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# Digital Constitutionalism

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## What is Digital Constitutionalism?

Digital constitutionalism refers to the **extension of core constitutional values—liberty, dignity, equality, privacy, due process, proportionality, accountability, and the rule of law—to digital technologies, online spaces, and algorithmic systems.**

It seeks to ensure that digital governance and technological innovation do not undermine fundamental rights and democratic norms.

## Origin and Evolution of the Concept

**Global emergence** as digital platforms began shaping political participation, public discourse, behavioural data collection, and state power.

Gained major traction after judicial and regulatory developments such as:

o**Justice K.S. Puttaswamy (2017)** – recognised privacy as a fundamental right and mandated the *legality–necessity–proportionality* test for digital intrusions.

o**EU’s General Data Protection Regulation (GDPR, 2018)** – emphasised individual data rights, consent, and accountability.

Academic scholarship traces the idea to early concerns about:

oMass digital surveillance

oAlgorithmic decision-making

oPower concentration in tech platforms

oErosion of democratic checks and balances

## Constitutional & Legal Framework (India)

- **Article 21** – Privacy as fundamental right (Puttaswamy, 2017)
- **DPDP Act, 2023** – Data protection; but broad state exemptions
- **IT Act, 2000 & IT Rules 2021/23** – Platform regulation, cybersecurity
- **Aadhaar Act, 2016** – Biometric identity; purpose limitation after SC ruling
- **No dedicated surveillance law** – reliance on Telegraph Act (1885) and IT Act (2000)

## Key Features

- **Rights-based digital governance**
- **Limits on state/corporate surveillance** (legality, necessity, proportionality)
- **Algorithmic transparency** – audits, explainability

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- **Meaningful consent** – informed, specific, voluntary
- **Anti-discrimination safeguards** – preventing AI bias
- **Accountability & independent oversight**