

Global Network on Electoral Justice

Concept Note

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CONCEPT NOTE

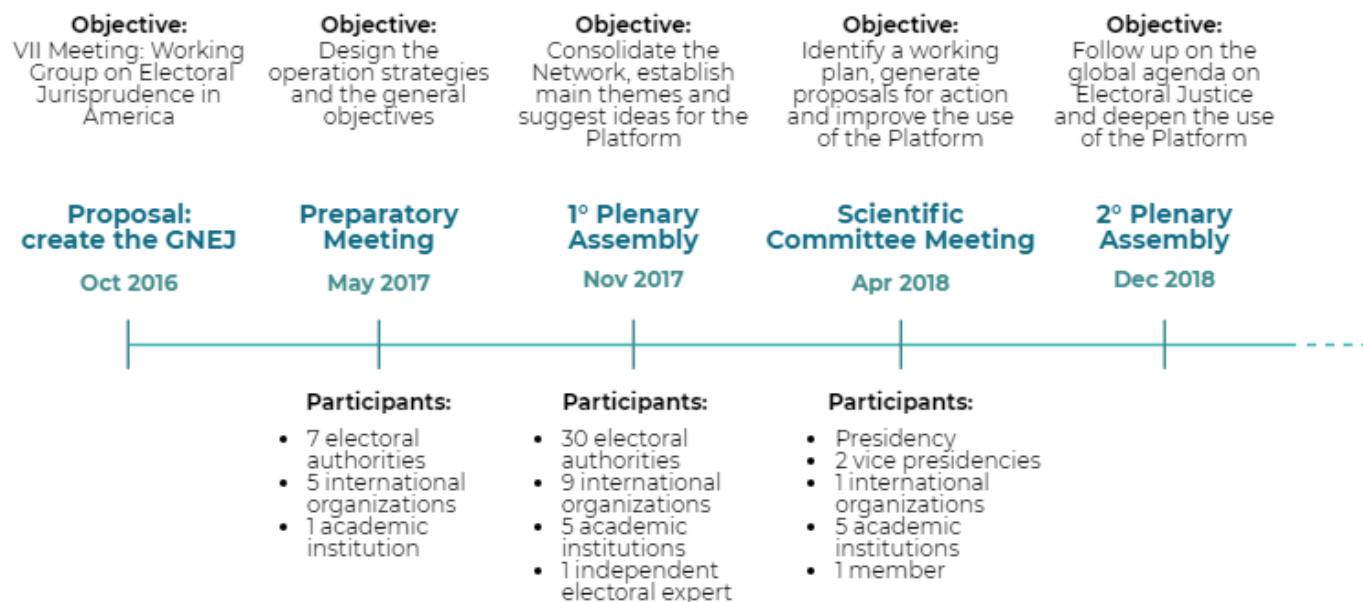
Background

The Electoral Tribunal of the Federal Judiciary of Mexico (TEPJF) has summoned Electoral Tribunals, Constitutional Courts, Supreme Courts of Justice and other distinguished institutions, with the objective to create a network that allows the development, analysis and follow-up of a common global agenda on electoral justice in a Constitutional and Democratic State.

In this respect, the TEPJF proposed to create a Network of Electoral and Constitutional Courts at the VII Meeting of the Working Group on Electoral Jurisprudence in America. The aim would be to generate a common agenda that allows an exchange of experiences, best practices and projects relevant to this topic, and that contributes to the design and implementation of shared strategies to solve common problems. Unlike other associations and organizations that focus on the promotion of democracy, this Network consists of the authorities and experts in charge of safeguarding electoral justice.

The Global Network on Electoral Justice emerges as a response to the challenges that are faced by courts, tribunals and judicial bodies in contemporary democracies, from the perspective of the effective protection of political-electoral rights of citizens and of systems of representation.

The Network aims to offer a space for specialized and transversal debate about the main regulatory, theoretical and practical dilemmas that are encountered by the bodies responsible for guaranteeing and upholding electoral justice and the Rule of Law in democratic matters. Likewise, the objective is to bring together academic and constitutional analysis, with an approach of public policies, so that the institutions that are part of the Network can properly implement the non-binding recommendations that are created.



