

Legal systems in different political orders (using the example of Latin American countries)

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Abstract

The relevance of the study is determined by transformations in the political systems of modern countries, which affect the characteristics of legal systems and lead to changes in the manifestations of democratic systems. Such changes are clearly evident in Latin American countries. Research into the influence of political factors on legal systems will help prevent the negative manifestations of such processes in Ukraine during its own institutional reform. The purpose of this study is to identify the political causes and factors that contribute to differences within homogeneous legal systems. The task is to analyse the political systems of Latin American countries, identify key factors influencing the differences between these systems, and characterise the various processes that led to the transformation of their legal and political systems. For this purpose, the following materials were used: monographs, collections of articles by researchers, assessments by leading experts in political processes, annual classifications of countries according to the democracy index formed by The Economist, etc. The authors used a variety of scientific methods: philosophical (dialectical and hermeneutic), general scientific (systemic, structural-complex, content analysis, statistical-mathematical methods), and theoretical-legal methods (comparative-legal, historical-legal, formal-legal, legal forecasting method), and applied many principles, methods, and techniques of scientific research (principles of determinism and retrospective analysis, objectivity, historicism, classification, dogmatic-legal approach, principles of analogy, and logical analysis). The results of the study highlighted the peculiarities of different political systems in the Latin American region. The authors concluded that the legal systems of Latin American countries represent different groups of political systems. To divide into such groups, various factors should be taken into account, including the rule of law, democratic accountability of state bodies, and various indicators of democracy. Further research could explore

the impact of various political processes and reforms on the characteristics of individual national legal systems in Latin American countries.

Keywords: legal system; political order; democracy index; South America; Central America; the Caribbean.

Правові системи в умовах різних політичних порядків (на прикладі країн Латинської Америки)

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Анотація

Актуальність дослідження обумовлена трансформаціями, що відбулися в політичних порядках сучасних країн світу, які впливають на характеристики правових систем та призводять до змін у проявах демократичних порядків. Такі зміни яскраво простежуються на прикладі латиноамериканських держав. Дослідження впливів політичних факторів на правові системи сприятиме запобіганню негативним проявам таких процесів в Україні при реформуванні власних інституцій. Метою дослідження є з'ясування політичних причин, факторів, які тягнуть за собою появу відмінностей у однорідних правових системах. Завданням є аналіз політичних порядків країн Латинської Америки; виявлення ключових факторів, що впливають на відмінності між політичними системами латиноамериканських країн; характеристика різноманітних процесів, що обумовили трансформацію правових та політичних систем означених країн. Для цього були використані такі матеріали: монографії, збірки статей дослідників, оцінки провідних фахівців з політичних процесів, щорічні класифікації країн за індексом демократії, які формує The Economist, та ін. Автори використовували різноманітні наукові методи: філософські (діалектичний та герменевтичний), загальнонаукові (системний, структурно-комплексний, контент-аналізу, статистично-математичний метод) та теоретико-правові методи (порівняльно-правовий метод, історично-правовий, формально-юридичний, метод правового прогнозування), ними було застосовано багато принципів, способів та прийомів науково-дослідницької діяльності (принципи детермінізму та ретроспективного аналізу, об'єктивності, історизму, класифікації, догматично-правовий підхід,

принципи аналогії та логічний аналіз). Результатами дослідження стало висвітлення особливостей різних політичних порядків країн латиноамериканського регіону. Автори дійшли висновку, що правові системи держав Латинської Америки представляють різні групи політичних порядків. Для поділу на такі групи слід враховувати різноманітні фактори, серед яких верховенство права, демократична підзвітність державних органів, різноманітні індикатори демократії. Перспективами подальших досліджень є дослідження впливів різноманітних політичних процесів та реформ на характеристики окремих національних правових систем латиноамериканських держав.

Ключові слова: *правова система; політичний порядок; індекс демократії; Південна Америка; Центральна Америка; Карибський басейн.*

Introduction

Today, there are a large number of legal systems on the legal map of the world: national, subnational, supranational, and quasi-national. However, the legal system is most often associated with the national legal system – the legal system of a separate state. All national legal systems are separate, independent units, and at the same time have different, sometimes opposing, characteristics. At the same time, differences may exist even within legal systems that belong to the same legal family (group of legal families) and which, by definition, should have common or similar features. What is the reason for such different characteristics in similar legal systems?

