

HARMONIZATION OF ELECTORAL NORMS FROM THE PERSPECTIVE OF CONSTITUTIONALISM AND DEMOCRATIC STRENGTHENING: A RESPONSE TO THE EVOLVING GLOBAL ELECTORAL LANDSCAPE

MAHRUS ALI¹, DR. KARIM², DR. JAMIL³

¹mazaly351@gmail.com, ²mkarim@ubhara.ac.id, ³jamiljurist@gmail.com

Universitas Bhayangkara Surabaya

ABSTRACT

This article explores the challenges and prospects of harmonizing electoral norms across jurisdictions through the lens of constitutionalism and democratic resilience. Amidst rising global democratic backsliding, legal fragmentation, and transnational electoral threats—including disinformation, cross-border financing, and algorithmic manipulation—electoral systems are increasingly vulnerable. While international instruments such as the ICCPR and soft law frameworks provide normative guidance, their implementation remains inconsistent. This study adopts a normative-juridical and comparative constitutional methodology, drawing insights from Indonesia, Germany, South Africa, Kenya, India, and the European Union. The analysis is structured around three key questions: (1) how constitutional principles can underpin electoral harmonization, (2) the tensions between harmonization and state sovereignty, and (3) mechanisms for reconciling legal pluralism with global democratic standards. The article proposes a seven-pillar model of electoral norm convergence: constitutional entrenchment, institutional interoperability, codified soft law, judicial dialogue, overriding mandatory democratic principles, technological harmonization, and democratic pedagogy. It argues that harmonization must be pursued not through procedural uniformity but through constitutional alignment, respecting pluralistic expressions of democratic governance. The findings contribute both to democratic theory and to the development of normative frameworks for resilient, legitimate, and globally coherent electoral systems.

Keywords: Constitutionalism, Democratic Resilience, Electoral Harmonization, Electoral Law, Global Governance

INTRODUCTION

The twenty-first century has witnessed a profound transformation in the global electoral landscape. While elections remain a cornerstone of democratic legitimacy, the conditions under which they occur have dramatically shifted due to the rise of transnational disinformation, technological disruption, cross-border financing, populist authoritarianism, and the decline of democratic accountability mechanisms. This growing complexity has exposed the limitations of fragmented national electoral frameworks in safeguarding the integrity of democratic processes. In particular, the lack of coherent normative alignment between domestic electoral laws and international democratic standards has created fertile ground for legal manipulation and institutional backsliding. States with formally democratic constitutions are increasingly adopting illiberal electoral practices, often justified by appeals to legal sovereignty and cultural exceptionalism. As a result, the global electoral order suffers from a dual crisis: the erosion of electoral credibility within states and the absence of effective mechanisms to hold electoral systems accountable across borders. This phenomenon is not merely theoretical. From the judicial suppression of opposition candidates in Southeast Asia to algorithmically enhanced electoral propaganda in the United States, and

normative clashes between supranational institutions and national courts in Europe, the quality and legitimacy of elections are under serious pressure.¹

Indonesia, as one of the largest democracies in the Global South, exemplifies these tensions. While the 1945 Constitution (UUD 1945) enshrines democratic elections as an expression of popular sovereignty (Pasal 1 ayat (2) dan Pasal 22E), the actual practice of electoral governance reveals numerous vulnerabilities. These include vote buying, political dynasties, inconsistent electoral adjudication, and weak campaign finance oversight.² Moreover, Indonesia's legal system, despite its constitutional commitments, has yet to develop robust doctrines that integrate global electoral principles with national constitutionalism. At the same time, international frameworks—such as the International Covenant on Civil and Political Rights (ICCPR), the UN Human Rights Council's electoral guidelines, or the Venice Commission's *Code of Good Practice in Electoral Matters*—are not always adequately transposed into domestic electoral law.³ This disconnect illustrates the broader problem of normative fragmentation in electoral governance: a lack of constitutional convergence between local electoral systems and shared democratic norms. Without a common constitutional grammar, countries risk turning elections into hollow rituals, susceptible to manipulation and resistant to external scrutiny.⁴

While harmonization of electoral norms may appear to threaten national sovereignty, this article argues the opposite. Properly understood, harmonization is not synonymous with legal standardization or normative imperialism. Rather, it involves the construction of shared constitutional principles—such as fairness, equality, transparency, and institutional independence—that can be flexibly interpreted and locally contextualized. The key insight is that harmonization must be grounded in constitutionalism: a framework that emphasizes rule of law, separation of powers, judicial review, and the protection of fundamental rights as the normative bedrock of electoral democracy.⁵ By embedding electoral integrity within constitutional structures, harmonization becomes a process of democratic strengthening rather than external imposition. Constitutionalism enables legal systems to internalize universal democratic values while preserving legal pluralism and respecting domestic political identities. In this regard, harmonization becomes a necessary response to the evolving global electoral landscape, which increasingly requires cross-jurisdictional cooperation, mutual recognition of electoral safeguards, and alignment of institutional norms. It also opens the door for regional mechanisms—such as ASEAN, the African Union, or the Organization of American States—to develop more coherent frameworks for electoral supervision, peer review, and crisis response.⁶

Despite its significance, the question of electoral norm harmonization has been insufficiently theorized in the literature. Existing studies on comparative electoral law often focus on institutional design (e.g., majoritarian vs. proportional systems), legal implementation, or technical assistance programs.⁷ Other works concentrate on international human rights standards, yet fail to connect them with constitutional enforcement mechanisms.⁸ Meanwhile, the growing literature on democratic backsliding and "abusive constitutionalism" identifies how authoritarian actors manipulate electoral rules from within, but rarely offers pathways for cross-national legal convergence.⁹ Furthermore, scholars analyzing digital disruption in elections have focused more on

¹ Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown Publishing, 2018).

