

Electoral constitutionalism: A comparative study of electoral systems in Southeast Asian countries

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Abstract

This study examines the implementation of electoral constitutionalism in Southeast Asian electoral systems and its implications for democratic consolidation. Focusing on Indonesia, Malaysia, Thailand, and the Philippines, the research adopts a normative-juridical approach combined with comparative legal analysis of constitutions, electoral laws, and constitutional practices. Particular attention is given to the principles of popular sovereignty, electoral justice, voting rights, and the role of constitutional institutions in safeguarding electoral integrity. The findings reveal that while the four countries uphold constitutional guarantees of free and fair elections through diverse electoral models majoritarian, proportional, and mixed systems they continue to face persistent challenges. These include politicization of electoral institutions, unequal access to suffrage, and weak constitutional oversight. Despite reform efforts aimed at greater transparency and inclusiveness, the gap between constitutional norms and political practice remains significant. This study contributes to the scholarly discourse on electoral constitutionalism as a cornerstone of democracy in Southeast Asia and provides normative recommendations to strengthen electoral systems within the framework of constitutional supremacy and regional integration.

Keywords

Electoral Constitutionalism, Elections, Constitutional Law, ASEAN, Democracy, Comparative Study

Published:

October 1, 2025

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Selection and Peer-review under the responsibility of the ASEAN Conference of Law Schools 2025 Committee

Introduction

Over the past two decades, electoral constitutionalism has emerged as a central pillar in evaluating the quality of democracy within developing and post-authoritarian states. Elections are increasingly regarded not merely as formal democratic procedures, but as the primary mechanism through which popular sovereignty is exercised, safeguarded, and institutionalized by constitutional provisions (Dixon & Tushnet, 2021). Global trends indicate that the design and implementation of electoral systems play a pivotal role in shaping political legitimacy and ensuring the sustainability of democratic governance (Wiesner et al., 2024).

The success of democratic transitions is contingent upon the presence of an effective constitutional framework that not only safeguards the integrity of the electoral process but also ensures inclusive political participation and maintains institutional checks and balances, both of which constitute essential prerequisites for democratic stability (David, 2013, González et al., 2024). In the absence of robust constitutional safeguards, elections risk degenerating into a mere instrument for legitimizing electoral authoritarianism (Levitsky & Way, 2010).

Recent studies conducted by V-Dem reveal a global trend of democratic erosion that often manifests under the guise of procedural elections. This phenomenon is evidenced by the rise of authoritarian practices, the erosion of civil liberties, and the declining integrity of electoral processes (Papada, 2023). In line with this, Raducha emphasizes that certain electoral system designs, such as first-past-the-post (FPTP), may constitute vulnerable points for manipulation through agitation and propaganda, thereby underscoring the importance of a robust electoral design and constitutional safeguards to prevent democracy from descending into electoral authoritarianism (Raducha et al., 2024).

The concept of electoral autocracy illustrates that elections may still be conducted, yet within regimes that are structurally undemocratic. Meanwhile, the notion of autocratic legalism explains how constitutions are systematically subverted to reinforce regime control. Both phenomena pose serious implications for the practice of electoral constitutionalism, as they underscore that, without robust constitutional safeguards, elections risk becoming instruments of legitimizing authoritarianism. According to Diamond, the concept of electoral integrity reinforces this argument by demonstrating that states with strong constitutional foundations tend to secure higher levels of public trust in electoral outcomes. Conversely, in post-authoritarian states characterized by weaknesses in constitutional design and implementation, elections often become sources of political conflict that hinder the consolidation of democracy (Sultan, 2019).

Southeast Asia, the complexity of electoral constitutionalism has become increasingly evident, as the post-1998 reform trajectories undertaken by each country reveal divergent patterns. Thailand, for instance, has experienced recurrent political instability due to military interventions and constitutional amendments designed to preserve the dominance of military elites. The 2017 Constitution specifically reinforced the military's role in politics and expanded the scope for judicial intervention, thereby undermining electoral accountability while simultaneously constraining the competitive circulation of power (Baker, 2016).

In Malaysia, while regular elections continue to be held and the political situation remains relatively stable, the electoral system faces serious challenges related to vote disproportionality resulting from the application of the first-past-the-post (FPTP) system (Wong, 2018). This problem is further exacerbated by practices of malapportionment and gerrymandering that favor certain parties, thereby creating a mismatch between the share of votes obtained and the number of parliamentary seats secured.

