

PROGRESSION OF ELECTORAL COMPETENCE IN LATIN AMERICA AND RULE OF LAW: AN EXPLORATORY ANALYSIS FROM THE ELECTORAL, LEGISLATIVE AND EXECUTIVE SYSTEMS (2015-2023)

PROGRESSÃO DA COMPETIÇÃO ELEITORAL NA AMÉRICA LATINA E ESTADO DE DIREITO: UMA ANÁLISE EXPLORATÓRIA A PARTIR DOS SISTEMAS ELEITORAL, LEGISLATIVO E EXECUTIVO (2015-2023)

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Abstract

The evolution of electoral competence in Latin America is addressed, which has implied a progressive generation of electoral institutions with a constitutional nature, reflected in the creation of autonomous institutions, which underlines the importance of evaluating whether this progress has strengthened the rule of law in the region. The relationship between the advancement of the rule of law and the implementation of electoral competence is manifested in various institutions. This entails the hypothesis of determining whether, in terms of judicial institutions, their autonomous status enables a better understanding of the similarities and differences between the political systems of the region, also in relation to the legislative and executive systems, for a more thorough understanding of this distinction. The methodology used combines a historical and comparative approach, using regressive diachrony, progressive diachrony and comparative systems analysis to provide a more complete understanding of how electoral competence interacts with institutions and how it relates to the rule of law. The results suggest a relationship between the rule of law and electoral competence, although they do not imply direct causality, offering clues for future research and highlighting the importance of the rule of law in strengthening electoral competence in Latin America.

Keywords: rule of law, electoral competence, electoral institutions, Latin America, legislative system, executive system, electoral system, development of institutions, comparative analysis of institutions.

Resumo

Aborda-se a evolução da competência eleitoral na América Latina, que implicou uma geração progressiva de instituições eleitorais de natureza constitucional, refletida na criação de instituições autônomas, o que ressalta a importância de avaliar se esse progresso fortaleceu o Estado de Direito na região. A relação entre o avanço do Estado de Direito e a implementação da competência eleitoral se manifesta em

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diversas instituições. Isso implica a hipótese de determinar se, em termos de instituições judiciais, em termos de instituições judiciais, seu status autônomo permite uma melhor compreensão das semelhanças e diferenças entre os sistemas políticos da região, também em relação aos sistemas legislativo e executivo, para uma compreensão mais aprofundada dessa distinção. A metodologia utilizada combina uma abordagem histórica e comparativa, utilizando diacronia regressiva, diacronia progressiva e análise comparativa de sistemas para fornecer uma compreensão mais completa de como a competência eleitoral interage com as instituições e como se relaciona com o Estado de Direito. Os resultados sugerem uma relação entre o Estado de Direito e a competência eleitoral, embora não impliquem causalidade direta, oferecendo pistas para pesquisas futuras e destacando a importância do Estado de Direito no fortalecimento da competência eleitoral na América Latina.

Palavras-chave: Estado de direito, competição eleitoral, instituições eleitorais, América Latina, sistema legislativo, sistema executivo, sistema eleitoral, desenvolvimento de instituições, análise comparativa de instituições.

Summary: 1. Introduction. 2. Article Development. 3. Final Considerations. 4. References.

1 INTRODUCTION

Electoral competence has been gradually evolving in recent years. Within Latin American countries, this was born with a dialogue between the Executive and Legislative Branches, transferring electoral competence to the Judicial Branch or other powers, even generating comparable autonomous institutions. In this way, the main issue and challenge lie in the fact that electoral infractions gradually became constitutional infractions, and the resolution of these controversies would be addressed under constitutional frameworks-electoral jurisdiction or, where appropriate, through the annulment of the offending laws through the procedures established in the respective Constitutions of Latin America. Hence, the importance of being able to observe this progression, especially to demonstrate whether there has been progress in terms of the Rule of Law.

This exploratory analysis has the objective of recognizing if there is a relationship between the progress of the Rule of Law of Latin American nations and the implementation of electoral competence, which can be observed in judicial institutions, autonomous institutions, and institutions of new constituted powers or of institutions that are still part of the executive branch. This notion entails the possibility of discerning in a global way whether, after empirical analysis complemented by the mechanisms of perception of the Rule of Law, some differences and similarities can be found between the electoral, legislative and executive systems in which it is developed the electoral competence in Latin America.