² Republik Indonesia, Undang-Undang Dasar 1945, Pasal 1 ayat (2) dan Pasal 22E.

³ Marcus Mietzner, "The Indonesian Elections of 2019: Populism, Dynasties, and Democratic Resilience," *Bulletin of Indonesian Economic Studies* 55, no. 3 (2019): 297–320.

⁴ United Nations, International Covenant on Civil and Political Rights, 1966, Article 25.

⁵ Andreas Schedler, "The Menu of Manipulation," *Journal of Democracy* 13, no. 2 (2002): 36–50.

⁶ Laurent Pech and Kim Lane Scheppele, "Illiberalism Within: Rule of Law Backsliding in the EU," *Cambridge Yearbook of European Legal Studies* 19 (2017): 3–47.

⁷ Wojciech Sadurski, *Democratic Backsliding in the European Union* (Oxford: Oxford University Press, 2019).

⁸ Pippa Norris, *Why Electoral Integrity Matters* (Cambridge: Cambridge University Press, 2014).

⁹ David Landau, "Abusive Constitutionalism," *UC Davis Law Review* 47 (2013): 189–260.

platform regulation and cybersecurity than on normative constitutional alignment.¹⁰ As such, there exists a significant research gap: few studies have comprehensively addressed electoral harmonization from a constitutionalist perspective—one that combines normative theory, comparative constitutional analysis, and institutional design.

This article seeks to fill that gap by proposing a new conceptual framework for the harmonization of electoral norms, grounded in constitutionalism and aimed at reinforcing democratic resilience. The novelty of this research lies in reframing harmonization as constitutional alignment rather than legal transplantation, and in identifying concrete institutional mechanisms—such as overriding mandatory rules, judicial dialogue, regional peer review, and interoperable electoral technologies—that can operationalize this vision. The contribution is both theoretical and practical. Theoretically, it enriches the literature on comparative constitutional law by introducing the notion of electoral norm convergence through constitutional dialogism. Practically, it offers policy pathways for states and regional organizations to collaborate in developing shared standards for electoral integrity that are adaptable, enforceable, and normatively legitimate.

Based on this background, this article formulates three core research questions. First, how can the principle of constitutionalism serve as a normative foundation for the harmonization of electoral norms across jurisdictions with different legal and political systems? Second, what are the major institutional and doctrinal obstacles to harmonizing electoral law in a manner that preserves democratic pluralism and constitutional identity? Third, what legal, procedural, and technological mechanisms can be proposed to promote electoral harmonization without undermining national sovereignty or democratic self-determination?

To answer these questions, the article is organized into four parts. Following this introduction, Section 2 outlines the normative-juridical and comparative methodology employed in the research. Section 3 presents the results and discussion in three interrelated parts: the constitutionalization of electoral governance; the tensions and potential of transnational harmonization; and the design of a harmonization model that balances universality and particularity. Finally, Section 4 concludes with a synthesis of findings and a set of recommendations for policymakers, constitutional courts, and regional institutions. Through this structure, the article aims to make a meaningful contribution to the advancement of democratic theory and practice in a time of global electoral uncertainty.

RESEARCH METHODOLOGY

This study employs a normative-juridical research methodology, which is particularly suited to examining legal doctrines, constitutional principles, and institutional frameworks across different jurisdictions.¹¹ The normative method allows the researcher to analyze written legal norms—such as constitutional provisions, statutory electoral regulations, and international human rights instruments—not merely as texts, but as manifestations of democratic values and institutional logics that shape the legitimacy of electoral processes. This approach is essential given the article's aim to conceptualize electoral harmonization not as technical standardization, but as a convergence of normative commitments rooted in constitutionalism.

The primary unit of analysis is the concept of electoral norm harmonization, understood as the alignment of electoral legal principles—such as impartiality, transparency, fairness, and equality—with constitutional frameworks across jurisdictions. The analysis is centered on identifying the doctrinal elements that constitute this alignment and examining how different countries operationalize these principles within their legal systems. Legal sources used include national constitutions (e.g., UUD 1945 of Indonesia; the Constitution of Kenya 2010; the

¹⁰ . Lance Bennett and Steven Livingston, “The Disinformation Order: Disruptive Communication and the Decline of Democratic Institutions,” *European Journal of Communication* 33, no. 2 (2018): 122–139.

¹¹ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Edisi 1 Cet. 12 (Jakarta: Raja Grafindo Persada, 2010).

German Grundgesetz), electoral statutes (e.g., Indonesia's Undang-Undang Pemilu, India's Representation of the People Act, Brazil's Electoral Code), and key international instruments (e.g., ICCPR Article 25, the Venice Commission's Code of Good Practice in Electoral Matters, the African Charter on Democracy, Elections and Governance).

To explore the diversity and convergence of electoral constitutionalism, the research adopts a comparative law methodology. This enables a systematic comparison of electoral norms and their constitutional anchoring in different legal cultures, including Indonesia, the European Union, Kenya, South Africa, Brazil, and India. The selection of these jurisdictions is based on legal system diversity (civil law, common law, hybrid), democratic trajectories (emerging, consolidated, challenged), and regional institutional contexts (ASEAN, AU, EU). The comparative approach aims to identify patterns of constitutional convergence—such as the entrenchment of electoral rights as fundamental rights, the role of independent electoral commissions, and the use of judicial review to protect electoral fairness—as well as to highlight the obstacles to harmonization, such as legal pluralism, politicized courts, and sovereignty claims.