Following 1987, the Philippine constitutional framework was designed to broaden political representation through the guarantee of political rights and the adoption of the party-list system. However, these institutionalized structural reforms did not address the entrenched roots of political patronage and clientelism. The study *Electoral Dynamics in the Philippines* demonstrates that electoral contests have largely functioned as personalistic arenas driven by local machines and patron–client networks, rather than by ideologically based party institutions (Hicken et al., 2019). This argument is reinforced by the analysis of (Quimpo et al., 2005) which highlights patronage networks as a historically entrenched political subsector. Furthermore, other studies on political dynasties demonstrate that the concentration of power among political elites has become increasingly integrated and exclusionary, producing adverse consequences for development and democratic accountability (Acuna et al., 2025). This phenomenon underscores that the weakness of party institutionalization, as compared to the dominance of personalistic power and political dynasties, significantly impedes the realization of the principle of fair political competition as normatively articulated within the constitutional framework.

Indonesian democracy has adopted an open-list proportional representation system since the 2009 election, following Constitutional Court Decision No. 22-24/PUU-VI/2008, which normatively enhances candidate accountability by allowing voters to directly choose individual candidates. However, the literature highlights several negative consequences, including stronger incentives for cultivating a “personal vote,” a shift of competition toward intra-party rivalries, and a sharp escalation in campaign costs. Theoretically, the open-list PR system encourages politicians to prioritize building personal reputations and patronage networks rather than engaging in collective, party-based work (Mustillo & Polga-Hecimovich, 2020; Ortega et al., 2023). In the Indonesian context, these consequences are evident in the escalation of money politics, reliance on political brokers, and increasingly expensive campaign financing, all of which undermine party institutionalization while fostering fragmentation and polarization of parliamentary representation. The disjunction between the constitutional promise of popular sovereignty and the actual electoral practices becomes apparent when voters’ choices are “translated” through patronage networks and post-election policy capture, rather than through coherent party programs. The 2024 election results reveal a systematic relationship between the open-list proportional representation design, the personalization of competition, and the prevalence of material exchange practices (vote buying), which collectively erode programmatic accountability and widen the gap between citizens’ electoral preferences and constitutional mandates (Wahyu Wicaksono, 2025).

The four cases demonstrate a similar pattern, namely a persistent gap between constitutional norms which normatively guarantee the right to vote and democratic electoral processes and the institutional practices that unfold in reality. In Thailand, this gap is rooted in the centralization of control by the military and the judiciary. In Malaysia,

the main issue lies in the electoral system design that generates disproportionality. In the Philippines, the underlying problem is political patronage and clientelism, which weaken the role of political parties. In Indonesia, the gap emerges from the incentives embedded in the open-list proportional system that encourage the personalization of political competition. These findings underscore that the success of democratic consolidation depends not only on the existence of a constitution, but also on the consistency of its enforcement and implementation. Such consistency is crucial to safeguarding electoral integrity, expanding inclusive political participation, and maintaining a balanced distribution of power. However, in the Southeast Asian context, these efforts are often undermined by the pragmatic calculations and short-term interests of political elites.

Most previous studies have tended to focus on the technical aspects of electoral systems, such as district design or list type, or have limited their analyses to a single country case (Norris, 2018). To date, few comparative studies have undertaken an in-depth examination of the relationship between constitutional design and the quality of electoral democracy in Southeast Asia. This research gap is particularly important to address, given that the region's diverse constitutional architectures provide significant opportunities to assess the effectiveness of electoral constitutionalism principles across varying cultural, historical, and institutional contexts.

The urgency of this research becomes even more pronounced within the global context marked by the intensification of democratic backsliding and the prevalence of rule by law, where elections are frequently employed as instruments of democratic delegitimation rather than as mechanisms for its consolidation (Bermeo, 2016).

Building on this background, the present study formulates two central research questions: how are the principles of electoral constitutionalism articulated in the constitutions of Southeast Asian countries, particularly Indonesia, Thailand, Malaysia, and the Philippines? Accordingly, this research holds strategic relevance not only for the advancement of academic discourse, but also for policymakers and electoral monitoring bodies seeking to position the constitution as a normative instrument to strengthen and sustain the quality of electoral democracy.

The contribution of this study can be delineated into three main aspects. First, at the theoretical level, it expands the study of electoral constitutionalism by providing a cross-country comparative analysis in Southeast Asia, thereby enriching a literature that has thus far been dominated by single-case studies or works limited to the technical dimensions of electoral systems. Second, at the empirical level, it offers comparative evidence that elucidates the relationship between constitutional design and the quality of electoral democracy across diverse cultural, historical, and institutional contexts. Third, at the practical level, the findings of this study are expected to serve as a reference for policymakers, electoral oversight institutions, and civil society actors in designing legal and institutional reforms aimed at reinforcing electoral integrity and advancing democratic consolidation in the region.