Objective of the Global Network on Electoral Justice

To strengthen the global democratic governance, departing from the deliberation, design and recommendations of strategies with a jurisdictional perspective, at national, regional and global levels, and by promoting dynamic communication, active participation in the exchange of experiences, best practices and consultative opinions and any other kind of support that addresses the individual and collective needs of its Members on this matter.



**Exchange
experiences**



**Dynamic
communication**



**Global
agenda**



**Global
strategies**

First Plenary Assembly of the Global Network on Electoral Justice

The First Plenary Assembly of the Global Network on Electoral Justice took place on the 10th and 11th of November 2017 in the city of San Miguel de Allende, Guanajuato State, Mexico. It was directed towards representatives of Electoral Tribunals, Constitutional Courts, Supreme Courts of Justice, International and Regional Organizations, academia and other institutions related to the administration of Electoral Justice. A total of 45 institutions participated in the working sessions addressing the following topics:

- Why a Global Network on Electoral Justice?
- Democratic disaffection
- Political financing of elections
- Equal political participation
- Digital revolution in the political life: the involvement of electoral jurisdictions
- What challenges are electoral dispute resolution bodies facing?

Second Plenary Assembly of the Global Network on Electoral Justice

The Second Plenary Assembly will be held on the 3-4th of December 2018 in Quintana Roo State, Mexico. In said Plenary Assembly, the Network Members will consolidate cooperation projects and exchange information, rulings and best practices that allow for the planning of strategies that optimize the administration of Electoral Justice in the world.



Current topics of interest

Previous investigations of the major challenges faced by democracies around the world have resulted in the identification of the following four topics of interest:

- 1) Democratic disaffection
- 2) Equal political participation
- 3) Protection of democratic principles in elections
- 4) Digital revolution in the political life and the involvement of electoral jurisdictions

In various democratic systems worldwide, citizens express their dissatisfaction with the mechanisms that are intended to respond to their demands. Nevertheless, democracy remains the most frequently used method of government and of renovation of political power. Thus, the crosscutting theme of the Second Plenary Assembly will be democratic disaffection and the discussion topics will be the other three.¹

¹ Please see the Annex “Preliminary Terms of Reference 2018 for further information about the four topics of interest for the Second Plenary Assembly.

Global Exchange Platform

In the First Plenary Assembly, the participants agreed to initiate the operation of the Global Exchange Platform. The objective of this Platform is to be a tool that allows exchange and discussion on the judicial and legal documents, and academic studies, in the field of Electoral Justice. It facilitates a digital and transnational participation of all Network Members and is available in the three working languages English, French and Spanish. There are currently approximately 60 documents shared by 15 countries and 10 international organizations or academic institutions (http://sitios.te.gob.mx/red_mundial/).