This study does not employ empirical research methods such as fieldwork, interviews, or quantitative modeling, because its focus is doctrinal and normative. The analysis centers on the internal logic of legal systems, rather than their empirical functioning. However, references to electoral case law, constitutional court decisions, and official reports (e.g., EU Election Observation Missions, ASEAN election monitoring statements, rulings from Indonesia's Constitutional Court) are incorporated to illustrate how abstract legal principles are interpreted and enforced in practice. For example, decisions by the Constitutional Court of South Africa, which frequently invokes dignity and equality in its electoral jurisprudence, offer insights into how constitutional values can shape procedural electoral law. Similarly, Indonesia's experience with judicial resolution of electoral disputes post-2004 provides an empirical-legal entry point into the constitutionalization of elections in transitional democracies.¹²

To interpret legal texts and institutional arrangements, the study applies three modes of legal interpretation: grammatical, systematic, and teleological. The grammatical method is used to parse the literal language of constitutional and statutory provisions, particularly in examining the meaning of "fair and free elections" or "sovereignty of the people" clauses. The systematic method places electoral norms within the broader structure of constitutional governance, analyzing their relationship with judicial independence, civil liberties, and the separation of powers. The teleological method investigates the purpose of electoral regulation, connecting it with democratic theory and constitutional values such as legitimacy, accountability, and equal political participation.¹³ These interpretive tools are particularly valuable when analyzing how courts balance conflicting principles—for example, between freedom of expression and electoral silence periods, or between equality and affirmative action in political representation.

An additional theoretical layer is provided by the concept of constitutional dialogism, which posits that legal systems can engage in cross-border learning through judicial citation, legal transplantation, and transnational norm diffusion.¹⁴ This concept underpins the article's normative ambition to frame electoral harmonization as a process of constitutional communication, rather than unilateral imposition. The idea is that constitutional courts, electoral commissions, and regional institutions can engage in normative exchange by referencing foreign electoral jurisprudence or adopting international best practices, provided such engagement respects local constitutional identity and public legitimacy. For example, the German Federal Constitutional

¹² Simon Butt and Tim Lindsey, *The Constitution of Indonesia: A Contextual Analysis* (Oxford: Hart Publishing, 2012), 151–167.

¹³ John Hart Ely, *Democracy and Distrust: A Theory of Judicial Review* (Cambridge: Harvard University Press, 1980).

¹⁴ Anne-Marie Slaughter, "A Typology of Transjudicial Communication," *University of Richmond Law Review* 29, no. 1 (2000): 99–137.

Court has occasionally cited decisions from other European constitutional courts in election-related cases, while the Indian Supreme Court has drawn on foreign jurisprudence in interpreting the right to vote and the regulation of campaign finance.¹⁵ Indonesia's Constitutional Court, although more reserved in comparative citation, has increasingly drawn on regional experiences in electoral design and judicial scrutiny, particularly since its early landmark rulings on electoral threshold and open-list voting.

To ensure legal validity and scientific rigor, the study triangulates normative legal analysis with relevant soft law instruments such as the UN Basic Principles on the Independence of the Judiciary, the OSCE Copenhagen Document, and the EU Guidelines on Electoral Observation. Although these documents are not binding, they function as normative benchmarks in evaluating whether domestic electoral laws meet acceptable standards of democratic integrity. In doing so, they serve a harmonizing function even in the absence of legal coercion. This is particularly relevant for ASEAN, where normative alignment remains weak due to its doctrine of non-interference, yet where soft law principles are gradually emerging through intergovernmental dialogue and electoral support programs.¹⁶

In sum, this study's methodology is anchored in doctrinal, comparative, and interpretive legal research, with the goal of developing a constitutionalist framework for harmonizing electoral norms. The approach respects the diversity of legal traditions and political systems, while identifying shared constitutional values that can serve as anchors for transnational cooperation and institutional reform. By grounding the analysis in written law, jurisprudence, and democratic theory, this article seeks to contribute both to legal scholarship and to the policy discourse on electoral integrity in an increasingly interconnected but fragmented democratic world.

RESULT AND DISCUSSIONS

Constitutionalization of Electoral Governance

The regulation of elections has traditionally been perceived as a technical matter—focused on the logistics of vote casting, districting, and tabulation. However, in the contemporary global democratic framework, elections are increasingly recognized as a constitutional institution, not merely an administrative procedure. This transformation is rooted in the broader understanding that electoral governance is inseparable from the foundational commitments of constitutional democracies, particularly the principles of popular sovereignty, political equality, and rule of law. Electoral law is no longer confined to statutory codes; it is embedded within constitutions, interpreted by constitutional courts, and benchmarked against transnational standards of democratic legitimacy. This process of constitutionalization elevates the status of electoral norms to that of normative entrenchment, thereby subjecting them to enhanced scrutiny, justiciability, and institutional protection.