Literature Review

This study departs from the understanding that electoral democracy in Southeast Asia currently stands at a crossroads. On the one hand, most countries in the region have adopted constitutional frameworks that formally guarantee political freedoms, periodic elections, and the principle of popular sovereignty (Hasibuan, 2024; Sundra-Karean, 2018). On the other hand, political practice reveals a weakening of democratic quality, often unfolding through mechanisms that outwardly appear legal. This phenomenon—commonly referred to in political studies as autocratic legalism—illustrates how regimes strategically employ legal and constitutional instruments to erode democratic principles, such as judicial independence, press freedom, and the rights of the opposition, while maintaining the outward image of democracy before the public (Utami & Wardhani, 2024; Wang, 2024).

In the Southeast Asian context, the trend of democratic backsliding has increasingly drawn scholarly and policy attention. Reports from institutions such as the Council on Foreign Relations (CFR) indicate a noticeable decline in democracy indices across several countries since the 2010s. Thailand has experienced recurrent military coups that disrupt the cycle of electoral democracy. The Philippines has confronted the rise of authoritarian populism, which undermines the independence of state institutions. Meanwhile, Malaysia, despite its long-standing electoral tradition, continues to struggle with disproportional representation and the entrenched dominance of particular coalitions (Kasuya & Tan, 2024; Kurlantzick, 2023). Indonesia, meanwhile, is experiencing deepening political polarization, accompanied by indications of weakened oversight and law enforcement institutions. This trend often materializes through formally enacted regulations that, while legally valid, effectively reduce institutional checks on executive power (Afrimadona, 2021; Ahmad M et al., 2025).

The concept of foundational democratic norms serves as a critical benchmark in assessing the health of political systems in Southeast Asia. This theoretical framework posits that any democratic polity must, at a minimum, guarantee civil liberties, inclusive political participation, and credible electoral mechanisms. While these principles are universal, their practical realization is frequently undermined by local power configurations, entrenched elite interests, and the limited capacity of oversight institutions (Helmke & Rath, 2025). At this juncture, the relevance of responsive constitutionalism becomes evident—namely, the idea that constitutions must possess the capacity to adapt to societal demands and to respond effectively to democratic threats without sacrificing their foundational principles.

review of the literature indicates that most previous studies tend to focus primarily on the technical aspects of electoral systems or on single-country case studies, such as district design, proportional list systems, or vote-counting mechanisms. While some works provide in-depth analysis of individual countries, comparative studies that explicitly link constitutional design to the quality of electoral democracy across ASEAN states remain scarce. Yet, a cross-country comparative approach holds significant

potential to reveal both differences and commonalities, thereby offering a richer understanding of the factors that advance or hinder democratic development in the region.

Based on the identified research gap, this study adopts a cross-country comparative approach focusing on Indonesia, Malaysia, Thailand, and the Philippines. The analysis will examine constitutional texts and electoral laws to assess the extent to which these legal frameworks embody principles of electoral integrity and the protection of political freedoms. Furthermore, the study will evaluate systemic weaknesses in the electoral process through indicators such as the level of disproportionality, political polarization, and the independence of electoral management bodies. The role of constitutional courts will also be scrutinized to determine their effectiveness as guardians of constitutional order and checks on political power, including their potential use as instruments of political control.

Methodologically, the research employs a mixed-methods design combining qualitative and quantitative analysis. The qualitative component involves legal document analysis and in-depth interviews with academics, policymakers, and electoral officials. Meanwhile, the quantitative component utilizes international democracy indices, such as V-Dem and Freedom House, to trace trends in the enhancement or erosion of electoral democracy in each country. By triangulating these diverse sources of evidence, the study aims to provide a comprehensive understanding that not only describes the state of electoral democracy in Southeast Asia but also identifies structural patterns that shape its trajectory.

Method

This study employs a qualitative approach with a cross-country comparative design, focusing on Indonesia, Thailand, Malaysia, and the Philippines. This approach is chosen to capture both the differences and similarities in constitutional design and their implications for the quality of electoral democracy in Southeast Asia. It is particularly relevant to the research questions, which emphasize the relationship between electoral constitutionalism and democratic quality, including political polarization, representational disproportionality, and the independence of electoral management bodies.

The research relies on primary and secondary data sources. Primary data include constitutional texts, electoral laws, constitutional court rulings, and official documents from electoral commissions in each country. Secondary data are drawn from academic literature, reports by international organizations such as International IDEA and the Economist Intelligence Unit, and publications by relevant civil society organizations.