The explicit methodological procedure required by the publication is based, on the one hand, on a diachronic regression that allows us to observe antecedents to explain and contextualize the evolution of Latin American electoral competence, and on the other hand, diachronic progression where we find the electoral, legislative and executive system to sift the comparative location of this competence.

Therefore, this entails the hypothesis of determining whether, in terms of judicial institutions, their autonomous status facilitates a better understanding of the similarities and differences among the political systems of the region, particularly in

relation to the legislative and executive systems, to achieve a more comprehensive understanding of these distinctions. In doing so, it will identify the differences and similarities in measuring the Rule of Law through the indicators used in this domain.

The results obtained from the respective identifications derived from the different diachronies presented and the shared comparisons must be taken with moderation since, although a patent relationship can be observed, the consideration comes from generating a cognitive dissonance of correlation that does not necessarily imply causality. Accordingly, it does allow us to find clues that can subsequently generate new spaces for research and deepening regarding the evidence found. Therefore, the exploratory results give us an idea of where we place the indicated institutions and, their competence with the electoral dimension and the cognitive integrations. By analyzing these elements from a comparative perspective, especially in light of the elements of the Rule of Law to contextualize and have a kaleidoscopic idea of the relationship, make us to understand the development of this competence seen in comparison with the electoral, legislative and executive systems that operate in Latin America. Accordingly, there is an international consensus that confirms the recognition of the rule of law as a significant and important element to recognize electoral competence, being informative to the extent that they are observed in practice for those responsible in influence to reconsider guidelines that may provide discernment in the Latin American context.

2 ARTICLE DEVELOPMENT

In order to facilitate the understanding of the function of electoral competence in Latin America, it is pertinent to make the difference between subjective competences, related to the legitimacy of the person to hold a public office, and objective competences, related to the legal powers that an authority exercises within his functions. For this study, we take into account the second as essential to return to the elements that were generated regarding the different systems that underpin the Rule of Law. Specifically, it is important to differentiate between the Executive, Legislative and Electoral systems in order to differentiate where we can locate each of the countries that conform to legal traditions.

Although it is true, one cannot be placed within a complete approach, it is relevant to generate a comparison regarding the nuances in which this is identified and implied depending on the evolution of electoral institutions. Even the same institution does not maintain the same characteristics over time, since it can show evolutions with respect to the approach, generating regressions in the event of institutional changes². Given this, we can also classify the combination of approaches. We will find the redirection of the understanding of the location of the respective judicial institution and therefore the cognitive understanding for a better understanding, both theoretical and methodological, of legal institutions as follows:

² The relationship between the advancement of the rule of law and the implementation of electoral competence in Latin America is manifested in various institutions, from judicial to autonomous, indicating a better understanding of the similarities and differences between the political systems of the region. The methodology used combines a historical and comparative approach, using regressive diachrony to contextualize the evolution of electoral competence and the comparative analysis of political systems.

TABLE 1. COMPARISON OF APPROACHES FOR LEGAL INSTITUTIONS

Approaches applied to legal institutions	Classical Theory	New Public Management	Governance in New Public Service
Type	Judicial and Legal	Administrative and Management	Cooperative
Criteria	Regularity	Economy, effectiveness, efficiency and productivity	Democratic, equity and participation
Methods	Legal analysis in specific cases	Aggregate data analysis and goal achievement measures	Qualitative review

Source: Own elaboration based on Atrio, Jorge Luis y Piccone, María, “De la Administración Pública a la Gerencia Pública. El porqué de la necesidad de gestionar la transición”. *Revista del CLAD Reforma y Democracia*, (42), 2008. p.19. ISSN: 1315-2378. Available at: <https://www.redalyc.org/articulo.oa?id=357533673006> [Accessed: April 29, 2024]; Denhardt, Janet *et al.*, *The new public service: serving, not steering* (2th ed.). Routledge. Reference and Research Book News, 18(1), 2007, pp.28-29; Contini, Franseco y Mohr, Richard (2007) *Reconciling Independence and Accountability in Judicial Systems*. *Utrecht Law Review*, 3(2), 2007,26-43. Available: <https://heinonline-org.bucm.idm.oclc.org/HOL/Page?public=true&handle=hein.journals/utrecht3&div=15&start_page=26&collection=journals&set_as_cursor=0&men_tab=srchresults> [Accessed: April 29, 2024].