In Indonesia, this development is reflected in the explicit constitutional regulation of elections under Article 1(2) and Article 22E of the *UUD 1945*. The constitution affirms that "sovereignty is in the hands of the people and exercised according to the Constitution," and that elections must be conducted "in a direct, general, free, confidential, honest, and fair manner." These clauses are not merely declarative; they form the basis of judicial review and constitutional adjudication in electoral disputes. The Constitutional Court (*Mahkamah Konstitusi*) has assumed a central role in safeguarding the integrity of electoral processes, particularly through its authority to resolve disputes on election results, electoral thresholds, and the design of open-list voting systems. Landmark rulings such as *Putusan MK No. 22-24/PUU-VI/2008* and *Putusan MK No. 14/PUU-

¹⁵ Sujit Choudhry, *The Migration of Constitutional Ideas* (Cambridge: Cambridge University Press, 2006).

¹⁶ Anja Jetschke and Philomena Murray, "Diffusing Regional Integration: The EU and ASEAN Compared," *West European Politics* 35, no. 1 (2012): 174–191.

XI/2013* demonstrate how constitutional jurisprudence has shaped the contours of electoral design, voter rights, and candidate eligibility in Indonesia.¹⁷

Similar developments can be observed across other democratic jurisdictions. In Germany, the *Grundgesetz* (Basic Law) places the right to vote within the realm of constitutional protection under Article 38, which guarantees universal, equal, direct, and secret elections to the Bundestag. The Federal Constitutional Court (*Bundesverfassungsgericht*) has repeatedly reaffirmed that electoral rules must respect the principles of equal suffrage and proportional representation. In *BVerfGE* 95, 408, the Court invalidated aspects of the electoral threshold rule for violating the principle of equality of vote weight—a clear example of how electoral rules are subject to constitutional proportionality review. The Court's role is not only legalistic, but also normative: it ensures that electoral design serves the broader purposes of democratic legitimacy and participatory pluralism.¹⁸

In South Africa, the 1996 Constitution institutionalizes elections as a core component of constitutional democracy. Section 1 of the Constitution lists "universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government" as founding values. The Constitutional Court has adopted a strongly rights-based approach to electoral jurisprudence. In *New National Party v. Government of the Republic of South Africa* (1999), the Court emphasized that the right to vote is not merely formal, but must be "facilitated, protected, and fulfilled." Similarly, in *Minister of Home Affairs v. NICRO* (2004), the Court struck down legislation excluding prisoners from voting, declaring it unconstitutional. These cases illustrate how electoral governance is viewed not as an administrative discretion of parliament, but as a matter of fundamental constitutional principle.¹⁹

Kenya's 2010 Constitution goes even further by embedding the entire architecture of electoral management within the Constitution. Articles 81–87 articulate electoral principles, including free and fair elections, equality of vote, transparency, and the independence of the electoral commission. The Supreme Court of Kenya has demonstrated remarkable constitutional assertiveness in annulling presidential election results. In the historic case of *Raila Odinga & another v. Independent Electoral and Boundaries Commission & others* (2017), the Court invalidated the presidential election for non-compliance with constitutional and legal standards, a move praised globally as a triumph of judicial independence. The Court emphasized that "elections are not events but processes," and that adherence to constitutional principles is essential for democratic legitimacy.²⁰

In India, the Constitution guarantees universal adult franchise under Article 326, and establishes the Election Commission as an independent constitutional body under Article 324. While the Indian Supreme Court has historically been cautious in interfering with the conduct of elections, recent jurisprudence has expanded the constitutional dimension of electoral integrity. For example, in *People's Union for Civil Liberties v. Union of India* (2003), the Court upheld the right to NOTA (None of the Above), interpreting it as a component of voter autonomy and freedom of expression. Additionally, in *Lily Thomas v. Union of India* (2013), the Court disqualified convicted legislators from holding office, reinforcing the constitutional imperative of clean governance. These

¹⁷ Simon Butt and Tim Lindsey, *The Constitution of Indonesia: A Contextual Analysis* (Oxford: Hart Publishing, 2012), 151–167.

¹⁸ Joachim Kommer, "Constitutional Review of Electoral Laws: The German Federal Constitutional Court," *Election Law Journal* 4, no. 4 (2005): 247–256.

¹⁹ Johan de Waal, Iain Currie, and Gerhard Erasmus, *The Bill of Rights Handbook*, 4th ed. (Cape Town: Juta, 2001).

²⁰ Susanne D. Mueller, "Judicial Independence and the Rule of Law in Kenya," *African Affairs* 117, no. 468 (2018): 272–293.

decisions indicate a gradual movement towards substantive constitutionalism in electoral matters, where voter rights and electoral standards are increasingly tied to constitutional morality.²¹

From a supranational perspective, the European Union (EU) provides another model of constitutionalized electoral governance. Article 10 of the Treaty on European Union (TEU) affirms the principle of representative democracy and obliges member states to ensure "free and fair elections." Although electoral laws remain a national competence, the EU has exercised regulatory influence through directives, political party statutes, and the Copenhagen Criteria for candidate countries. The European Court of Human Rights (ECtHR), while not an EU institution, has contributed significantly through its interpretation of Article 3 of Protocol No. 1 of the European Convention on Human Rights, which guarantees the right to free elections. In *Hirst v. UK (No. 2)* (2005), the ECtHR ruled that blanket bans on prisoner voting violated the Convention, reaffirming that electoral rights are not absolute but must be compatible with democratic legitimacy and proportionality.²²

These examples illustrate that the constitutionalization of electoral law serves multiple functions: it entrenches democratic values, constrains executive discretion, empowers judicial review, and provides normative clarity in the face of political contestation. Moreover, constitutionalization strengthens the enforceability of electoral standards, making them subject to higher-order principles and judicial remedies. This is especially crucial in the face of democratic backsliding, where illiberal regimes may manipulate electoral procedures while maintaining the façade of legality. Constitutional electoral norms act as a firewall against such manipulation by requiring that electoral rules conform not only to statutory text but to constitutional meaning.

