as corrective protections after violations occur, but as substantive standards guiding the formulation and implementation of digital

policies. In this sense, constitutional rights must become the primary benchmark for assessing the legitimacy of digital governance.

Judicial Oversight

The second finding emphasizes the importance of judicial oversight. Constitutional courts play a central role in ensuring that legislation governing cyberspace remains consistent with constitutional guarantees. Judicial review provides an essential institutional mechanism for resolving constitutional disputes concerning digital rights while maintaining the supremacy of the Constitution.

The research indicates that constitutional adjudication becomes increasingly important as emerging technologies generate legal questions that traditional constitutional doctrine did not anticipate. Consequently, constitutional courts should continue developing jurisprudence addressing digital privacy, AI governance, algorithmic accountability, online freedom of expression, and personal data protection.

The findings demonstrate that judicial oversight is increasingly important in addressing constitutional issues arising from technological developments that may not have been explicitly anticipated by existing legislation. This study finds that judicial review should therefore extend beyond the formal legality of digital regulations and examine their substantive impact on constitutional rights. Such oversight is essential to ensure that the exercise of digital power remains consistent with the principles of legality, legitimate purpose, necessity, and proportionality.

Transparency and Accountability

Transparency represents another essential principle of digital constitutionalism. Governments and digital platforms should provide clear information regarding data collection, algorithmic decision-making, content moderation, and automated administrative processes. Transparent governance promotes public trust while enabling meaningful democratic oversight.

Similarly, accountability requires both public authorities and private technology companies to justify decisions affecting citizens' constitutional rights. Digital constitutionalism therefore expands constitutional responsibility beyond state institutions to include private actors whose digital infrastructures substantially influence democratic participation and the exercise of fundamental rights.

The analysis reveals that transparency and accountability constitute interconnected constitutional requirements in digital governance. This study finds that transparency without mechanisms for challenge and redress may provide information without effective protection, while accountability without transparency may prevent citizens from understanding how their rights have been affected. Therefore, both public institutions and private digital actors exercising significant influence over citizens should be subject to mechanisms that enable decisions to be understood, reviewed, and, where necessary, challenged.

Democratic Accountability

Finally, the findings indicate that democratic accountability remains indispensable for constitutional governance in digital society. Citizens should be able to participate in the formulation of digital policies, monitor governmental performance, challenge unlawful administrative decisions, and obtain effective judicial remedies where constitutional rights are violated.

Accordingly, digital constitutionalism strengthens democratic governance by integrating constitutional values into digital regulation while ensuring that technological

development remains accountable to constitutional principles, democratic institutions, and the rule of law.

The overall analysis demonstrates that the protection of digital rights is inseparable from the preservation of democratic accountability. This study finds that citizens must not merely become objects of digital governance but should retain meaningful opportunities to participate in digital policymaking, challenge decisions affecting their rights, and obtain effective remedies. Accordingly, the findings support an integrated Digital Constitutionalism framework in Indonesia based on rights-based regulation, effective oversight, transparency and accountability, and meaningful democratic participation.

Discussion

The findings of this study demonstrate that Indonesia has made significant progress in developing a legal framework for digital governance through constitutional guarantees, statutory reforms, and institutional mechanisms. The enactment of the Personal Data Protection Law, amendments to the Electronic Information and Transactions (ITE) Law, and the increasing role of the Constitutional Court indicate that Indonesia recognizes the constitutional implications of digital transformation. Nevertheless, the findings also reveal that legal reform alone is insufficient to ensure effective protection of citizens' constitutional rights. Institutional capacity, regulatory coherence, judicial oversight, and democratic accountability remain decisive factors in determining whether constitutional rights are effectively protected in practice.