It is known that various criteria and factors influencing these systems are taken into account when characterising legal systems. According to their formal characteristics, legal systems are grouped into legal families: Romano-Germanic, Anglo-American, religious, and traditional. It should be noted that even today, there is no single established and universally recognised classification of legal families among comparativists, so the authors of this article adhere to the classification developed by scholars at Yaroslav Mudryi National Law University [1, p. 37].

At the same time, legal systems can differ significantly from each other in terms of non-legal (essential) characteristics. These are external factors that can determine these differences: political, economic, cultural, moral, etc. This was noted in the classic studies of R. David, K. Zweigert, and H. Kotz, who considered ideology as one of the important factors underlying the classification of legal systems [1, pp. 34-36]. Therefore, two legal systems that belong to the same legal family and have a common historical origin can differ greatly in their characteristics.

Latin American countries, which include Central and South America and the Caribbean, are a prime example of such systems. On the one hand, they have similar legal systems. On the other hand, we can note big differences in ideology (in particular, legal), which affect relations in the field of protection and enforcement of human rights, the activities and powers of the president, parliament, governments, etc. The rule of law, human rights, and democracy are not universal, practically significant values for the legal systems of Latin American countries, which calls into question the inclusion of all these systems into a single group of Latin American law.

At the same time, the opposite opinion can also be found in scientific literature. Thus, Thomas Wright, when studying the history of the development of democracy in Latin America, emphasised that "compared to most of the world, including major regions of Asia, Africa, the Middle East, and most of the former Soviet republics, Latin America is a beacon of democracy" [2, introduction, XV]. Roberto Gargarella, Sebastian Guidi, and Conrado Hübner Méndes emphasised that in Latin America, "institutional views, declarations of rights, ideological foundations, and canons of constitutional thought exhibit a striking similarity that is far from accidental" [3], introduction, p. XV]. At the same time, this did not prevent them from noting that "since gainig independence, Latin America has become an important laboratory for constitutional experiments", that such "experiments in the Latin American region with constitutional transplants, political authoritarianism, hyper-presidential regimes, borrowing foreign legal instruments, and others will help to better understand constitutionalism and constitutional solutions to such problems" [3, introduction, pp. XVI-XVII].

It must be acknowledged that the problems of democratisation of legal systems in the modern period remain extremely acute throughout the world; at the same time, the number of authoritarian countries is, unfortunately, growing. Matthew C. Ingram and Diana Kapiszewski, in their study of the justice complex in Latin America, pointed out that it is very important to "understand why it has been and remains so difficult to establish the rule of law in many parts of the world" [4, p. 14]. Rachel Sieder, Karina Ansolabehere, and Tatiana Alfonso emphasised that "studies of law and society in Latin America focus on the relationship between law ... and ... the political environment, institutional forms and cultural characteristics" [5, p. 1].

We believe that studying the political systems of Latin American states will allow Ukraine to avoid repeating the mistakes of the countries of the Latin American continent and to borrow positive experience when modernising its political institutions. This is particularly useful today. Francis Fukuyama

has devoted several of his recent works to the study of the political orders of modern states and their components [6; 7]. Even before the Russian Federation's full-scale invasion of Ukraine, he noted that "Ukraine is important to the rest of the world. If it fails to modernise and returns to Russia's orbit, this will send a disturbing signal to the rest of Eurasia ... Russia understands this and is doing everything it can to prevent Ukraine from succeeding. Therefore, the young generation of Ukrainian leaders will have to ensure that their country truly achieves the proper balance between state, law, and democracy" [6, p. 8]. That is why the use of the political and legal experience of the states of the Latin American continent is important for the evolution and reform of the political and legal system of Ukraine, especially on the path to joining the European Union.

The purpose of this article is to identify the political reasons and factors that lead to differences in homogeneous legal systems. The authors set themselves the *task* of analysing the political systems of Latin American countries; identifying key factors influencing the differences between the political systems and legal systems of Latin American countries; and characterising the various processes that led to the transformation of the legal and political systems of these countries.