Data collection is conducted through documentary research and systematic literature review. The analysis proceeds in two stages:

1. Content analysis to identify and categorize principles of electoral constitutionalism embedded in legal and institutional frameworks.
2. Qualitative Comparative Analysis (QCA) to explore patterns linking constitutional structures with the quality of electoral democracy, particularly in terms of integrity, inclusiveness, and checks on power.

To enhance the validity and reliability of findings, the study applies source triangulation, comparing insights from official documents, academic research, and independent institutional reports. Through this methodological design, the study aims to produce a comprehensive and evidence-based understanding of how electoral constitutionalism is structured and implemented, as well as its implications for the integrity and resilience of electoral democracy in Southeast Asia.

Results and Discussion

Based on the analysis of constitutional documents, electoral laws, constitutional court rulings, and reports from election monitoring organizations, this study finds that Indonesia, Thailand, Malaysia, and the Philippines fundamentally enshrine constitutional norms guaranteeing the right to vote, the principle of political equality, and the conduct of free and fair elections. Nevertheless, a persistent gap exists between these constitutional provisions and the actual institutional practices, which in turn directly affects the quality of electoral democracy in each country.

Indonesia

The principles of electoral constitutionalism embedded in the 1945 Constitution reflect a combination of universal democratic values and Indonesia's local context. These principles are as follows:

1. Popular Sovereignty and the Rule of Law as the Foundation of Electoral Constitutionalism in Indonesia

Article 1 paragraph (2) of the 1945 Constitution affirms that sovereignty resides in the people and is exercised in accordance with the Constitution, while Article 1 paragraph (3) stipulates that Indonesia is a state based on the rule of law. These two provisions constitute a complementary conceptual framework in shaping Indonesia's constitutional democracy, particularly from the perspective of electoral constitutionalism. Article 1 paragraph (2) places the people as the ultimate holders of sovereignty; however, its exercise is constrained by constitutional norms. Elections are not merely understood as a contest for power, but as a constitutional mechanism to channel popular sovereignty in a legitimate and institutionalized manner through the system of representation. Article 1 paragraph (3) provides a normative dimension by emphasizing that Indonesian democracy is not merely majoritarian in nature, but a democracy bound by the rule of law. The principle of the rule of law requires that every electoral process be conducted on the basis of clear regulations, uphold justice and transparency, and safeguard the political rights

of all citizens, including minority groups (Zulfiqar et al., 2025). The interrelation between these two provisions reflects a balance between popular sovereignty and the supremacy of law. While the people constitute the highest source of legitimacy, the law functions as a safeguard to prevent the exercise of sovereignty from degenerating into majority tyranny. Accordingly, electoral constitutionalism in Indonesia is constructed upon the dynamic interaction between popular legitimacy and the rule of law, wherein elections serve as a constitutional mechanism to translate the will of the people within a just and democratic legal framework.

2. The Principle of Direct, Free, Confidential, Honest, and Fair Elections

Article 22E paragraph (1) of the 1945 Constitution stipulates that “General elections shall be conducted in a direct, general, free, confidential, honest, and fair manner once every five years.” This provision constitutes a significant milestone in Indonesia’s constitutional development, as it codifies electoral principles universally recognized in modern democratic systems.

The principle of “direct” voting signifies that citizen exercise their suffrage without intermediaries, thereby establishing an immediate relationship between the people as the holders of sovereignty and public officials as the recipients of their mandate (Faiz, 2018). The principle of generality affirms inclusiveness by recognizing universal suffrage for all eligible citizens without discrimination. The principle of freedom guarantees voters’ political autonomy to make electoral choices in accordance with their conscience, free from coercion or undue influence by any party. Meanwhile, the principle of secrecy ensures the confidentiality of ballots, thereby protecting individual political preferences from external intervention.

The principle of honesty underscores the necessity of integrity on the part of electoral management bodies, encompassing the administrative process, vote counting, and the enforcement of electoral law. The principle of fairness requires equal treatment of all electoral participants and ensures a balanced distribution of access to resources, media, and campaign opportunities (Fatayati, 2017). Within the framework of electoral constitutionalism, Article 22E (1) of the 1945 Constitution demonstrates that Indonesia does not merely adopt procedural democracy, but elevates electoral principles to the status of binding constitutional norms. This affirms that elections are not merely technical mechanisms for selecting public officials, but constitute a fundamental instrument for channeling popular sovereignty in accordance with the rule of law.