These findings support Digital Constitutionalism Theory, which argues that constitutional principles must evolve to regulate the exercise of power in digital environments (Celeste, 2019; De Gregorio, 2022). Traditionally, constitutional law focused on limiting governmental power. However, digital society has fundamentally changed this relationship because technology companies increasingly influence access to information, public discourse, economic participation, and democratic engagement. Consequently, constitutional protection must address both state actions and the exercise of digital power by private actors (Duarte et al., 2023).

The findings therefore indicate that Indonesia's constitutional system should not regard digital governance solely as a matter of technological regulation. Instead, digital governance should be understood as a constitutional issue involving the protection of fundamental rights, democratic accountability, and the rule of law.

Constitutionalism Theory maintains that governmental authority must always operate within constitutional limits while protecting citizens' fundamental rights. The documentary analysis demonstrates that the 1945 Constitution of the Republic of Indonesia, particularly Articles 28A–28J, provides a comprehensive constitutional foundation for protecting human rights, including rights that are increasingly exercised in digital environments.

However, the findings reveal that constitutional guarantees alone do not automatically translate into effective protection. Constitutional implementation depends upon consistent legislation, institutional coordination, judicial interpretation, and effective enforcement. For example, although the PDP Law establishes legal protection for personal data, implementation challenges—including institutional fragmentation, limited supervisory capacity, and inconsistent enforcement—continue to affect its effectiveness.

This finding is consistent with modern constitutionalism, which emphasizes that constitutional supremacy requires both substantive legal protection and effective constitutional institutions. Constitutional rights should therefore be interpreted dynamically so that they remain relevant despite technological developments.

Digital Constitutionalism Theory provides the principal analytical framework for this dissertation because it extends constitutional values into digital environments.

The findings demonstrate that digital constitutionalism is reflected in Indonesia through several developments:

1. constitutional recognition of digital privacy;
2. legal regulation of personal data protection;
3. judicial review by the Constitutional Court;
4. regulation of electronic transactions;
5. increasing governmental attention to artificial intelligence governance.

However, the analysis also indicates that Indonesia's digital constitutionalism remains in a developmental stage. Current legal reforms primarily regulate individual sectors rather than establishing a comprehensive constitutional framework integrating digital rights, algorithmic accountability, cybersecurity, platform governance, and democratic participation.

Celeste (2019) argues that digital constitutionalism should ensure that constitutional values—including human dignity, liberty, equality, transparency, accountability, and democracy—remain applicable within digital society. Similarly, De Gregorio (2022) argues that constitutional safeguards should apply not only to governments but also to digital platforms that increasingly exercise quasi-public authority through content moderation, algorithmic decision-making, and data processing.

The present findings support these theoretical perspectives. They demonstrate that constitutional protection in Indonesia should increasingly extend beyond traditional governmental institutions to include private digital actors whose decisions substantially influence citizens' constitutional rights.

Human Rights Theory emphasizes that fundamental rights are universal, inherent, and indivisible. The findings demonstrate that technological development has not diminished the importance of constitutional rights but instead expanded the contexts in which these rights require protection.

Privacy has become increasingly vulnerable because governments and private organizations collect large quantities of personal information through digital technologies. Similarly, freedom of expression has become more complex due to content moderation, misinformation, hate speech regulation, and algorithmic amplification.

The findings are consistent with the position of the United Nations Human Rights Council (2021), which states that the same human rights enjoyed offline must also be protected online. Accordingly, constitutional rights should remain fully applicable within digital environments regardless of technological innovation.

This interpretation strengthens the constitutional obligation of governments to ensure that digital regulation balances legitimate public interests with the protection of individual rights.

Democratic Theory explains that democracy requires meaningful citizen participation, public deliberation, transparency, accountability, and equal political opportunities.

The findings reveal that digital technologies have significantly expanded opportunities for democratic participation. Social media, electronic government services, digital consultations, and online public information systems enable broader citizen engagement in public affairs.

Nevertheless, digital technologies have also introduced new democratic risks, including misinformation, algorithmic manipulation, cyber harassment, digital inequality, and political polarization. These developments demonstrate that technological innovation alone does not automatically strengthen democracy.