Materials and Methods

To identify differences in the political systems and political processes of Latin American countries that influence the emergence of differences in the characteristics of their legal systems, the authors used a variety of materials: monographs, collections of research articles, assessments by leading experts on political processes, annual country rankings based on the democracy index compiled by *The Economist*, etc. To this end, the authors drew on a variety of scientific methods and principles: philosophical, general scientific, and theoretical-legal methods, using many techniques and approaches from scientific research.

Among the general philosophical methods used in writing this article, *dialectical* and *hermeneutical* methods should be mentioned. *The dialectical method* made it possible to trace the development and various transformations of the political and legal systems of Latin American states and to clarify the universal and individual characteristics of the political orders of these legal systems. *The hermeneutic method* allowed the authors of the article to delve into the essence of political institutions through the interpretation of texts of normative legal acts of countries in Central and South America and the Caribbean.

The comparative legal method, which became the leading one in writing this article, contributed to the generalisation of the political and legal experience

of Latin American countries. It was used to clarify similar (homogeneous) or distinctive features and to determine the stages of development of the objects of study. The comparative legal method made it possible to compare the legal systems of Latin American countries, their political institutions, and procedures in order to identify similarities and differences between them. The comparison revealed the state of the legal system as a whole, taking into account the characteristics of individual political institutions that determined the differences between the legal systems of the region. It was the application of the comparative law method that helped to identify differences in the political systems of Latin American countries, which traditionally form a single group of Latin American law, but at the same time have different political characteristics and form different groups based on them. *The principles of determinism and retrospective analysis* contributed to the establishment of cause-and-effect relationships between processes.

The systemic method allowed us to consider the countries of Central and South America and the Caribbean as equivalent system units, in accordance with the requirements of which the research problem was formulated. *The principle of historicism* helped to examine and identify the significance of processes in the context of different periods, which also made it possible to formulate the differences between the political systems of Latin American countries. *The principle of objectivity*, together with the principle of historicism, contributed to the avoidance of outdated characteristics of the political systems of states and their components that affect the characteristics of the legal system of states.

The structural-complex method, classification method, dogmatic-legal approach, principles of analogy, and logical analysis made it possible to study the political and legal processes of various Latin American countries, identify their significance in the process under study, formulate general conclusions, and establish differences in the political systems of Latin American countries. *The content analysis method* allowed for a quantitative analysis of the texts of normative legal acts and scientific articles for the purpose of further interpretation of the patterns in the development of the process of transformation of political institutions in the countries under study.

The historical-legal method was used in the study of the formation and development of legal systems, their political institutions, elements, and stages of constitutionalism in Latin American countries and their administrative and legal regulation. It was this method that made it possible to better understand the dynamics of the research process and draw certain conclusions about the influence of the past on the current state of

development of political institutions and processes in the legal systems of the South American continent.

The formal-legal method provided an analysis of the powers of political actors in public administration in Latin American countries and made it possible to identify the main factors that determine the differences in the political systems (regimes) of the countries under study.

The method of legal forecasting was used to identify possible scenarios for the development of political and legal processes in Latin America and options for improving the situation in this area in countries that are classified as hybrid and authoritarian according to the democracy index.

The statistical and mathematical method made it possible to obtain and process quantitative indicators of the activities of political bodies and political institutions, to clarify the dynamics of such processes in various countries of Latin America.

Results and Discussion

General characteristics of legal systems and political orders in Latin American countries

French comparativist René David was one of the first to propose a classification of legal families, using two criteria simultaneously: legal technique and ideological. Under the ideological criterion, he meant factors of philosophy, economics, politics, morality, religion, etc. It follows from this that it is external factors (external legal factors) that can determine differences in similar legal systems [1, pp. 34-36]. It should be noted that after the dismantling of the socialist system at the end of the 20th century, the economic factor and the factor of official state ideology lost their fundamental significance. At the same time, it can be seen that in ideological matters, social values (primarily in the legal and political spheres) come to the fore, determining the direction of the relevant legal system and forming its semantic guidelines. It should be noted that this value factor cannot be considered exclusively external. Together with other factors, it determines what K. Zweigert aptly called "legal style" [1, p. 36]. Formal characteristics in different legal families include various features, among which are a unified (similar) system of sources of law (forms of law), systematisation of legislation and its forms, common historical origins, etc. According to these formal characteristics, legal systems within legal families are homogeneous.