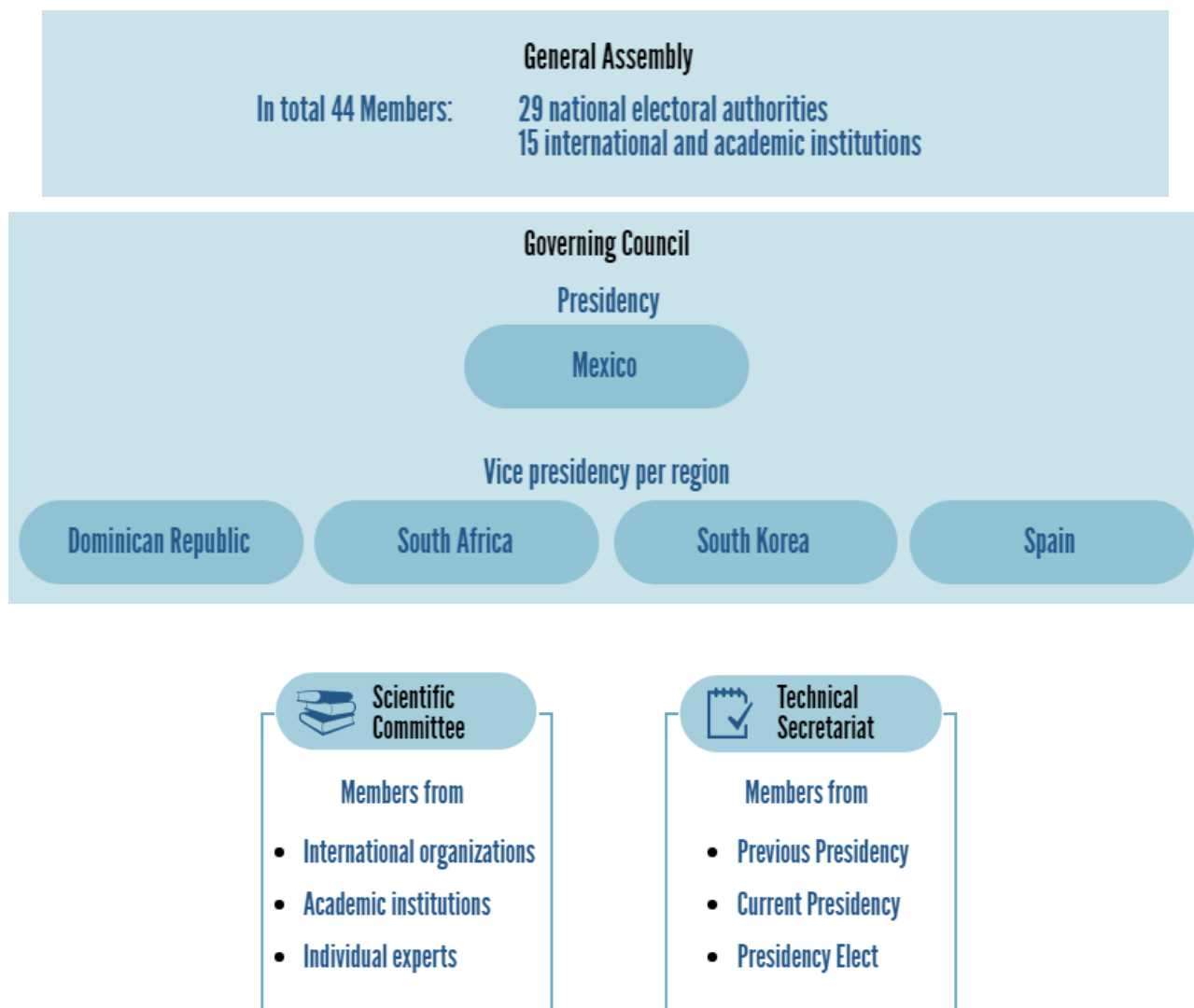
Strategy

1. Organize meetings between its Members to facilitate a direct dialogue with judges, academia and experts in the field, with the aim to exchange knowledge, experiences and best practices and implement a global agenda on Electoral Justice.
2. Construct a cutting-edge technological platform that allows to:
 - Generate an exchange and disseminate documents of jurisdictional, legal, institutional and informative character.
 - Create a database where judicial decisions, legislative experiences, and articles of experts in this field will be shared.
 - Develop periodical long-distance sessions between its members.
 - Keep updating relevant information related to Electoral Justice, on the challenges to contemporary democracies and electoral systems.
2. Design consultative and diagnostic mechanisms that, upon request of the members, evaluate concrete issues and suggest feasible solutions focused on public and legal policies.

The implementation of these and other action lines will seek to guarantee diversity in the approaches and solutions.

Structure of the Global Network on Electoral Justice

The Global Assembly, Governing Council, Scientific Committee and the Technical Secretariat, to guarantee the continuity of its work, comprise the Global Network on Electoral Justice.



General Assembly

The General Assembly is the main body of the Network and is vested with the power to discuss any matter and make decisions in relation to the Network. The Assembly is comprised of all the Members of the Global Network on Electoral Justice.

Governing Council

The Governing Council is the governing body of the Network with the mandate to supervise and present recommendations on any topic relevant to the Network. Its mission is to coordinate the work of the Network and maintain its effectiveness.

The Council will always be comprised by a Presidency and four regional Vice Presidencies that will be elected by the General Assembly of the Network, among the representatives of courts, tribunals and other bodies. Their appointment lasts for two years.

Scientific Committee

The Scientific Committee facilitates, supports and strengthens the work of the Governing Council. The international organizations, civil society organizations, analysis and research centers and other members comprise it. Through this Council, they can suggest research topics and new working mechanisms, as well as develop documents and proposals in relation to Electoral Justice.