The findings therefore support the argument that democratic governance requires constitutional safeguards capable of ensuring that digital participation remains transparent, inclusive, accountable, and consistent with constitutional values.

The Rule of Law requires that governmental authority be exercised according to law, subject to judicial review, and consistent with constitutional principles. The documentary analysis indicates that Indonesia has established important legal instruments governing digital society. Nevertheless, regulatory fragmentation and inconsistent implementation continue to weaken legal certainty. For example, the relationship among the PDP Law, the ITE Law, sectoral regulations, cybersecurity policies, and administrative regulations occasionally creates overlapping institutional responsibilities. Such fragmentation may reduce regulatory consistency and weaken public confidence in constitutional governance. Accordingly, strengthening digital constitutionalism requires greater regulatory harmonization, institutional coordination, independent oversight, and judicial accountability.

The findings have several important implications for Indonesia's constitutional development. First, constitutional interpretation should increasingly recognize that digital rights are constitutional rights. Privacy, personal data protection, digital identity, algorithmic fairness, and access to information should therefore receive constitutional protection equivalent to traditional civil liberties. Second, constitutional accountability should extend beyond governmental institutions to encompass private digital platforms whose decisions significantly affect democratic participation and individual rights. Third, judicial institutions, particularly the Constitutional Court, should continue developing constitutional jurisprudence concerning artificial intelligence, digital surveillance, platform governance, cybersecurity, and automated decision-making. Fourth, Indonesia should strengthen institutional capacity by establishing effective supervisory mechanisms for personal data protection, enhancing inter-agency coordination, and promoting digital literacy among citizens. Finally, comparative experiences from jurisdictions such as the European Union demonstrate that constitutional values can be successfully integrated into digital governance through comprehensive legal frameworks while remaining compatible with democratic principles. Indonesia should adapt these principles in accordance with Pancasila, the 1945 Constitution, and Indonesia's constitutional traditions rather than directly transplanting foreign regulatory models.

Overall, this study demonstrates that digital constitutionalism provides an appropriate constitutional framework for protecting citizens' rights in Indonesia's democratic era. Although Indonesia has established a substantial legal foundation through constitutional guarantees and statutory reforms, effective protection depends on consistent implementation, institutional accountability, judicial oversight, and respect for constitutional principles.

The integration of Constitutionalism Theory, Digital Constitutionalism Theory, Human Rights Theory, Democratic Theory, and the Rule of Law confirms that constitutional governance in the digital age must move beyond traditional conceptions of state authority. Constitutional law must also regulate digital power exercised by private technology companies while ensuring that technological innovation promotes democracy, protects human dignity, and safeguards the constitutional rights of all citizens.

CONCLUSION AND RECOMMENDATIONS

Conclusion

This study demonstrates that Indonesia's constitutional framework is increasingly required to respond to the transformation of power generated by digital technologies. The protection of citizens' constitutional rights can no longer be understood solely through the conventional relationship between the state and citizens, as digital platforms, data-driven systems, surveillance technologies, and artificial intelligence increasingly influence privacy, freedom of expression, access to information, individual autonomy, and democratic participation. The study therefore finds that Digital Constitutionalism provides an important constitutional framework for extending the principles of human dignity, democracy, accountability, judicial review, and the rule of law into digital environments.

The analysis further demonstrates that Indonesia has made significant normative progress through constitutional guarantees and the development of legal instruments governing personal data protection, electronic information and transactions, and other aspects of digital governance. However, the existence of legal norms has not automatically resulted in an integrated system of constitutional protection. The principal challenge lies in the fragmentation of digital regulation, uneven institutional capacity, limited coordination and oversight mechanisms, and the increasing emergence of new forms of digital power exercised by both governmental institutions and private technology actors. Accordingly, the protection of constitutional rights requires a shift from a fragmented and sectoral regulatory approach toward a more integrated constitutional framework capable of addressing the interconnected challenges of privacy, freedom of expression, surveillance, artificial intelligence, transparency, and democratic accountability.