Among the main contributions of the previous table, it is understood that New Public Management must be seen as an approach that recognizes that the State is an indispensable instrument for the economic, political and social development of any country. It can be complemented with the orientation in transition ex ante from Classical Administrative Theory and ex post to the New Public Service.

Therefore, the new trend involves putting the citizen at the center with main directions such as “serve, rather than lead”, “public interest is the objective, not the by-product”, “think strategically, act democratically”, “serve citizens, not clients” and “value citizenship and public service above entrepreneurship”³.

Therefore, the approach from which we start for the recognition of legal institutions in general, and in particular, of the electoral competence that integrates the different electoral bodies, part of the citizens and the public interest is the result of a dialogue about values shared. All of them are created because of an intermediation of interests between citizens and community groups creating coalitions and collaborative structures with shared leadership internally, externally and orchestrally.

In this regard, the following empirical studies can be evidenced that support us with the identification of fundamental elements that we take as a reference point to be able to carry out this progression, which in turn is based on a regressive-progressive and comparative diachrony to be able to understand from a different point of view. It is also considered, the qualitative and quantitative approach to

³ Pyun, Hae y Edey , Claire, “Looking for public administration theories?” *Public Organization Review: A Global Journal*, 18(2), 2018, p.252. Available at: <https://doi.org/10.1007/s11115-017-0374-6> [Accessed: April 29, 2024].

electoral competence in the context of the electoral, legislative and executive systems of Latin America. Therefore, the following table of empirical studies is proposed:

TABLE 2. EMPIRICAL STUDIES

AUTHOR	ATTRIBUTES	COGNITIVE BIAS
Nohlen (2007)	Systematic and comparative presentation of electoral law and its relationship with democracy in Latin America	Qualitative, Comparative Law, Executive Branch, Legislative Branch and Judicial Branch
Orozco (2013)	Comparative knowledge about electoral justice systems	Qualitative, Comparative Law, Case Summaries and Theoretical-Practical materials
Catt (2014)	Electoral management design, the importance and function of electoral administration in contemporary democracies	Qualitative, Comparative Electoral Administration and Electoral Systems
Ferrer Mac-Gregor (2014)	Constitutional Procedural Law, Conventional Procedural Law and Democratic Institutions	Qualitative, Comparative, Constitutional and Conventional Law
Inter-American Institute of Human Rights & Tribunal Electoral del Poder Judicial de la Federación (2018)	Institutional Design, systematic and comparative, discipline of Judicial bodies	Qualitative, Comparative Law and Electoral Law
Konrad-Adenauer-Stiftung (2019)	Advances and challenges of constitutionalism in Latin America and Interactions between constitutional law	Qualitative, Comparative, Constitutional Law and Constitutional Interactions
USAID/PFMOLAC/ICMA (2016)	Efficiency, Performance Measurement and Judicial Governance	Quantitative, Results and Evaluation
Espinosa (2020)	Electoral Justice, Electoral Systems, Politics and Democracy in Latin America.	Qualitative, Comparative Electoral Justice and Comparative Electoral Systems
Viapiana (2021)	Efficiency, Court Administration, Accountability, Transparency, Performance-based Budgeting	Quantitative, Process and Quality of Institutions

Note: Own elaboration based on the reviewed literature.

Given the above, to observe the relationship between electoral competence and the rule of law, it is essential to recognize the progression that has existed. For example, there are two great traditions from the point of view of the legislative

system, on the one hand, we have the unicameral system (Cuba, Costa Rica, Ecuador, El Salvador, Guatemala, Peru, Honduras, Nicaragua, Panama and Venezuela), and on the other hand, the other the bicameral system (Argentina, Bolivia, Brazil, Chile, Colombia, Mexico, Dominican Republic and Uruguay). In this sense, this is combined with the Electoral System that applies to each of them, since we find that the vast majority of countries refer to a system of Proportional Representation, while Bolivia, Mexico, Panama and Venezuela have a mixed system that involves Proportional Representation and Single Member Districts. This allows us to see that previous systems count to establish notions regarding the executive system and its form of election.