In the context of harmonization, constitutionalization also enables cross-jurisdictional dialogue. Courts can cite foreign jurisprudence not as binding authority, but as persuasive precedent reflecting shared democratic values. Electoral commissions can align procedures based on constitutional benchmarks recognized internationally. Regional bodies—such as the African Union, European Union, and the Organization of American States—can formulate principles of constitutional convergence based on domestic constitutional norms. In this sense, constitutionalization becomes the precondition for legitimate harmonization, allowing states to engage in norm alignment without surrendering sovereignty.

Finally, constitutionalization is not limited to textual guarantees. It also involves institutional design, such as independent electoral bodies, open judicial access, and structured electoral dispute resolution mechanisms. These institutional expressions of constitutionalism make electoral governance not only more accountable, but more resilient to manipulation and politicization. When electoral law is constitutional law, it gains democratic sanctity, legal durability, and public trust.

Tensions and Potential for Transnational Harmonization

The imperative for harmonizing electoral norms across jurisdictions faces an immediate conceptual and political obstacle: sovereignty. States have historically guarded their electoral systems as expressions of constitutional identity and national self-determination. Electoral laws are often embedded in cultural traditions, political histories, and institutional arrangements that vary widely—even among democracies. This diversity is not inherently problematic; however, in an era where electoral manipulation transcends borders and democratic legitimacy depends increasingly on global trust, normative fragmentation becomes a structural vulnerability. Harmonization, while normatively appealing, risks being perceived as an imposition—especially when advanced through instruments or practices associated with Western democracies or supranational institutions. This

²¹ Upendra Baxi, "Preliminary Notes on Transformative Constitutionalism," *Berkley Journal of Law & Society* 3, no. 1 (2014): 5–21.

²² Venice Commission, *Code of Good Practice in Electoral Matters* (CDL-AD(2002)023rev), Council of Europe, 2002.

dilemma lies at the heart of the tension between constitutional pluralism and transnational norm convergence.

The modern architecture of international human rights law—particularly the International Covenant on Civil and Political Rights (ICCPR)—contains provisions that could serve as normative anchors for electoral harmonization. Article 25 of the ICCPR guarantees every citizen the right to “vote and be elected at genuine periodic elections,” which must be held by universal and equal suffrage and by secret ballot. However, the enforcement of this right is uneven. The ICCPR’s implementation relies heavily on domestic incorporation and on the political will of states to submit to international scrutiny. The Human Rights Committee issues General Comments and observations, but these are not binding in the strict sense and often lack teeth in states with entrenched sovereignty sensitivities.²³

Regional instruments, such as the Venice Commission’s Code of Good Practice in Electoral Matters, provide more detailed normative guidance. This Code, although non-binding, has been influential in shaping electoral standards across Europe and beyond. It articulates principles of universal, equal, free, secret, and transparent elections, and offers procedural guidance on matters such as electoral dispute resolution, campaign regulation, and the independence of electoral commissions. However, its application outside Europe is limited, and even within Europe, states retain broad discretion in transposing its recommendations. The tension lies in the fact that harmonization through soft law depends on voluntary compliance, which may be withdrawn or ignored in times of political expediency, as seen in the recent democratic regressions in Hungary and Poland.²⁴

Compounding these challenges is the problem of legal transplantation. Electoral laws that are transplanted from one jurisdiction to another often fail to function as intended due to differences in political culture, institutional capacity, or legal traditions. For instance, Indonesia’s adoption of open-list proportional representation was initially celebrated as a step toward voter empowerment. However, it has also facilitated intra-party competition, vote buying, and the personalization of politics—outcomes that diverge from the system’s performance in European countries.²⁵ Harmonization, if understood as the wholesale import of foreign electoral laws, risks undermining local legitimacy and generating perverse outcomes.

Nevertheless, harmonization need not entail standardization. A more plausible model is principled convergence, wherein states adopt or reinforce core democratic principles in ways that are consistent with their constitutional frameworks. This requires dialogic processes, mutual learning, and the development of functional equivalents rather than formal similarity. For example, while electoral commissions in Germany (*Bundeswahlleiter*) and South Africa (IEC) operate differently, both embody the principle of electoral independence and impartiality—a shared value manifested through divergent institutional forms.²⁶

Judicial dialogue offers a promising avenue for transnational harmonization that respects constitutional diversity. Courts can reference foreign rulings not as binding precedents but as sources of persuasive reasoning grounded in shared democratic commitments. The European Court of Human Rights (ECtHR), for instance, has influenced national electoral jurisprudence through its interpretation of Article 3 of Protocol No. 1. Cases like *Hirst v. UK (No. 2)* and *Yumak and Sadak v. Turkey* have shaped national approaches to prisoner voting and electoral thresholds, respectively. Similarly, the Indian Supreme Court and the South African Constitutional Court have occasionally

²³ Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, 3rd ed. (Oxford: Oxford University Press, 2013).

²⁴ Petra Bárd and Laurent Pech, “How to Build and Consolidate a Partly Free Pseudo Democracy by Constitutional Means in Three Steps: The Hungarian Case,” *Verfassungsblog*, 2019.