As is known, there is an approach according to which the legal systems of Latin American countries constitute a separate group of Latin American law [1, p. 62]. These legal systems were similar to those of North America (USA) in the construction of the public sphere. After gaining independence,

Latin American countries turned to the US Constitution as a model when developing their own constitutions. This was because in the 19th century, after gaining independence, the vast majority of countries in the region chose a federal form of territorial organisation and a republican form of government (today, there are only four such federations left in the region – Brazil, Argentina, Venezuela, and Mexico). At that time, there was only one written constitution of a federal republic – the Constitution of the United States, which Latin American countries turned to as a model for developing their own constitutions [8, p. 411]. This explains the construction of the public law spheres of Latin American countries according to the American model. In turn, the sphere of private law in Latin American countries is built on the model of Romano-Germanic law, which spread in the region as a result of the influence of the legal systems of the metropolitan countries (Spain, Portugal). But in the modern period, the legal and political systems of Latin American countries differ greatly from each other.

F. Fukuyama understands political order as a combination of three basic categories of institutions: the state, the rule of law, and accountability mechanisms (democratic accountability) [6, p. 21]. As a category of political order, *the state* must distinguish between "the private interests of the head of state and the public interests of society as a whole" and "treat all citizens impartially, enforcing laws, appointing officials, and implementing political decisions without bias in favour of any particular group" [6, p. 21].

The rule of law is, according to F. Fukuyama, "the binding nature of general rules even for the most politically powerful players in a given society" [6, p. 13]. The researcher emphasises that "the rule of law should be distinguished from what is sometimes called 'rule by law,' when the ruler himself does not follow the orders he has issued" [6, p. 21].

Accountability is the response of state power to the interests of the whole society, and not to the interests of individual groups. [6, pp. 21-22]. Accountability can be understood both in procedural and substantive aspects. The procedural aspect is understood as the holding of periodic free and fair multiparty elections, through which citizens have the opportunity to elect and "discipline" their rulers. The substantive aspect implies sensitivity to society's expectations outside the electoral process. Accountability is most often understood as a set of procedures in modern democracies that "force the government to respond to the demands of its citizens. However, high-quality procedures do not necessarily guarantee a substantive result" [6, pp. 21-22].

In the annual ranking of countries by democracy index compiled by the Economist Intelligence Unit, Latin American countries are represented in all four groups: the first of which is full (complete or perfect) democracies,

the second is flawed democracies, the third is hybrid countries (transitional regimes from democratic to authoritarian), and the fourth is authoritarian countries. The compilers of the annual classifications take into account sixty indicators in five categories: elections and pluralism, civil liberties, government activity, political engagement of the population, and political culture [9, p. 9], that is, indicators that form an overall idea of the political order of a particular state.

In the 2024 ranking, Uruguay and Costa Rica were included in the first group of *full democracies* in the Latin American region. *Flawed democracies* are represented by countries such as Chile, Trinidad and Tobago, Panama, Suriname, the Dominican Republic, Argentina, Brazil, Colombia, Guyana, and Lesotho. *Hybrid regimes* exist in Paraguay, Peru, Mexico, Ecuador, Honduras, El Salvador, Guatemala, and Bolivia. *Authoritarian regimes* were established in Haiti, Cuba, Venezuela, and Nicaragua [9]. As we can see, the vast majority of Latin American countries are included in the group of flawed democracies and the group of hybrid countries. The authors of the article draw the attention of readers to the fact that at the time of preparation of this article, the ranking of countries with the Democracy Index for 2025 had not yet been published.

In her study of contemporary political history around the world, T. Orlova emphasizes that Latin American countries are characterized by "life in irreconcilable contradictions and antinomies, ... hence the weakness of institutionalization, the weakness of the legal principle, and the desire to compensate for it through spontaneous charismatic actions: coups, leadership cults, populist ideologies and organizations, and the informal economy" [10, p. 405] and draws attention to the fact that "the desire to strengthen the role of the state resulted in the seizure of power by military regimes" [10, p. 406].