The above allows us to understand three modalities regarding the functioning of the Executive Branch. The first where the Head of State is also Head of Government elected indirectly by the Legislative Branch (Cuba), the second in which the Head of State is also Head of Government elected by absolute majority with a second round (Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Peru, Dominican Republic and Uruguay). Finally, the system in which the Head of State is also Head of Government elected by simple majority as in the case of Honduras, Mexico, Nicaragua, Panama, Paraguay and Venezuela.

This link is complemented without forgetting the international jurisdiction and the international human rights law applicable in the countries, as well as the criteria emanating from the jurisdictional function. All of them are taken into account to regulate the criteria regarding the judicial arguments of the electoral bodies in charge of regulating the operation of electoral systems, considering that said criteria could provide feedback to the elaboration of rules, application of rules and resolution of conflicts respectively.

This generates effects that can be understood as a synergy, that is, one whose “action of two or more causes whose effect is greater than the sum of the individual effects”⁴. Particularly with respect to the electoral function in general, and in Latin America in particular, they are specifically observed in its administrative function and the jurisdictional function.

In this regard, the lever or point of support is to know if the electoral competence on which they are based is derived and integrated, on the one hand, and on the other the nature of the institution that bases their activity, that is, the electoral governance to which serves. It is worth establishing some comparisons and considerations derived from the initial electoral competence in Latin America.

It is possible to identify electoral competence with different interactions that involve both autonomous institutions, that is, those that do not belong to a specific Branch, those that belong to the Electoral Branch or the corresponding Judicial Branch, or in any case, those that are non-autonomous. These are also combined

⁴ The concept can be verified at <https://dle.rae.es/sinergia>. In turn, this notion allows us to recognize the “...initiatives for the implementation of new technologies in electoral processes, and it must be stressed, in the first instance, that said incorporation should not only be limited to the operation of the jurisdictional apparatus in electoral matters, but that has to permeate the entire democratic system, from the institutions that administer justice to the citizen who casts his vote at the polls.” For more detail: Girón, Renato, “Sinergia en la justicia electoral posmoderna nuevas tecnologías, redes sociales y participación ciudadana”. *Revista Justicia Electoral*, ISSN-e 0188-7998, Vol. 1, N°. 26, 2020, p. 319. Available at: <<https://dialnet.unirioja.es/servlet/articulo?codigo=8159827>> [Accessed: April 29, 2024].

with the derived and integrated perspective, for example, in the derived one, the administrative and jurisdictional electoral function of the indicated institution is considered or, where appropriate, these functions are integrated for the respective electoral competence.

For example, with respect to initial electoral competence, the autonomous institutions that manifest derived electoral competence are found in Chile (1980)⁵, Colombia (1991)⁶, Mexico (1990 and 1993)⁷ and Peru (1993)⁸. Here we generate an important distinction to consider, since the Chilean inter-institutional case confers that the body in charge of organizing the elections was limited to a non-autonomous institution. In this case specifically the Ministry of the Interior, while the resolution of conflicts was attributed to an electoral jurisdictional body that resolves autonomously, that is, without depending on any specific power.

In turn, within the countries that have integrated electoral competence we find Brazil (1988)⁹, El Salvador (1988)¹⁰, Guatemala (1985)¹¹, Honduras (2010)¹², Panama (2006)¹³, Dominican Republic (2006)¹⁴, Uruguay (1985)¹⁵ and Venezuela (1997)¹⁶. These cases are relevant, since it is observed that the members of this specific group have mostly changed with respect to their initial electoral competence.

⁵ Electoral Service (Servel – SE – electoral administrative function) and the Election Qualifying Tribunal (TCE-electoral jurisdictional function). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/CL>> [Accessed: April 29, 2024].

⁶ National Registry of Civil Status (RN – electoral administrative function) and the National Electoral Council (CNE-electoral jurisdictional function). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/CO>> [Accessed: April 29, 2024].

⁷ Federal Electoral Institute (IFE – electoral administrative function) and Federal Electoral Tribunal (TFE-electoral jurisdictional function). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/MX>> [Accessed: April 29, 2024].

⁸ National Office of Electoral Processes and the National Registry of Identification and Civil Status (OR-electoral administrative function), together with the National Elections Jury (JNE- electoral jurisdictional function). For more details visit: <https://www.wipo.int/wipolex/en/members/profile/PE> [Accessed: April 29, 2024].