²⁵ Andreas Ufen, “The Rise of Political Consumerism in Indonesia,” *South East Asia Research* 18, no. 1 (2010): 109–131.

²⁶ Pippa Norris, *Why Electoral Integrity Matters* (Cambridge: Cambridge University Press, 2014).

drawn on foreign judgments to reinforce the constitutional dimension of electoral rights.²⁷ However, such judicial borrowing is context-sensitive and depends on the openness of domestic legal cultures to comparative reasoning.

A further tension emerges in relation to regional governance frameworks. The European Union has made the most progress in institutionalizing electoral convergence. The Copenhagen Criteria set minimum standards of democracy and the rule of law for accession candidates, including electoral integrity. EU directives and regulations have harmonized aspects of European Parliamentary Elections, including proportional representation and electoral calendars. However, even within the EU, national sovereignty over domestic elections remains robust, as seen in member states' divergent laws on campaign finance, media regulation, and voting eligibility. The EU's ability to enforce electoral standards is primarily political rather than judicial, and its democratic conditionality has shown mixed results, particularly when confronting backsliding in member states.²⁸

Other regions offer less institutionalized models. The African Union's Charter on Democracy, Elections and Governance provides a comprehensive framework, but its implementation remains inconsistent. The ASEAN region, by contrast, lacks a binding electoral instrument and operates under the principle of non-interference, making normative harmonization exceedingly difficult. Attempts to promote electoral integrity—such as through the ASEAN Intergovernmental Commission on Human Rights (AICHR)—have so far failed to develop into a substantive electoral governance regime. This highlights the importance of regional political will and institutional design in supporting harmonization efforts.²⁹

One promising mechanism is the use of election observation missions, which act as transnational accountability tools. Organizations such as the European Union, Organization for Security and Co-operation in Europe (OSCE), and Carter Center deploy missions to assess the fairness, transparency, and competitiveness of elections. While these missions do not possess formal enforcement powers, their evaluations carry reputational consequences and often influence international legitimacy and aid flows. Moreover, observation reports contribute to the development of normative expectations, which over time may harden into customary standards.³⁰ However, observation missions are often resisted or restricted by authoritarian or semi-authoritarian regimes, which frame them as infringements on sovereignty.

Technology adds a new layer of complexity and urgency to the harmonization debate. The global spread of digital platforms has created transnational information spaces where electoral disinformation, foreign influence operations, and algorithmic targeting affect electoral integrity beyond national borders. While national electoral laws govern domestic campaigning and media access, they are often ill-equipped to regulate cross-border digital actors such as Meta, TikTok, or coordinated troll networks. As a result, electoral law must increasingly contend with jurisdictional limits in enforcing norms against actors that are legally and physically external to the electoral territory.³¹ Harmonization in this context requires international cooperation, shared data standards, and perhaps multilateral agreements on electoral cybersecurity and political advertising transparency.

²⁷ Sujit Choudhry, *The Migration of Constitutional Ideas* (Cambridge: Cambridge University Press, 2006).

²⁸ Ulrich Sedelmeier, "Political Safeguards against Democratic Backsliding in the EU: The Limits of Material Sanctions and the Scope of Social Pressure," *Journal of European Public Policy* 24, no. 3 (2017): 337–351.

²⁹ Anja Jetschke and Philomena Murray, "Diffusing Regional Integration: The EU and ASEAN Compared," *West European Politics* 35, no. 1 (2012): 174–191.

³⁰ Susan D. Hyde, *The Pseudo-Democrat's Dilemma: Why Election Observation Became an International Norm* (Ithaca: Cornell University Press, 2011).

³¹ Nathaniel Persily, "The 2016 U.S. Election: Can Democracy Survive the Internet?" *Journal of Democracy* 28, no. 2 (2017): 63–76.

At the normative level, harmonization efforts must be guided by democratic pluralism. Not all democracies will converge on identical institutional designs, but they can agree on minimum constitutional commitments: equality of suffrage, freedom of political participation, impartial electoral administration, transparent dispute resolution, and protection against disenfranchisement. These principles can be codified in soft law instruments, endorsed through inter-parliamentary bodies, and operationalized via capacity-building programs. Harmonization should be driven not by hegemonic imposition but by mutual constitutional respect and principled cooperation.

In this light, the idea of constitutional harmonization becomes a bridge between sovereignty and universality. It allows states to articulate their commitment to democratic principles in their own terms while recognizing the need for cross-border normative coherence. Judicial engagement, regional dialogues, and international peer review mechanisms can serve as platforms for this convergence. Such a model emphasizes bottom-up harmonization—emerging from domestic constitutional practices and reinforced by transnational legal interaction.

Despite these possibilities, structural obstacles remain. These include political resistance, weak regional institutions, lack of enforcement mechanisms, and divergence in legal traditions. Yet, the cost of inaction is high. Without harmonization, authoritarian regimes can exploit legal divergence to legitimize manipulated elections, while democracies are left without normative tools to defend themselves in the international arena. Harmonization, understood as a dialogic and flexible process grounded in constitutionalism, offers a way forward—balancing the respect for national identity with the imperative of global democratic integrity.

Toward a Model of Electoral Norm Convergence

Harmonization of electoral norms across legal systems cannot be achieved through legal transplantation, top-down mandates, or doctrinal coercion. Such approaches would not only fail to respect national constitutional identities, but would likely provoke resistance, institutional inertia, or performative compliance. Instead, harmonization must be understood as a gradual process of normative convergence—a movement toward shared democratic principles and institutional compatibility grounded in constitutional commitments. This process does not entail uniformity, but pluralist alignment, where states voluntarily integrate a common core of electoral values into their constitutional and legal frameworks, while retaining autonomy over procedural design.