Technical Secretariat

The Technical Secretariat is the executive body of the Network, vested with the powers to participate in all meetings of the General Assembly and the Governing Council, as well as make its own decisions. It reports to the Governing Council and should present its performance reports to the General Assembly every time that it convenes.

The Technical Secretariat is comprised by one person who heads this body and a substitute who acts in the absence of the first. The Technical Secretariat will operate with the support of staff from the courts, tribunals, and other organs who integrate the Governing Council, upon decision of this Council itself. The head of the Technical Secretariat is suggested by the Presidency of the Governing Council and its substitute by the Vice Presidencies. A simple majority of the General Assembly will ratify the appointment of both. The Technical Secretariat shall represent the Network and is renewed every three years.

Working groups

For the performance of the Global Network and of its action lines, the creation of working groups is foreseen. These groups will analyze court rulings, cases and priority topics or issues, and they can meet more frequently and organize discussions they consider important to produce documents, databases and other input.

The working groups that are deemed necessary for the efficient development of Network tasks can be created by the General Assembly only and they may include any Member.



Nature of the decisions of the Global Network on Electoral Justice

The documents, recommendations and proposals adopted by the Global Network on Electoral Justice **will be non-binding**. The decisions will be taken in a consultative, deliberative space, with academic and methodological rigor, in a context of freedom of expression and thought, under the predefined ethical codes and with the shared commitment to protect the information provided by the members.

Participation guidelines

The Network aims to offer a space for specialized and transversal debate about the main regulatory, theoretical and practical dilemmas that are encountered by the bodies responsible for guaranteeing and upholding Electoral Justice. This Network respects the fulfillment of electoral regulations and jurisdictional-electoral decisions, as well as the basic democratic principles such as impartiality and judicial independence.

To ensure the adequate functioning of the working sessions, the following participation guidelines and principles steer the Network:

- **Electoral participation.** Promote the organization of free, authentic and regular elections.
- **Loyalty to the information that is shared.**
- **Opportunities in providing input to this initiative.**
- **Respect for the internal autonomy and the resolutions of the electoral bodies that make up this Network.**
- **Respectful treatment among the participants.**

Membership

To ensure that the Global Network follows the principle of representativeness, it includes actors from different Electoral Justice Systems from across the world and that showcase contrasting national, regional and international experiences. Thus, the Network considers the following groups of Members:

- 1) Tribunals, Courts and bodies who either exclusively or partially dedicate themselves to the protection of political rights in the settlement of electoral disputes during the electoral cycle;
- 2) International organizations, being intergovernmental, civil or of other nature, whose mandate or area of action includes themes relevant to the Global Network; and
- 3) Research institutions and centers who specialize in this field, as well as academic experts and independent specialists whose experience is of use for the purposes of this Global Network.

This design transcends academic and professional associations and specialized institutions, at a national and international level, offering a forum for collective reflections from different perspectives, preserving its thematic precision.

The participants of the First Plenary Assembly were responsible for agreeing on the basic elements of the Global Network, such as the Constitutive Act and basic documents. The admission of new Members should be confirmed upon the voting of at least two thirds of the General Assembly of the Global Network that is present at the time.

During the creation of the Global Network, the membership will be free of charge and the Members will define the form of collective financing of the projects agreed to in the Initial Agenda, taking into account the consultative function of the Network.

Each member institution may nominate one person who will function as the liaison and communications officer within the Network.



At the moment, the Network has 44 Members, 29 of which are national electoral authorities and 15 that are international or academic institutions.