⁹ Superior Electoral Tribunal (TSE- integrates electoral administrative function and electoral jurisdictional function). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/BR>> [Accessed: April 29, 2024].

¹⁰ Supreme Electoral Tribunal of El Salvador (TSEI -confers the electoral administrative function and the electoral jurisdictional function). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/SV>>. [Accessed: April 29, 2024].

¹¹ Supreme Electoral Tribunal of Guatemala (TSEI – authority with electoral administrative function and electoral jurisdictional function). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/GT>>. [Accessed: April 29, 2024].

¹² National Election Tribunal (TNE) that held integrated electoral jurisdiction. For more details visit: <https://www.wipo.int/wipolex/en/members/profile/HN> [Accessed: April 29, 2024].

¹³ Electoral Tribunal of Panama (TEI) with functions of both organizing elections and administering justice. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/PA>> [Accessed: April 29, 2024].

¹⁴ Integrated electoral jurisdiction exercised by the Central Electoral Board (JCE). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/DO>> [Accessed: April 29, 2024].

¹⁵ Integrated electoral jurisdiction of the Electoral Court (CE). For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/UY>> [Accessed: April 29, 2024].

¹⁶ In Venezuela, the competence was originally exercised by the National Electoral Council (CNE) when it was established as an autonomous institution. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/VE>> [Accessed: April 29, 2024].

For its part, it is important to recognize that there are electoral competences that are located in the Electoral Branch as a complementary member of the traditional powers within certain States. This can also be differentiated in the same way between those that have a derived electoral competence such as the case of Ecuador (2008)¹⁷, as well as those that have integrated electoral competence, that is, the administrative and jurisdictional electoral function in a single body that depends on the Electoral Branch, such as Costa Rica (1949)¹⁸ and Nicaragua (1987)¹⁹. Regarding the previous countries, it is important to note that they are the ones that have reflected the least changes in their skills over time in addition to having the longest skills.

Later we find those countries that place the exercise of their electoral functions within the Judicial Branch. Argentina (1994)²⁰ manifests derived electoral jurisdiction, similar to the Chilean case in terms of its inter-institutional nature, in that the administrative electoral function is related to the Ministry of the Interior, while the jurisdictional activity is located within its Judicial Branch. On the other hand, Bolivia (2004)²¹ and Paraguay (1992)²² generate an integrated competence within the Judicial Branch of their respective institutions.

The last cases refer to Chile (above mentioned) and Argentina within the non-autonomous approach, this given that the electoral administration and organization of the electoral processes is attributed to the Ministry of the Interior. The case of Cuba (1992)²³, implies a sphere of integrated non-autonomous electoral competence, which in administrative activities and those derived from electoral controversies are directed to the same body. In this regard, the following table of distinctions is presented to be able to locate the Latin American countries of the stated competencies:

¹⁷ Here the National Electoral Council (CNE) exercises the administrative function, while the Contentious Electoral Tribunal (TCoE) exercises the jurisdictional function. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/EC>> [Accessed: April 29, 2024].

¹⁸ Integrated electoral jurisdiction exercised by the Supreme Electoral Tribunal (TSuE), being the longest in terms of maintaining said jurisdiction since 1949. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/CR>> [Consultation: April 29, 2024].

¹⁹ Another country where integrated electoral competence has remained since 1987 with the Supreme Electoral Council (CSE). For more details visit: <https://www.wipo.int/wipolex/en/members/profile/NI> [Accessed: April 29, 2024].

²⁰ The National Directorate of Elections (DNE) is a technical body of the National Executive Branch in charge of electoral administration, while the National Electoral Chamber is the body of the Judicial Branch in charge of dispensing justice in the matter. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/AR>> [Accessed: April 29, 2024].

²¹ National Electoral Court (CoNE) that held integrated electoral jurisdiction in Bolivia. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/BO>> [Accessed: April 29, 2024].

²² Superior Court of Electoral Justice (TSJ) of Paraguay. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/PY>> [Accessed: April 29, 2024].

²³ National Electoral Commission (CEN) encompasses derived electoral competence. For more details visit: <<https://www.wipo.int/wipolex/en/members/profile/CU>> [Accessed: April 29, 2024].