Based on these findings, this study argues that the development of Digital Constitutionalism in Indonesia should rest on four interconnected dimensions: rights-based regulation, effective judicial and institutional oversight, transparency and accountability, and meaningful democratic participation. Constitutional rights should function as substantive benchmarks in the formulation and implementation of digital policies, while mechanisms of accountability must extend to both public authorities and private actors exercising significant influence over citizens' rights. Judicial institutions also have an important role in developing constitutional standards capable of ensuring that technological development remains subject to the principles of legality, legitimate purpose, necessity, proportionality, and effective legal protection.

Accordingly, future development of Indonesia's digital governance should prioritize the harmonization of existing and emerging digital legislation, strengthening of institutional supervisory capacity, improvement of coordination among relevant authorities, and the development of constitutional safeguards for emerging technologies, particularly artificial intelligence and automated decision-making. Greater public participation and digital literacy are also necessary to ensure that citizens remain active constitutional subjects rather than merely objects of digital governance. This study is limited by its doctrinal and documentary research design and its primary focus on Indonesia's constitutional framework; therefore, future studies may employ empirical or mixed-method approaches and broader comparative analysis to examine the practical effectiveness of digital rights protection and constitutional accountability across different institutional and technological contexts.

REFERENCES

- Abdulloh, A., Rambe, K. F., & Darma, M. (2026). Regulatory reform in the era of digital constitutionalism. *Journal of Law and Judiciary*, 15(1), 59–80.
- Afisa, A., Qodir, Z., Habibullah, A., & Sugiharto, U. (2024). Analysis of the ITE Law on digital rights and democratic values in Indonesia. *Journal of Society and Media*, 8(2), 424–444.
- Al Asyari, M. H. (2023). *The constitutional rights in digital space: The dynamics of freedom of expression in Indonesia*. *Jurnal Penelitian Hukum De Jure*, 23(4), 531–548.
- Atmaja, B. K. D., & Maulana, F. K. (2026). The constitutional limits of state use of artificial intelligence in Indonesia: A digital constitutionalism perspective. *Bengkoelen Justice Journal*, 15(2).
- Budiman, R. (2023). The development of personal data protection law in Indonesia: Challenges and prospects for the implementation of Law No. 27 of 2022. *Jurnal Smart Hukum (JSH)*, 2(1), 24–36. <https://doi.org/10.55299/jsh.v2i1.1352>