Argentina	National Electoral Chamber		Venice Commission
Bolivia	Supreme Electoral Tribunal		OAS
Brazil	Superior Electoral Court		Inter-American Court of Human Rights
Canada	Federal Court of Appeal		European Court of Human Rights
Chile	Qualified Tribunal of Elections		UNDP Mexico
Colombia	Council of State		International IDEA
Costa Rica	Supreme Tribunal of Elections		IFES
Dominican. Rep	Superior Electoral Tribunal	Vice presidency	IDLO
El Salvador	High Electoral Tribunal		International Commission of Jurists
Ghana	Electoral Commission		African Judges and Jurists Forum
Indonesia	Constitutional Court		The Carter Center
Jamaica	Supreme Court		
Kazakhstan	Constitutional Council		
Mexico	TEPJF	Presidency	
The Netherlands	Council of State		
Panama	Electoral Tribunal		
Paraguay	High Tribunal of Electoral Justice		
Portugal	Constitutional Court		
South Africa	Electoral Court	Vice presidency	Scientific Committee
South Korea	Constitutional Court	Vice presidency	Andrea Pisaneschi, University of Siena, Italy
Spain	Supreme Court	Vice presidency	Jean-Philippe Derosier, University of Lille, France
Spain	Central Electoral Commission		Michael Freitas Mohallem, Getulio Vargas Foundation, Brazil
Sri Lanka	Supreme Court		Rafael Rubio, Center for Political and Constitutional Studies (CEPC) of Spain
Tanzania	Court of Appeal		
Ukraine	High Administrative Court		
United States	Supreme Court, Arizona		
United States	Supreme Court, Wisconsin		
Uruguay	Electoral Court		
Zambia	Supreme Court		

GENERAL AGREEMENTS

Mexico City, Mexico

9th May 2017

On May 8-9th 2017, the Founding Members of the Global Network on Electoral Justice gathered in Mexico City to partake in the Preparatory Meeting of this initiative. The group of participants consisted of representatives from the Electoral Tribunal of the Federal Judiciary of Mexico (TEPJF), the United Nations Development Programme Chapter in Mexico (UNDP), the Organization of American States (OAS), the International Institute for Democracy and Electoral Assistance (International IDEA), the National Electoral Chamber of the Republic of Argentina, the Superior Electoral Court of Brazil, the Qualifying Tribunal of Elections of Chile, the National Electoral Council of Colombia, the Supreme Tribunal of Elections of Costa Rica, the Constitutional Court of the Republic of Indonesia, the International Foundation for Electoral Systems (IFES), and the Foundation of Getulio Vargas. Together, the Founding Members **agreed**:

1. To reaffirm the interest to create a network for the generation and distribution of knowledge on electoral justice, in order to protect the integrity of the electoral processes. This, and given the diversity of institutions and mechanisms protecting electoral justice in each country, implied the creation of the Global Network on Electoral Justice (GNEJ).
2. To explore different kinds of membership of the Network, taking into consideration that it should consist of institutions whose main function is to protect the political rights connected to an electoral cycle, whether it is on an exclusive or shared basis. The participation of international organizations, foundations, research centers (*think tanks*) or universities who contribute with knowledge and resources on electoral justice, with the aim of addressing challenges to contemporary democracies, shall also be considered. The Founding Members established criteria for the inclusion of potential new members of this Network.

3. To consider the four Electoral Dispute Resolution (EDR) mechanisms outlined in the *Electoral Justice: The International IDEA Handbook* of the International Institute for Democracy and Electoral Assistance (International IDEA), so that the composition of the Network includes members who represent each of these four mechanisms:
 - a. A legislative or other political assembly
 - b. An institution within any of the following categories:
 - i. Ordinary Tribunals of the judicial branch
 - ii. Constitutional courts or councils
 - iii. Administrative courts
 - iv. Specialized electoral courts or tribunals
 - c. An electoral administration institution with jurisdictional power
 - d. An *ad hoc* institution created with the participation of the international community or as an international solution for a specific electoral process in the country.
4. To emphasize that the agreements resulting from meetings of the GNEJ are solely recommendations of non-binding nature for the members of this Network.
5. To establish a Code of Ethics that should be adopted by the members of the GNEJ, which shall consist of indispensable principles outlining the conditions for membership of this Network.
6. To ensure dynamism and continuity of this Network by maintaining regular communication with other members. Each member shall appoint a person as its representative, who will in turn be responsible for the communication with other members of this Network. Moreover, the following activities shall be developed:
 - a. A study and assessment of institutions in charge of protecting political rights on a global and/or regional level.
 - b. The Electoral Tribunal of the Federal Judiciary of Mexico (TEPJF) shall provide the members with a virtual platform where fundamental documents of this Network, already existing research and studies conducted by the members can be shared.