TABLE 3. INITIAL ELECTORAL COMPETENCES IN LATIN AMERICA

INTERACTION	INSTITUTION	DERIVATIVE	INTEGRATED
	AUTONOMOUS	<u>CHILE*</u> COLOMBIA <u>MEXICO</u> PERU	<u>BRASIL</u> EL SALVADOR GUATEMALA <u>HONDURAS</u> PANAMA <u>DOMINICAN REPUBLIC</u> URUGUAY <u>VENEZUELA</u>
	ELECTORAL BRANCH	ECUADOR	<u>COSTA RICA</u> NICARAGUA
	JUDICIAL BRANCH	ARGENTINA**	<u>BOLIVIA</u> PARAGUAY
	NOT AUTONOMOUS	<u>CHILE*</u> ARGENTINA**	CUBA

Note: * Chile. Interinstitutional Derived Electoral Competence where the Body in charge of organizing the elections was limited to a non-autonomous institution, in this case specifically the Ministry of the Interior, while the resolution of conflicts is attributed to an electoral jurisdictional body that resolves autonomously. , that is, without depending on any specific power.

** Argentina. Interinstitutional Derived Electoral Competence, given that the administrative electoral function is related to the Ministry of the Interior, while the jurisdictional activity is located within its Judicial Branch.

Source: Own elaboration based on the review of national legislation, depending on the case, available at <https://www.wipo.int/wipolex/en/members>, as well as the ACE, *Comparative Data*, 2023. The information is collected by the ACE Regional Centers, available at: <https://aceproject.org/epic-en> [Consulted: April 29, 2024].

The previous elements are important since they are an initial institutional reference point to observe the inter-institutional and intra-institutional distinctions that occurred in the electoral competence in Latin America that precede the present. The countries with changes in their electoral competence are underlined in the previous table for better identification. Given this, the prioritized approach goes towards countries that indicate a transition with respect to their original electoral competence, which we will point out below in terms of autonomously derived electoral competence. For example, with respect to the group of countries that refer to autonomy in terms of their derived electoral competence, Colombia (2003)²⁴ and Peru (2011)²⁵, although they had changes regarding the designation method in the

²⁴ In accordance with its Constitution, it goes from being through the Judicial Branch to being Governmental for the National Registry of Civil Status (Article 266) and partisan for the National Electoral Council (Article 264). For more details visit: <<https://www.wipo.int/wipolex/en/text/198962>> [Accessed: April 29, 2024].

²⁵ In the Peruvian case, in accordance with its constitution (Article 177), the National Office of Electoral Processes (Article 182) and the National Registry of Identification and Civil Status (Article 183), are responsible for the electoral administrative function (OR). While the National Election Jury, which is an autonomous body of constitutional origin, independent of the three branches of public power and is part of the electoral or-

first case, and regarding the review or revocation of electoral decisions ultimately did not have structural changes, but they did have intra-institutional changes as indicated. The cases that specifically change are Chile (2015)²⁶, where the electoral administrative competence goes from being non-autonomous to being autonomous, that is, it shares the type of autonomy with the electoral jurisdictional competence of its electoral institution in charge of settling electoral conflicts. In the Mexican case, the electoral administrative function continues to have autonomy, however, the jurisdictional function changes, which will be noted when the group of countries grouped with respect to the judicial branch is reached.

Regarding the intra-institutional changes of electoral competence in terms of autonomous institutions, the case of Honduras (2019) can be noted²⁷. In this case from being an integrated electoral competence, it begins to implement derived electoral competence, that is, the administrative and jurisdictional functions that previously carried out by the Supreme Electoral Tribunal, it is now shared between the National Electoral Council (CNE) and the Electoral Justice Tribunal (TJE). This is the same case of the Dominican Republic (2011)²⁸, a country with similar unified electoral competence in the Central Electoral Board (JCE). It also subsequently was shared with the Central Electoral Board (JCE) in terms of administrative matters, and the Superior Electoral Tribunal (TSE) about jurisdiction.