For 25 years (1964-1989), military dictatorial regimes were widely represented in Latin American countries: the regimes of Juan Domingo Perón in Argentina, Getúlio Vargas in Brazil, Alfredo Stroessner in Paraguay, Augusto Pinochet in Chile, and others [10, p. 406], which were put to an end by the democratic revolutions of the 1980s. T. Orlova emphasises that these "revolutions eliminated all the 'iconic' military dictatorships, ... and put an end to the 'institutional authoritarianism' that had developed in Brazil and Argentina. It was these countries, according to the researcher, that "supported the world of military-technocratic dictatorships throughout Latin America" [10, p. 406].

The influence of these military regimes can still be traced today through the prevalence of delegated legislation in the system of sources of Latin

American law, the presidential form of government, the special role of the army, and others [8, pp. 413, 415].

Features of selected political systems in democratic countries in Latin America

Uruguay (ranked 15th) and Costa Rica (ranked 18th) are the only *fully democratic* countries in Latin America. Countries that "respect civil liberties and fundamental political freedoms, where the population is characterised by a high level of political culture, developed democratic principles, an effective system of government, an independent judiciary, and independent media" should be considered full-fledged democracies [9]. Such countries receive 8-10 points in the ranking.

Uruguay leads the democracy index among Latin American countries. And for good reason. The electoral process and pluralism are 10 (maximum) points, the functioning of the government is 9.29 points, participation in political life is 7.78 points, political culture is 6.88 points, and civil rights are 9.41 points. The overall score is 8.67 out of 10 possible; over the past year, the position in the rating has deteriorated by one point [9, p. 15].

Larraburu Conrado Ramos and Milanese Alejandro, while studying the problems of public administration and state patronage in Uruguay for the period 2020-2025, characterised the activities of the united government headed by Luis Alberto Lacalle, the President of Uruguay. They examined various aspects of the political and professional characteristics of "appointees" and their role in the system of public administration, comparing different forms of patronage with institutional variables related to the party system and presidential powers [11, p. 362]. The researchers concluded that despite the "significant degree of politicization of public administration, there was no evidence of mass colonization of the administrative apparatus by political appointees", and that "the predominance of party professionals and programmatic technocrats reflects the highly institutionalized and programmatic nature of the party system in Uruguay and the coalition structure of the then ruling government" [11, pp. 373-374].

It should be noted that Uruguay's political order did not always meet the criteria of a perfect democracy. In 1996, Uruguay underwent constitutional reform, which, according to Germán Bidegain and Felipe Carozzi, "changed the electoral system, introducing, among other innovations, official primaries and a second round of voting in presidential elections" [12]. Although it was carried out "for reasons of short-term electoral expediency, in the long term the reform improved the ability of parties to participate in the formation of successful electoral coalitions" [12]. We see that the

components of the political order in Uruguay meet the requirements of a democratic order, which is confirmed by the country's classification as a group of perfect democracies.

Martin-Mayoral, Fernando and Plúa, María Gabriela Peñaherrera conducted a study on the relationship and interinfluences between income inequality and democratic and technical dimensions of governance in 22 Latin American countries from 1996 to 2023 [13]. The authors emphasized that they "reassessed the traditional view that higher quality governance uniformly reduces inequality", that "at the disaggregated level, political stability, rule of law, and regulatory quality are significantly associated with inequality", and emphasized that "governance reforms in Latin America should prioritize reducing the risk of unconstitutional regime change, improving the regulatory framework to promote competitive markets, and strengthening the independence of the judiciary to ensure equal access to justice. Such reforms can lead to stronger institutions and contribute to more inclusive and equitable social outcomes" [13, p. 1].