- c. The International Foundation for Electoral Systems (IFES) will contribute to the consolidation and strengthening of regional networks on political rights.
- 7. To define the thematic focus of and topics to be discussed at the meeting of the Plenary Assembly of the GNEJ, taking into account that gender equality should be a crosscutting theme, at the latest by June 30th 2017.
- 8. To explore different models of financial sustainability of the GNEJ.
- 9. To implement the plenary meeting of the GNEJ that shall take place on 10-11th November 2017 in the city of San Miguel de Allende, in Guanajuato state, Mexico.

ANNEX: thematic guidelines of the Scientific Committee

Democratic disaffection

After the third wave of democratization and with the universalization of electoral processes, electoral justice plays a decisive role to ensure the stability of the democratic system in its broader concept (right to vote and be voted; political parties system and legitimacy for the access to political power), adherence to the legal framework and the consolidation of democratic governance.

In various democratic systems worldwide, citizens express their dissatisfaction with the mechanisms that are intended to respond to their demands. Nevertheless, democracy remains the most frequently used method of government and of renovation of political power, and its instruments of popular consultation continue to be an ideal mechanism to answer the complaints and discontent of society.

According to Freedom House, year 2016 was the eleventh consecutive year in which populist and nationalist forces made notable progresses in the detriment of political rights and civil liberties worldwide. Although there are free and periodical elections in many contemporary democracies, citizens are disappointed with democracy itself and have little trust in its institutions (Latinobarómetro, 2016). Nevertheless, democracies across the globe keep channeling the dissatisfaction of society into the ballot boxes: through elections, plebiscites and referenda.

In accordance with Arend Lijphart, two elements must exist for the successful establishment of a democratic government: power sharing and the autonomy of groups, since they promote the participation of groups in the decision-making. The involvement of citizens and of civil society depends on the means that they can use to change and continuously track the performance of the political system. This includes the use of the judicial system, the media and electoral bodies to influence the electoral system.

In various democratic systems worldwide, citizens express their dissatisfaction with the mechanisms that are intended to respond to their demands. Nevertheless, democracy remains the most frequently used method of government and of renovation of political power. Thus, the crosscutting theme of the Second Plenary Assembly will be democratic disaffection. The topics that will be analyzed in the Second Plenary Assembly will also be studied in regard to their relation to and impact on democratic disaffection.

Equal political participation

In many contexts, there are obstacles to equal and universal political and public participation. Such impediments tend to include discrimination based on a person's race, color, descendance, language, religion, ethnicity, national origin or nationality, public opinion or special needs.

Any kind of unequal access to human rights can impede the effective exercise of the rights of political participation. The jurisdictional bodies should ensure equality and universality of everyone's exercise of their electoral-political rights.

- Protection of the electoral rights of the LGBTQTTTI+ community
- Gender equality in electoral processes
- Inclusion of vulnerable groups such as people with special needs, migrants or deprived of their liberty
- Political participation of ethnic, religious or indigenous communities
- Electoral delimitation: *Gerrymandering*

Protection of democratic principles in elections (Electoral Integrity)

Elections can contribute to democratic consolidation, development, human rights and security, yet, they can also undermine such advancements. In this lies the importance of democracy and the protection of political-electoral rights. The concept of Electoral Integrity refers to elections that are based on the democratic principles of universal suffrage and political equality, typified by impartial and transparent preparation and administration throughout the entire electoral cycle.

- Financing and auditing
- Independence and conduct of electoral institutions
- Grounds for invalidity and nullification of elections
- Other possible topics: external influence in elections, transparency and accountability

Digital revolution and electoral processes

Information technologies are reforming politics and, in particular, elections. The political parties and candidates use social networks to get closer to voters, mobilize followers, fundraise and communicate policies. Voters use social networks to get involved in the campaigns with politicians and the rest of the electorate in regards to themes related to elections, with the intention to widen the public debate.

This kind of multidirectional activity can strengthen the integrity and transparency of electoral processes and enrich democracy. However, social networks are also used to misinform or inform in an inadequate manner. Such actions might affect the electoral results and undermine the trust in the integrity of democratic processes. Therefore, it is necessary to discuss the possible implications that social networks have on the electoral process.

- Cybersecurity in elections
- Regulation of social networks and fake news during electoral processes
- The use of technologies to ensure access to justice and to achieve greater citizen interaction and participation
- Other possible topics: political-electoral education