As for countries with integrated electoral competence with autonomy, countries such as El Salvador (2004)²⁹, Guatemala (2010)³⁰, Panama (2016)³¹ and

ganization, which has administrative and budgetary autonomy (JNE- Article 178), the electoral jurisdictional function. For more details visit: <<https://www.wipo.int/wipolex/en/legislation/details/21225>> [Accessed: April 29, 2024].

²⁶ Servel – SE-electoral administrative function (Article 94 bis.-) and the Election Qualifying Tribunal (TCE-electoral jurisdictional function- Article 95) are regulated. For more details visit: <<https://www.wipo.int/wipolex/en/text/467337>> [Accessed: April 29, 2024].

²⁷ A separation of the administrative, technical and logistical functions were carried out. On the one hand, and the jurisdictional functions on the other, into two (2) different entities: the National Electoral Council (CNE) and the Electoral Justice Tribunal. Both institutions resume all the work carried out until now by the Supreme Electoral Tribunal, in addition to some additional tasks to strengthen the new institutional model. Honduras in its Magna Carta refers to the National Electoral Council (CNE – electoral administrative function) and the Supreme Electoral Tribunal (TSEI – electoral jurisdictional function – Article 51). *Legislative Decree 002-2019 Ratification of Electoral Reforms*. Available at: <https://www.cne.hn/documentos/decretos_2019_2018/Decreto_002_2019_Ratificacion_Reformas_Electorales.PDF> [Consulted: April 29, 2024].

²⁸ Derived electoral jurisdiction identified in its constitution between the Central Electoral Board (JCE – electoral administrative function – Article 212), and the Superior Electoral Tribunal (TSE – electoral jurisdictional function – Article 214). For more details visit: <<https://tse.do/wp-content/uploads/2022/04/Constitucion-Dominicana.pdf>> [Accessed: April 29, 2024].

²⁹ Integrated electoral jurisdiction that, according to its constitution, refers to: “*Article 208: the supreme electoral court will be the maximum authority in this matter, without prejudice to the resources established by this constitution, for violation of it*”. For more details visit: <<https://www.wipo.int/wipolex/en/legislation/details/21145>> [Accessed: April 29, 2024].

³⁰ The integrated electoral competence is specified in accordance with what is stated in its constitution: “*Article 5. General elections... The Supreme Electoral Tribunal will organize said elections and will make the final qualification of their results, proclaiming the elected citizens*”. For more details visit: <<https://www.wipo.int/wipolex/en/text/194705>> [Accessed: April 29, 2024].

³¹ According to the Panamanian constitution, it is established for its administrative and electoral jurisdictional function in Article 142. For more details visit: <<https://www.wipo.int/wipolex/en/text/189352>> [Accessed: April 29, 2024].

Uruguay (2004)³² report the same structure. Now, with respect to the electoral competence conferred within the Electoral Branch, the case of Ecuador (2011)³³ presents the same continuity in terms of its derived electoral competence, as does Costa Rica (2009)³⁴ and Nicaragua (2014)³⁵, in terms of its integrated electoral competence. Here the changes with respect to this grouping are given by Bolivia (2009)³⁶ and Venezuela (1999)³⁷. Since in the case of the first originally the integrated electoral competence was in the Judicial Branch with the National Electoral Court, now passing to the Electoral Branch formed in the Plurinational Electoral Body, and in the case of the second, the National Electoral Council went from being in the autonomy group to the respective Electoral Branch group.

In the following classification, we find the countries with electoral jurisdiction located in the Judicial Branch, Argentina (2009)³⁸ remaining constant in that the National Chamber of Elections imparts justice in electoral jurisdiction, as

³² Integrated electoral jurisdiction of the Electoral Court of Uruguay (EC): “Article 322.- There will be an Electoral Court that will have the following powers, in addition to those established in Section III and those indicated by law: A) Know everything related to electoral acts and procedures. B) Exercise directive, correctional, advisory and economic superintendence over electoral bodies. C) Decide as a last resort on all appeals and claims that arise, and be judge of the elections of all elective positions, of the acts of plebiscite and referendum”. For more details visit: <https://www.wipo.int/wipolex/en/text/195962> [Accessed: April 29, 2024].

³³ The National Electoral Council (CNE – administrative electoral function – Art. 219) and Contentious Electoral Tribunal (TCoE – jurisdictional electoral function – Art. 221). For more details visit: <https://www.wipo.int/wipolex/en/text/584701> [Accessed: April 29, 2024].