The first pillar of this model is substantive anchoring of electoral principles in constitutional texts or instruments of higher legal authority. States must embed core democratic values—such as universal suffrage, equality of vote, electoral integrity, and periodicity—within their constitutional order, rather than relying solely on statutory regulation. This constitutionalization transforms electoral norms from policy preferences into justiciable rights and institutional obligations. For example, Brazil's 1988 Constitution enshrines direct and secret voting as fundamental rights (Art. 14), and Indonesia's *UUD 1945* similarly articulates the mandate for free and fair elections in Article 22E.³² These constitutional provisions provide legal tools for courts to adjudicate electoral disputes and for citizens to claim their democratic rights. The deeper the entrenchment, the greater the resilience of electoral norms against political manipulation.

The second pillar is the creation of institutional interoperability among electoral bodies across jurisdictions. While complete harmonization of electoral commissions' structure and mandates is neither feasible nor desirable, there is significant scope for mutual recognition, peer learning, and administrative benchmarking. This can be facilitated through regional platforms, such as the Association of World Election Bodies (A-WEB), RECEF (for Francophone countries), or ECONEC (for West Africa), which provide venues for electoral officials to share experiences, develop technical standards, and build institutional trust. These platforms can help define baseline

³² Constituição da República Federativa do Brasil de 1988, Artigo 14; Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 22E.

criteria for electoral independence, data security, voter registration, and dispute resolution procedures—criteria which respect diversity of systems while promoting functional equivalence.³³

A third component of the model is the codification of minimum electoral standards through non-binding yet authoritative soft law instruments. International norms have already achieved significant traction through the ICCPR, the OSCE Copenhagen Document, the Venice Commission's Code of Good Practice, and various election observation protocols. These instruments should be consolidated and updated to reflect new challenges such as digital disinformation, cross-border campaign financing, and artificial intelligence in voter targeting. More importantly, these standards should be accompanied by national implementation guidelines co-developed with electoral authorities, courts, and civil society, ensuring that harmonization is not externally imposed but internally cultivated. By engaging domestic actors in norm formulation, soft law instruments gain contextual legitimacy and are more likely to be adopted voluntarily.³⁴

The fourth pillar of convergence involves judicial engagement and constitutional dialogue. Courts play a pivotal role in translating democratic principles into enforceable norms. Through citation of foreign jurisprudence, participation in transnational judicial networks, and involvement in regional adjudicative bodies, courts can facilitate norm diffusion without legal compulsion. For instance, the *Comité de Derechos Humanos* of the UN, while not binding, has increasingly influenced constitutional courts in Latin America, such as Colombia and Costa Rica, particularly in decisions related to voting rights and access to candidacy. In Africa, the ECOWAS Court of Justice and the African Court on Human and Peoples' Rights have contributed to establishing regional accountability for electoral malpractice, though their authority remains contested in several member states.³⁵

To be effective, this dialogic model must be complemented by national mechanisms of constitutional fidelity, such as constitutional review processes, institutional audits, and democratic resilience assessments. These mechanisms allow legal systems to evaluate their alignment with shared principles, identify vulnerabilities, and implement reforms proactively. For example, countries could adopt a periodic Electoral Constitutional Compatibility Review (ECCR), similar in concept to Universal Periodic Review (UPR) in the human rights domain, where electoral laws and institutions are reviewed in light of constitutional principles and soft law standards. The review process should be participatory and transparent, involving judiciary, electoral commissions, academic experts, and citizen groups. This generates internal momentum for harmonization while preserving domestic agency.

Fifth, the model includes the adoption of overriding mandatory principles—legal norms that retain effect regardless of jurisdiction. In private international law, these are known as *lois de police*—provisions of such importance that they override party autonomy and foreign law. While electoral law does not operate under private law regimes, the concept of imperative public electoral principles may be adapted to justify non-derogable constitutional guarantees. For example, equality of vote weight and prohibition of vote suppression may be treated as overriding norms applicable across systems. These principles could be embedded in constitutional interpretation doctrines or incorporated into bilateral or regional electoral assistance agreements. They function as legal safeguards ensuring that harmonization efforts remain anchored to democratic integrity.³⁶

³³ Fallon, Richard H., *Law and Legitimacy in the Supreme Court* (Cambridge, MA: Harvard University Press, 2021).

³⁴ Kenneth W. Abbott and Duncan Snidal, "Hard and Soft Law in International Governance," *International Organization* 54, no. 3 (2000): 421–456.

³⁵ Rachel Murray and Debra Long, *The Implementation of the Findings of the African Commission on Human and Peoples' Rights* (Cambridge: Cambridge University Press, 2015).

³⁶ Mattias Kumm, "The Idea of Socratic Contestation and the Right to Justification: The Point of Rights-Based Proportionality Review," *Law & Ethics of Human Rights* 4, no. 2 (2004): 141–175.