3. An Independent Electoral Management Body

Article 22E paragraph (5) of the 1945 Constitution stipulates that “Elections shall be administered by a general election commission that is national, permanent, and independent.” The independence of the electoral management body constitutes a fundamental prerequisite of constitutional democracy. Such independence is intended to ensure that elections are not merely conducted in a procedural manner,

but also uphold fairness, integrity, and public confidence in their outcomes (Pasaribu, 2019).

The constitutional mandate is operationalized through the establishment of the General Elections Commission (KPU) as the technical organizer, the Election Supervisory Agency (Bawaslu) as the supervisory body, and the Election Organization Ethics Council (DKPP) as the enforcer of the code of ethics. This institutional design reflects an internal system of checks and balances aimed at minimizing the potential for abuse of authority. Within the framework of electoral constitutionalism, the independence of electoral management bodies holds strategic significance (Dixon & Tushnet, 2021).

First, it ensures that elections function as an instrument through which the people exercise sovereignty, rather than merely serving as a means of legitimizing a regime. Second, institutional independence enhances public trust in the electoral process. Third, it safeguards citizens' political rights from domination by particular actors. Conversely, the absence of independence risks reducing elections to a democratic façade that conceals authoritarian practices. Therefore, Article 22E paragraph (5) is not merely normative, but also reflects Indonesia's constitutional commitment to conducting elections that are impartial, accountable, and genuinely democratic.

4. Equality of Citizens' Political

Article 27 paragraph (1) of the 1945 Constitution stipulates that "All citizens shall be equal before the law and the government." In the electoral context, this provision embodies the principle of one person, one vote, one value, which guarantees that every vote carries equal weight, free from discrimination based on social, economic, religious, or other backgrounds (Pierzgalski & Stępień, 2017).

This principle of equality constitutes a fundamental pillar of electoral constitutionalism. First, it guarantees inclusiveness by providing equal political access to all citizens. Second, it ensures that electoral outcomes genuinely reflect the will of the people in a proportional and legitimate manner. Third, it strengthens electoral integrity by preventing opportunities for manipulation or political engineering that could undermine democratic legitimacy (Cebula, 2018a).

5. Dispute Resolution Mechanisms and Constitutional Adjudication

The 1945 Constitution, through Article 24C, establishes the Constitutional Court (Mahkamah Konstitusi, MK) with one of its principal powers being the adjudication of electoral disputes (Kelliher et al., 2019). This provision underscores that the principle of electoral constitutionalism in Indonesia does not end at the stage of election administration but also encompasses corrective mechanisms for potential electoral disputes. The existence of the Constitutional Court ensures that the electoral process is not merely a political procedure but is also subject to judicial oversight (Faiz, 2018; Khotob Tobi Almalibari et al., 2021). As the guardian of the constitution, the Constitutional Court functions to ensure that the administration of

elections complies with constitutional principles, including justice, legal certainty, and the protection of citizens' political rights (Palguna & Bisariyadi, 2023). Furthermore, as the final arbiter, the Court serves as the ultimate authority that provides legal certainty regarding electoral outcomes and guarantees the integrity of electoral democracy.

6. Limitation of Power and Term Periodization

Article 7 of the 1945 Constitution stipulates that the President and Vice President may serve for a maximum of two terms. This provision reflects a fundamental principle of electoral constitutionalism, namely the limitation of power through term periodization (Osei et al., 2020). Such limitation functions to prevent the excessive concentration of power in the hands of a single individual or political group, which often leads to corruption (Budi Darmawan et al., 2020; López, 2003). Through term periodization, the circulation of political elites is ensured regularly via legitimate electoral mechanisms. Moreover, this provision maintains the balance of power within the political system while simultaneously strengthening democratic legitimacy by granting citizens the opportunity to periodically evaluate and elect new leaders.

Thailand

The 2017 Thai Constitution articulates the principles of electoral constitutionalism by positioning elections as the formal mechanism for government formation. The electoral system employed is the mixed-member apportionment (MMA), whereby each voter casts a single ballot that simultaneously serves to elect a district representative and to determine the proportional allocation of party seats (Bochsler, 2014; Raabe, 2015). This model is designed to enhance political representation, limit the dominance of major parties, and provide smaller parties with opportunities to secure seats. Furthermore, the Constitution stipulates that the delineation of electoral districts must be based on population size and geographical integrity, which normatively reflects an effort to uphold the principle of vote equality—one person, one vote, one value. Nevertheless, in practice, this arrangement has drawn criticism for perpetuating disparities in inter-regional representation (Flis et al., 2025; Haffert, 2024; Kerevel et al., 2019).