- Celeste, E. (2019). Digital constitutionalism: A new systematic theorisation. *International Review of Law, Computers & Technology*, 33(1), 76–99. <https://doi.org/10.1080/13600869.2019.1562604>
- Celeste, E., & De Gregorio, G. (2022). Digital humanism: The constitutional message of the GDPR. *Global Privacy Law Review*, 3(1), 4–18. <https://doi.org/10.54648/GPLR2022002>
- Celeste, E. (2023). *Digital constitutionalism: The role of Internet bills of rights*. Routledge. <https://doi.org/10.4324/9781003256908>
- Charity, M. L., & Anshory, S. (2026). Balancing constitutional rights and personal data protection for citizens in the digital society. *Indonesian Journal of Digital Society*, 2(1).
- De Gregorio, G. (2022). *Digital constitutionalism in Europe: Reframing rights and powers in the algorithmic society*. Cambridge University Press. <https://doi.org/10.1017/9781009071444>
- Duarte, F. de A., De Gregorio, G., & Golia, A., Jr. (2023). Perspectives on digital constitutionalism. In B. Brożek, O. Kanevskaia, & P. Pałka (Eds.), *Research handbook on law and technology* (pp. 315–329). Edward Elgar Publishing. <https://doi.org/10.4337/9781803921327.00028>
- Golia, A., Jr. (2023). Critique of digital constitutionalism: Deconstruction and reconstruction from a societal perspective. *Global Constitutionalism*, 13(3), 1–31. <https://doi.org/10.1017/S2045381723000126>
- Gunawan, M. S., Santos, L., & Flores, J. (2025). Protection of citizens' constitutional rights in the digital era. *Rechtsnormen: Journal of Law*, 3(2).
- Hufon, H., Widodo, H., & Santoso, B. (2026). Konstitusionalisme digital dan peran Mahkamah Konstitusi dalam melindungi kebebasan berekspresi di ruang digital. *Jurnal Konstitusi*, 23(1), 45–68.
- Jaya, I. B. (2026). Digital activism and democracy in Indonesia: Upholding constitutional rights within digital constitutionalism. *Dialog Legal*, 2(1).
- Redeker, D., Gill, L., & Gasser, U. (2018). Towards digital constitutionalism? Mapping attempts to craft an Internet Bill of Rights. *International Communication Gazette*, 80(4), 302–319. <https://doi.org/10.1177/1748048517727628>
- Reni, W. O., Syahbudin, & Momo, A. H. (2026). State responsibility and constitutional protection of personal data in Indonesia: Addressing digital challenges. *Kanun: Jurnal Ilmu Hukum*, 27(3).
- Republic of Indonesia. (1945). *The 1945 Constitution of the Republic of Indonesia* (as amended).
- Republic of Indonesia. (1999). *Law Number 39 of 1999 concerning Human Rights*.
- Republic of Indonesia. (2008). *Law Number 14 of 2008 concerning Public Information Disclosure*.
- Republic of Indonesia. (2022). *Law Number 27 of 2022 concerning Personal Data Protection*.
- Republic of Indonesia. (2024). *Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions*.
- Saputra, R., Pratama, D., & Nugroho, A. (2024). Personal data protection in Indonesia after the enactment of Law Number 27 of 2022: Challenges and constitutional perspectives. *Journal of Indonesian Legal Studies*, 9(1), 83–105.
- Simanjuntak, P. H. (2025). Legal protection of personal data in Indonesia: A study of the Personal Data Protection Law and GDPR. *Esensi Hukum*, 6(2).
- Subekti, N., Handayani, I. G. A. K. R., & Hidayat, A. (2023). Konstitusionalisme digital di Indonesia: Mengartikulasikan hak dan kekuasaan dalam masyarakat digital. *Peradaban Journal of Law and Society*, 2(1), 1–22. <https://doi.org/10.59001/pjls.v2i1.74>

- Suzor, N. P. (2019). *Lawless: The secret rules that govern our digital lives*. Cambridge University Press.
- Teubner, G., & Golia, A., Jr. (2023). Societal constitutionalism in the digital world: An introduction. *Indiana Journal of Global Legal Studies*, 30(2), 1–24.
- United Nations Educational, Scientific and Cultural Organization. (2023). *Guidelines for the governance of digital platforms*. UNESCO.
- United Nations Human Rights Council. (2021). *The right to privacy in the digital age* (A/HRC/48/31).
- United Nations. (2021). *Our Common Agenda: Report of the Secretary-General*. United Nations.
- Widiatedja, I. G. N. P., & Mishra, N. (2023). Establishing an independent data protection authority in Indonesia: A future-forward perspective. *International Review of Law, Computers & Technology*, 37(3), 252–273. <https://doi.org/10.1080/13600869.2022.2155793>
- Wiwoho, J., Pati, U. K., & Pratama, A. M. (2024). Enabling data portability and interoperability under Indonesia's data protection law. *Masalah-Masalah Hukum*, 53(3), 271–282. <https://doi.org/10.14710/mmh.53.3.2024.271-282>
- World Bank. (2021). *World development report 2021: Data for better lives*. World Bank. <https://doi.org/10.1596/978-1-4648-1600-0>