Costa Rica, which is also part of the group of full democracies and ranks 18th in the ranking, has undergone various reforms over time, primarily constitutional ones (for example, in 1977 and 2002). Carolina León Bastos and Víctor Alejandro Wong Meraz, in their article "Constitutional Reform and Its Limits in Costa Rica's 1949 Constitution", emphasized that "the political constitution of any country must ensure that its text is consistent with the reality in which it exists", underlining that "there are implicit limitations on that power, including political principles and fundamental rights, the separation of powers, and the principle of reform" [14]. These are important principles that influence the characteristics and changes in the political order. The electoral process and pluralism in the 2024 ranking for Costa Rica score 9.58 points, government functioning – 7.50 points, participation in political life – 7.78 points, political culture – 6.88 points, and civil rights – 9.71 points. Costa Rica's overall rating is 8.29 points out of a possible 10 [9]. Over the past year, the country's position in the ranking has deteriorated by one place, as in Uruguay.

Incomplete (flawed) democracies are those countries where elections are held according to democratic principles and are free, but certain problems may arise. At the same time, the fundamental rights and freedoms of citizens are valued. Also, incomplete democracies are characterised by a low level of political culture development, a low level of population participation in politics, and problems in the functioning of the governance system [9]. These countries score between 6 and 7.9 points overall. *Incomplete democracies* are represented by Latin American countries such as Chile (29th place), Trinidad and Tobago (45th place), Panama (47th place),

Suriname (48th place), the Dominican Republic (52nd place), Argentina (54th place), Brazil (57th place), Colombia (60th place), Guyana (69th place), and Lesotho (70th place).

Some unitary countries in Latin America (Colombia in 1992, Peru in 2002, Bolivia in 2005, and Chile in 2016) experimented with "strengthening their regional governments": they introduced elections for governors instead of their appointment, which is usually typical of federal countries [15]. On the one hand, all four countries aimed to create similar institutional tools, and on the other, each of these countries pursued decentralisation for a different purpose. Colombia pursued this form of decentralisation as part of constitutional reform, although the government's main expectation was to appease the rebels. In Bolivia, attempts were made to prevent the outbreak of civil war. The president of Peru pursued decentralisation to emphasise his difference from his predecessor, the dictator Alberto Fujimori, who had established an authoritarian regime. In Chile, the election of governors was conditioned by an attempt to suppress large-scale protests. Thus, the "institutional path" was caused by various reasons, but aimed at improving its political order towards its democratisation [15].

Brazil is the largest country in the South American continent and the Caribbean. It is actively developing in various directions, but has many internal problems that affect the characteristics of its political and legal systems. Brazil ranks 57th in the 2024 ranking, with a total score of 6.49 points: electoral process and pluralism – 9.58 points, functioning of government – 5 points, participation in political life – 6.11 points, political culture – 5 points, civil rights – 6.76 points [9]. Over the past year, the country has fallen six places in the ranking, indicating a serious threat to democratic institutions.

Augusto Zimmermann, in his work "Constitutions without Constitutionalism: The Failure of Constitutionalism in Brazil", writes that "in some Latin American countries, political stability relies less on "impersonal constitutions" and more on certain "personal pacts" established by political rulers. These pacts are often extralegal in nature, although they "provide order, relying on personal loyalty rather than the law to unite society". [16, p. 103]. Augusto Zimmermann believed that the institution of the presidency in Latin America had not been successful, emphasizing that it was characterized by a "significant inability to establish the rule of law" and "that the presidential systems of Latin America were in a state of constant, unstable fluctuation between abuse of power and its deficit" [16, p. 104]. The researcher also argued that legal norms must be based on unconditional public morality, otherwise "the rule of law may become an "unrealizable and even undesirable ideal, and ... society will quickly return to a state of arbitrary tyranny" [16,

p. 104]. The scholar considers one of the main obstacles to establishing the rule of law in Brazil to be the fact that democracy "in most of Latin America belongs to the realm of constitutions and codes rather than reality" and that "extra-legal actors of a socio-political nature can seriously threaten the satisfactory implementation of any constitutional basis" [16, p. 104].