Another principle of electoral constitutionalism is reflected in the establishment of the Election Commission of Thailand, an independent constitutional body vested with the authority to formulate electoral regulations, supervise campaigns and political financing, and adjudicate electoral disputes. This institutional independence aligns with the universal principle that elections must be administered impartially to safeguard integrity and public trust. However, its effectiveness has often been questioned due to the persistent risk of political interference, particularly from the military, which continues to occupy a dominant role in the state structure (Amnesty International, 2024; Human Rights Watch, 2024; International IDEA, 2024).

A distinctive feature of the Constitution lies in the status of the Senate. All 250 of its members are appointed by the military junta and are empowered to participate in the selection of the Prime Minister. This institutional design produces a paradox: on the one hand, the electoral system is constructed to broaden popular representation; on the other hand, the outcome of elections can be significantly shaped by a non-electoral body (Raymond, 2025). As a result, the sovereignty of the people through elections does not fully determine the direction of government but is instead constrained by the configuration of military power. This reflects an inherent tension between electoral democracy and authoritarian political realities.

The Constitution also acknowledges the importance of corrective mechanisms by granting the Constitutional Court the authority to adjudicate electoral disputes. Positioned as a constitutional arbiter, the Court is tasked with ensuring that electoral processes comply with the law and the principle of justice. Nonetheless, its independence remains a subject of debate, particularly regarding its capacity to withstand political pressure from elites and the military.

Since its promulgation, the 2017 Constitution has been widely regarded as an instrument for consolidating military power rather than a vehicle for full democratization. The parliamentary configuration, which makes it difficult for the opposition to gain control of the government despite enjoying majority popular support, serves as one of its clearest indicators (Sawasdee, 2020; “Thailand in 2018: Military Dictatorship under Royal Command,” 2019). International criticism has also highlighted the imbalance between procedural democracy, visible through the conduct of elections, and substantive democracy, which should place the people as the ultimate holders of sovereignty. Nevertheless, reform dynamics have emerged, including proposals to revise the mechanism for selecting the Senate so that it is no longer determined entirely by the military, but instead through technocratic or representative selection. Such reform reflects a shift toward more substantive democratization, although its implementation faces significant challenges due to the entrenched legacy of military power (Amnesty International, 2024; Human Rights Watch, 2024; International IDEA, 2024).

Thus, the 2017 Thai Constitution affirms the principles of electoral constitutionalism through the design of a proportional representation system, the independence of the electoral management body, and corrective mechanisms provided by the Constitutional Court. However, these principles remain constrained by the military’s dominance through the Senate, rendering Thailand’s electoral democracy largely procedural and partial, rather than a fully substantive democracy grounded in popular sovereignty.

Malaysia

Article 4 of the Malaysian Constitution stipulates that the Constitution is the supreme law of the land. In the context of electoral constitutionalism, this provision underscores those elections are not merely political activities but legal practices that must be assessed against constitutional norms. This principle further highlights the close

interrelation between constitutional supremacy and electoral legitimacy, affirming that government is legitimate only if constituted through an electoral process that fully complies with constitutional provisions (Romeo, 2024; Smith, 2022). The Malaysian Constitution positions general elections as a fundamental instrument in realizing constitutional democracy. Part VIII (Articles 113–120) not only regulates technical procedures but also embodies normative principles that underpin the legitimacy of the democratic system of government. Within the framework of electoral constitutionalism, these provisions can be interpreted as the Constitution's attempt to integrate the principles of popular sovereignty, constitutional supremacy, and the rule of law into the institutional design of elections.

1. The Independence of Electoral Management Bodies as a Guarantee of Electoral Integrity

Article 113 of the Malaysian Constitution affirms the mandate of the Election Commission (EC) as an independent electoral management body. This independence carries constitutional significance as it ensures that the electoral process does not fall under the control of either the executive or the legislative branch. From the perspective of constitutional theory, the independence of the EC reflects the principle of checks and balances within constitutional democracy, whereby no single state institution may monopolize the political process, particularly one that directly concerns the legitimacy of power. In the doctrine of comparative constitutional law, such institutional autonomy is regarded as an institutional guarantee of democracy, a principle which asserts that democracy cannot be sustained without institutional frameworks free from political interference. Accordingly, the independence of the EC is not merely technical-procedural in nature, but also functions as a safeguard of electoral integrity, ensuring that each stage of the electoral process adheres to the principles of impartiality, fairness, and constitutional supremacy (Ginsburg et al., 2024; Power & Gasorowski, 1997).