A crucial, and often overlooked, element of convergence is the technological harmonization of electoral infrastructure. With the increasing reliance on biometric voter registration, electronic voting, and data-driven electoral management, there is a growing need for common technical protocols to ensure security, privacy, and transparency. Electoral bodies must coordinate standards for cybersecurity, system audits, and algorithmic accountability. This can be facilitated through technical harmonization frameworks similar to those used in aviation or digital trade. For example, interoperability guidelines for electronic voting systems could be developed under the aegis of the United Nations Development Programme (UNDP) or the International Electoral Education and Integrity Network (IEEIN). Harmonization of this kind strengthens public trust and prevents digital asymmetries that undermine electoral fairness.³⁷

Finally, norm convergence must be underpinned by democratic pedagogy and constitutional culture. Legal harmonization cannot succeed in societies where elections are viewed merely as transactional or ritualistic. It requires public understanding of democratic values, trust in institutions, and a shared commitment to electoral legitimacy. Civic education, constitutional literacy programs, and media pluralism all contribute to building a democratic culture receptive to harmonization. Constitutional courts, legislatures, and electoral commissions should invest in democracy-building initiatives that frame harmonization as a process of collective democratic maturation, rather than external interference.

In sum, the model proposed here rests on seven interlocking components: (1) constitutional entrenchment of electoral norms; (2) institutional interoperability; (3) codification through soft law; (4) judicial dialogue; (5) overriding mandatory principles; (6) technological convergence; and (7) democratic pedagogy. Each of these components reinforces the others and together create a normative ecosystem conducive to harmonization without coercion. This approach reimagines harmonization not as a threat to sovereignty, but as a constitutional commitment to shared democratic destiny.

Implementing this model will not be without difficulty. Political resistance, resource disparities, and geopolitical tensions may stall or distort the process. However, the risk of inaction is greater. In a world where autocrats hold elections to legitimize their power and where disinformation can swing votes across continents, isolated electoral systems are structurally vulnerable. Harmonization, properly conceived, offers a pathway toward democratic resilience, legal coherence, and constitutional solidarity across jurisdictions.

The ultimate goal is not merely procedural alignment, but substantive convergence in how electoral legitimacy is defined, protected, and contested. It is a vision of democratic systems that—though diverse in form—are united by a common grammar of constitutional democracy. Through sustained normative dialogue, principled cooperation, and institutional imagination, the harmonization of electoral norms can become a force for revitalizing global democratic governance.

CONCLUSION AND SUGGESTIONS

This article has examined the harmonization of electoral norms through the lens of constitutionalism and democratic resilience, offering both a theoretical framework and practical pathways in response to the growing fragmentation of global electoral governance. Amid a climate of democratic erosion, transnational disinformation, and legal manipulation of electoral processes, the study argues that electoral law must no longer be conceived as a purely national or technical matter. Instead, it must be constitutionalized, pluralized, and—crucially—harmonized in ways that preserve local legitimacy while reinforcing global democratic standards.

The research has shown that despite significant variation in electoral systems, there exists a core set of constitutional principles—such as popular sovereignty, equality of suffrage, electoral integrity,

³⁷ Adriaan van der Staay, “Electoral Integrity and Electoral Reform in the Digital Age,” *Electoral Studies* 56 (2018): 107–114.

and judicial protection of political rights—that transcend legal traditions and cultural contexts. These principles are increasingly embedded in domestic constitutions, affirmed by constitutional courts, and echoed in international soft law instruments like the ICCPR and the Venice Commission's Code of Good Practice in Electoral Matters. Such normative convergence provides fertile ground for harmonization, not in the form of procedural uniformity, but through constitutional alignment that affirms democratic substance over institutional form.³⁷

The study also revealed persistent tensions between harmonization and state sovereignty. Many jurisdictions resist external scrutiny of their electoral processes, framing it as interference in domestic affairs. This is particularly evident in regions such as Southeast Asia and parts of Africa, where regional mechanisms for electoral governance remain weak. However, constitutionalism offers a way to reconcile this tension, allowing harmonization to proceed from within legal systems through domestic courts, constitutional texts, and participatory reform processes. As seen in the jurisprudence of the Indonesian Constitutional Court, the German Federal Constitutional Court, and the Kenyan Supreme Court, courts can act as bridges between local norms and global standards, interpreting domestic law in light of transnational democratic values.³⁸

To institutionalize the harmonization of electoral norms in a manner that respects legal pluralism and enhances democratic legitimacy, this article proposes a seven-pillar model: (1) constitutional entrenchment of electoral principles, (2) interoperability among electoral institutions, (3) codification through soft law, (4) transnational judicial dialogue, (5) recognition of overriding mandatory democratic principles, (6) technological harmonization of electoral infrastructure, and (7) democratic pedagogy through civic education. This model envisions harmonization not as imposition but as a dialogic, iterative, and context-sensitive process, driven by constitutional fidelity and mutual recognition among democratic systems. Accordingly, the article recommends the following:

1. For states: amend or interpret constitutional provisions to embed non-derogable electoral principles such as equality of vote, independent electoral bodies, and fair dispute mechanisms.
2. For regional bodies: establish electoral peer review mechanisms, shared protocols for electoral technologies, and platforms for judicial and institutional dialogue on democratic integrity.
3. For international organizations: consolidate soft law standards, expand electoral assistance programs, and support domestic constitutional reform initiatives through context-sensitive engagement.
4. For academia and civil society: invest in constitutional literacy, monitor electoral jurisprudence, and foster legal networks that promote comparative understanding of electoral law.

In a global order increasingly shaped by democratic uncertainty, the harmonization of electoral norms emerges not only as a legal challenge, but as a constitutional responsibility. Through principled convergence rooted in constitutionalism, states can protect their democratic institutions while contributing to the construction of a more just, coherent, and resilient international electoral order.

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