Florentino Rico, Heidy Rico, Mario de La Puente, Jose Torres, Hernán Guzmán, in their study, analysed the political systems and fiscal responsibility relationships of ten Latin American countries for the period 2004-2023: Brazil, Venezuela, Chile, Nicaragua, Argentina, Peru, Bolivia, Ecuador, Uruguay, and El Salvador. To obtain high-quality results, these researchers used not only the Economist Intelligence Unit's democracy index, but also additional democracy indices from Freedom House (ratings with subcategories of political rights and civil liberties) and V-Dem (includes: *the liberal democracy index*, which measures the protection of individual and minority rights from state tyranny; *the electoral democracy index*, which assesses electoral principles, including clean elections and freedom of association; *the deliberative democracy index*, which assesses public deliberation in political decision-making; *the egalitarian democracy index*, which measures equal protection of social rights between groups; and *the judicial constraints on the executive index*, which assesses the executive branch's compliance with constitutional constraints) [17]. The authors emphasised that the region has experienced numerous transitions between democratic and authoritarian regimes, but in democratic countries of the region, the relationship between regime and fiscal performance is stronger [17]. "Countries with stronger democratic institutions have demonstrated greater resilience during economic challenges and better resource management during periods of growth" [17]. Tetyana Kostadinova and Milena Neshkova, in their study of leadership and corruption in 32 countries in Eastern Europe and Latin America, concluded that "personalist leadership through democratic elections can undermine accountability, fair governance, and the quality of democracy as a whole" [18].

Among the democratic countries of Latin America, democratic standards have deteriorated over the past year, and ratings have fallen in Uruguay (-1 place), Costa Rica (-1), Chile (-4), Trinidad and Tobago (-2), Brazil (-6), Colombia (-5), and Guyana (-2). Manifestations of democracy remained at the same level in Argentina, but increased in the Dominican Republic (+9 steps), Lesotho (+1), Panama (+1), and Suriname (+1).

The Economist Intelligence Unit's annual report for 2024, "Democracy Index 2024: What's wrong with representative democracy?", states that the main problem facing democracies is often cited as populism rather than the shortcomings of representative systems [9, p. 6]. Daniel Hellinger associates

populism with "a suit that politicians take off the hanger when they need to enlist public support to achieve a goal" [19, p. 128].

Political orders of individual hybrid and authoritarian states in Latin America

A *hybrid regime* is usually understood to mean states that are characterised by regular indirect violations during elections, which prevents them from being recognised as fair and free. In these countries, there may be government pressure on political opponents, a government that often exerts pressure on political opponents, a lack of judicial independence, widespread corruption, persecution and pressure on the media, a lack of the rule of law, profound shortcomings in the development of political culture, low levels of political participation, and problems with the functioning of the management system [9; 20]. Such states receive between 4 and 5.9 points [9]. Hybrid regimes in the Latin American region are represented by Paraguay (75th place), Peru (78th place), Mexico (84th place), Ecuador (85th place), Honduras (90th place), El Salvador (95th place), Guatemala (97th place), and Bolivia (103rd place).

Mexico is the northern part of Latin America. Daniel Hellinger, in his book "Comparative Politics of Latin America: Democracy at Last?" argues that some of the exceptional features of the Mexican political system (civilian control over the military, independent foreign policy, strong political institutions over several decades, and orderly political succession) are a legacy of the Mexican Revolution. Mexico was "the only country in the region where the military never came to power, as in Argentina, Brazil, and Chile, but the political system certainly became more authoritarian, relying less and less on popular consent over time" [19, p. 146]. Mexico's rating for 2024 increased by 6 positions; its total score is 5.32 points [9, p. 18].

Countries with no or extremely limited political pluralism should be considered *authoritarian*. In the vast majority of cases, they are based on absolute dictatorship, although they may have some traditional democratic institutions in a severely curtailed form, with constant violations of civil liberties and elections that are either non-existent or not free and fair. Other characteristic features include comprehensive censorship by the ruling regime, a ban on criticism of the regime, and a lack of independence in the judicial system. Authoritarian countries score less than 4 points in the Democracy Index [9; 19]. Authoritarian regimes are established in Haiti (131st place), Cuba (135th place), Venezuela (142nd place), and Nicaragua (147th place).