2. Popular Sovereignty and Representative Democracy

Article 114 underscores the importance of maintaining public confidence in the administration of elections. This provision explicitly illustrates the organic relationship between popular sovereignty and representative democracy. From the perspective of constitutional law, it signifies that the legitimacy of both parliament and the government must derive directly from valid electoral outcomes (Murray & Albert, 2025; Saeed et al., 2017). Within the framework of electoral constitutionalism, this principle emphasizes not only the procedural aspects of elections but also binds the legality of governance to the substantive dimension of citizen participation. Consequently, any political practice that undermines public trust in the electoral system may be regarded as a substantive violation of the constitution (Schnaudt, 2025).

3. Political Rights and Equality of Citizens

Article 119 guarantees the right to vote for citizens subject to specific age and nationality requirements. Theoretically, political rights occupy a fundamental position as they constitute enabling rights, namely rights that make possible the functioning of the entire democratic system. This provision affirms the principle of political equality, operationalized through the maxim one person, one vote. Legally, the article underscores that the right to vote is not merely an individual entitlement but a constitutional right that constitutes a prerequisite for democratic legitimacy (Eisler J, 2023). Theoretically, political rights occupy a fundamental position as they constitute enabling rights, namely rights that make possible the functioning of the entire democratic system (Babeck et al., 2024). Administrative restrictions on the right to vote must be regarded as exceptions that can only be justified if they meet the principles of a legitimate aim and the proportionality test, as developed within the theory of human rights law.

4. Accountability through Electoral Dispute Resolution

Article 118 provides citizens with the right to file an electoral petition as a mechanism for dispute resolution. This represents a direct application of the rule of law within the framework of electoral constitutionalism. Juridically, this mechanism affirms that the legitimacy of electoral outcomes does not rest solely with the electoral management body, but also requires judicial mechanisms capable of correcting errors or fraud (Kusadarini et al., 2021). In this context, the judiciary functions as the guardian of electoral justice, ensuring that election results remain within the bounds of the law. From a constitutional law perspective, this demonstrates that the Malaysian Constitution integrates the element of the judicialization of politics, whereby political processes are subordinated to constitutional legal principles.

5. Justice in Constituency Delimitation

Articles 116–117 regulate the delimitation of constituencies, serving as a legal instrument to prevent practices of malapportionment and gerrymandering that could undermine the principle of fair representation. Within the framework of the doctrine of electoral constitutionalism, fair representation is regarded as an integral component of substantive constitutional guarantees (Cebula, 2018). Without proportional representation, elections risk losing their egalitarian character. From the perspective of constitutional law, the regulation of constituency delimitation at the constitutional level underscores that the principle of political representation must not be reduced to a mere short-term political calculation, but rather must be preserved as a binding constitutional norm.

Philippines

The 1987 Philippine Constitution positions popular sovereignty as the fundamental basis of state governance. Article II, Section 1 explicitly declares that sovereignty resides in the people and that all government authority emanates from them. This provision

illustrates how the principle of electoral constitutionalism is operationalized through the affirmation that political legitimacy is valid only when it derives from the free will of the citizenry (Human Rights Watch, 2024; Raymond, 2025). Thus, political power in the Philippines does not exist independently but is continuously sustained by the electoral authority granted by the people through legitimate electoral mechanisms. To ensure the effective realization of popular sovereignty, the Constitution stipulates the right to vote in Article V, which affirms that every Filipino citizen is entitled to suffrage provided that the minimum statutory requirements are met. Elections are mandated to be universal, direct, free, secret, and equal. This formulation reinforces guarantees of inclusiveness and political equality, thereby preventing any form of discrimination in access to electoral participation (Cruz, 2015; Quantum Law. (n.d.), 2025). The existence of elections based on universal suffrage demonstrates that electoral constitutionalism in the Philippines is not merely procedural but also seeks to safeguard individual political freedoms, ensure fairness in electoral competition, and protect the secrecy of the ballot as a means of preserving the integrity of the people's voice. Within this framework, the Constitution further emphasizes the importance of limiting executive power. Article VII, Section 4 restricts the term of office for the President and Vice President to six years without the possibility of reelection. This provision is designed to prevent the excessive concentration of power in a single individual while guaranteeing the regular circulation of political elites.

The mechanism reflects the Philippines' historical experience under authoritarian rule, where term limits are regarded as a vital safeguard to maintain the balance of power within a constitutional democracy. In addition to executive term limits, the principle of electoral constitutionalism is reinforced through the guarantee of an independent electoral management body. Article IX-C of the Constitution establishes the Commission on Elections (COMELEC) as an independent constitutional body entrusted with administering elections, regulating campaign finance, adjudicating electoral disputes, and ensuring compliance with electoral law. Its institutional design reflects the universal principle that elections must be managed impartially in order to preserve both integrity and public confidence (Calimbahin, 2023; Reyes, 2013). Nevertheless, a number of studies indicate that the effectiveness of the Commission on Elections (COMELEC) is often conditioned by the broader political context and the dominance of political elites, thereby creating potential avenues for intervention that may undermine its independence.

Electoral democracy in the Philippines, therefore, does not solely rely on the conduct of elections but also on the existence of continuous oversight mechanisms. To this end, the Constitution reinforces the principle of checks and balances through three principal instruments: a bicameral Congress serving as the legislative oversight body, the impeachment mechanism as a corrective tool against abuses of power, and the authority of judicial review exercised by the Supreme Court to uphold constitutional supremacy (Bonoan & Dressel, 2018). Thus, the legitimacy of electoral outcomes does

not rest solely on the electoral process itself, but is continuously sustained through a system of institutional accountability.

Efforts to strengthen constitutional democracy are also evident in the innovation of political representation provided under Article VI, Section 5(2), namely the introduction of the party-list system. This mechanism allocates seats in the House of Representatives to sectoral parties, organizations, and coalitions representing marginalized groups. In this way, the Constitution not only emphasizes the procedural dimensions of democracy but also expands the scope for a more substantive and inclusive form of democracy, ensuring that political participation is accessible to all segments of society, including those historically underrepresented in mainstream politics (Atienza et al., 2019). To safeguard electoral integrity, the Constitution mandates Congress to enact legislation that ensures elections are conducted in an honest and credible manner. These regulations encompass campaign finance, mechanisms for electoral dispute resolution, and procedures for the recall of public officials. Furthermore, Article IX-C, Section 2(9) explicitly prohibits any form of intervention that may undermine the electoral process. Collectively, these provisions constitute a constitutional response to the history of electoral manipulation during the Marcos regime, while affirming electoral integrity as a cornerstone of constitutional democracy in the Philippines.

Conclusion

The comparative examination of electoral constitutionalism in Indonesia, Thailand, Malaysia, and the Philippines reveals that all four countries affirm the fundamental principles of electoral democracy within their respective constitutions. These principles include popular sovereignty as the ultimate source of political legitimacy, the supremacy of law as the normative foundation, and the protection of citizens' political rights through elections that are direct, free, secret, honest, and fair. In addition, the constitutions emphasize the independence of electoral management bodies, judicial mechanisms for dispute resolution, and executive term limits as safeguards against the concentration of power. Thus, normatively, elections in these countries are framed not merely as technical procedures but as the constitutional pillars of democracy.

Nevertheless, the gap between constitutional norms and political practice emerges as a key finding of this comparison. In Indonesia, although the 1945 Constitution explicitly enshrines electoral principles, persistent challenges remain in the form of weak institutional integrity, unequal distribution of political resources, and entrenched practices of vote-buying. Thailand faces a more complex dilemma: while the 2017 Constitution incorporates principles of proportional representation and institutional independence, the dominant role of the military—particularly through the Senate—continues to constrain popular sovereignty. As a result, electoral democracy in Thailand is largely procedural rather than substantive.

Malaysia presents a constitutional design that formally underscores the rule of law and the independence of the Election Commission. However, recurrent issues of

constituency delimitation that favor particular political interests, combined with elite dominance, raise concerns over fairness and equality in representation. In contrast, the Philippines stands out through the constitutional innovation of the party-list system, designed to enhance the political representation of marginalized groups, and through robust checks and balances institutionalized via Congress, the Supreme Court, and impeachment mechanisms. Yet, elite influence and the limited independence of the Commission on Elections (COMELEC) remain persistent challenges.

From a comparative perspective, electoral constitutionalism in Southeast Asia displays a dual character. On the one hand, the four countries have embraced constitutional norms consistent with universal democratic standards. On the other hand, the implementation of these norms is deeply shaped by local power configurations, the legacies of authoritarian rule, and the dominance of political actors such as the military and oligarchic elites. Consequently, the quality of electoral democracy in the region fluctuates between procedural democracy and ongoing efforts toward substantive democracy. The principal challenge moving forward lies in strengthening institutional independence, ensuring political equality, and bridging the gap between legal norms and political realities. Achieving these objectives is essential to transform elections from a mere instrument of formal legitimacy into a genuine vehicle for realizing popular sovereignty within the framework of constitutional democracy.

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