Cuba ranks 135th in the 2024 Democracy Index, with a total score of 2.58 points: electoral process and pluralism – 0 points, functioning of

government – 2.86 points, participation in political life – 3.33 points, political culture – 3.75 points, civil rights – 2.94 points [9, p. 20]. The ranking position has not changed in a year. Daniel Hellinger emphasised that "Cuban politics is more complex than the simple image of dictatorship so often portrayed in the American media. It is difficult to answer the question of how the Cuban political system actually functions and what the balance between consent and repression is" [19, p. 294]. The researcher points out that Cuban elections are characterised by a large number of candidates, they are "open to all, not just party members". At the same time, opposition parties are banned from participating in elections, and there are repressions of dissidents [19, p. 295].

In 2008, Cambridge University published a collective monograph entitled "The Rule of Law: Politics of Courts in Authoritarian States", whose authors decided to fill this gap in the scientific sphere, explaining their choice of topic by the fact that scholars usually focused on the problems of judicial activity in democratic states, trying to understand the reality of judicial policy in a non-democratic environment in the absence of transparency [21, introduction, p. 3]. The authors of the study argue that even for authoritarian states, legitimacy is important, "at least to save on the use of force, which is also a component of maintaining power", that authoritarian rulers try to "justify their questionable legitimacy by preserving judicial institutions that create the impression, if not the full effect, of restrictions on arbitrary rule" [21, introduction, p. 5].

Over the past year, democracy in hybrid and authoritarian states in Latin America has improved in Mexico (+6 places), Honduras (+5), El Salvador (+1), Guatemala (+3), and Bolivia (+3). Venezuela, Cuba, and Ecuador remained at the same level in the ranking, while Paraguay (-1), Peru (-1), Haiti (-2), and Nicaragua (-4) saw their ratings decline.

The authors of the Economist Intelligence Unit's annual report, "Democracy Index 2024: What's Wrong with Representative Democracy?", note a steady decline in the quality of democracy in Latin America and the Caribbean for the ninth consecutive year in 2024. At the same time, the report emphasises that "the region remains the third most democratic in the world after North America and Western Europe. It is ahead of Eastern Europe, Asia, and Australia, sub-Saharan Africa, the Middle East, and North Africa" [9, p. 52]. The report also identifies the strengths and weaknesses of democracy in Latin America. Among the strengths are above-average global results in the categories of electoral process and pluralism, political participation and civil liberties, and government functioning; among the weaknesses are the worst results in political culture [9, p. 52].

Conclusions

Thus, while there are common features of legal systems that allow them to be grouped, there are also distinctive political features that justify classifying such systems into different groups (subgroups). Due to the peculiarities of the legal and political order of Latin American countries, it becomes possible to have alternative approaches to placing their legal systems on the legal map of the world. Without a doubt, alternative classifications, depending on the available data and the specific interpretation of these data, are generally inherent in comparative law. However, the situation with Latin American countries is particularly specific. Taking into account political and legal factors (in particular, the role of the state, the functioning of the rule of law, and the existence of effective democracy) for the purposes of classifying legal systems, it can be stated that there are serious differences between Latin American countries themselves (*internal differentiation*) and significant differences between Latin American countries and countries with Romano-Germanic and Anglo-American legal systems (*external differentiation*). Of course, it can be argued that each classification will have certain advantages, and in fact, there are characteristics of each system that allow it to be placed within a particular legal family or to form one or more groups within the relevant family. But in this case, the researcher will be forced to formulate and justify the so-called predominance principle, which will be the basis for his choice.

The characteristics of the political order of the legal system are influenced by the following factors: the implementation of political decisions by the state without bias, the separation of the private interests of the head of state from the public interests of society as a whole, the rule of law as the obligation of general rules for absolutely everyone, the response of state authorities to the interests of society as a whole, rather than to the interests of individual groups; the current system of government, trust in the government, real independence of the judiciary, honesty, transparency, and independence of elections, voter safety, political pluralism, real and broad political freedoms of citizens, civil liberties of citizens, political engagement of the population, the level of development of the political culture of the population, the independence of the media, the absence of censorship, and the presence or absence of populism.

Latin American countries can be grouped into democratic and non-democratic countries based on their adherence to democratic principles. It should be noted that a country's legal system's affiliation with a particular political system is a dynamic phenomenon and may change for the better (increased democratisation) or for the worse (decreased or lost democratisation).

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