³⁴ Refers to integrated electoral jurisdiction of the Supreme Court of Elections of Costa Rica (TSuE) “ARTICLE 99.- The organization, direction and supervision of acts related to suffrage correspond exclusively to the Supreme Court of Elections, which enjoys independence in its performance. of its mission. The other electoral bodies depend on the Court”. For more details visit: <https://www.wipo.int/wipolex/en/text/583754> [Accessed: April 29, 2024].

³⁵ The integrated electoral competence of Nicaragua is maintained in accordance with what is stated in its constitution: “Article 168 The Electoral Power is exclusively responsible for the organization, direction and monitoring of elections, plebiscites and referendums. Article 169 The Electoral Power is made up of the Supreme Council Electoral and other subordinate electoral bodies”. For more details visit: <https://www.wipo.int/wipolex/en/text/585187> [Accessed: April 29, 2024].

³⁶ The Plurinational Electoral Body is made up of the Supreme Electoral Court, Departmental Electoral Courts, Electoral Courts, Voting Table Juries and Electoral Notaries. Specifically, the Supreme Electoral Tribunal is the highest level of the Electoral Body with integrated electoral competence: “Article 208. I. The Supreme Electoral Tribunal is responsible for organizing, administering and executing the electoral processes and proclaiming their results. II. The Tribunal will guarantee that suffrage is effectively exercised, in accordance with the provisions of article 26 of this Constitution III. It is the function of the Supreme Electoral Tribunal to organize and administer the Civil Registry and the Electoral Registry”. For more details visit: <https://www.wipo.int/wipolex/en/text/189098> [Accessed: April 29, 2024].

³⁷ Integrated electoral competence is manifested in Venezuela: “Article 292. ° The Electoral Power is exercised by the National Electoral Council as the governing body; and the National Electoral Board, the Civil and Electoral Registry Commission and the Commission of Political Participation and Financing, with the organization and operation established by the respective organic law”. For more details visit: <https://www.wipo.int/wipolex/en/text/235338> [Accessed: April 29, 2024].

³⁸ Derived electoral competence where the National Directorate of Elections (DNE) is a technical body of the National Executive Branch in charge of electoral administration, while the National Electoral Chamber is the body of the Judicial Power (CaNE) has jurisdiction over the entire territory of the Nation. This Electoral Court integrates – thus – the Judicial Power of the Nation and is, in our country, the highest authority of application of political-electoral legislation. For more details on the electoral administrative field, see: <https://www.argentina.gob.ar/interior/dine/la-direction-nacional-electoral> [Consultation: April 29, 2024]; Likewise, regarding the electoral jurisdictional field, it is recommended to know: https://www.electoral.gob.ar/nuevos/paginas/cne/competencia_cne.php [Consulted: April 29, 2024].

well as the integrated electoral jurisdiction of Paraguay (2011)³⁹ for the Superior Court of Electoral Justice. It is worth highlighting the case of Mexico (1996, 2007, 2014 and 2021)⁴⁰ as an inter-institutional change since the electoral jurisdictional function goes from the autonomy scheme as the Federal Electoral Court, to be incorporated into the Judicial Branch as the Electoral Court to the Judicial Branch of the Federation to strengthen the system of means of challenge. That was to guarantee the principles of constitutionality and legality of electoral acts and resolutions, among other innovations.

Also continuing with inter-institutional modifications, the case of Brazil (1995) also stands out⁴¹, since it transitioned from the group of countries with integrated electoral competence under the autonomy scheme, to being part of the Judicial Branch, maintaining itself as the Superior Electoral Court.

Finally, Argentina remains within the non-autonomous approach to electoral administration in terms of derived electoral competence, like Cuba (2019)⁴² with integrated electoral competence of administrative activities and those derived from electoral controversies assumed by the same institution that depends on its National Assembly. The previous elements regarding its administrative and electoral jurisdictional function can be seen in the following table:

³⁹ Integrated electoral competence of the judicial power: “*Article 274: Integration Electoral Justice is made up of a Superior Court of Electoral Justice, the courts, the courts, the prosecutor's offices and other organizations to be defined in the law, which will determine its organization and functions*”. For more details visit: <https://www.wipo.int/wipolex/en/text/585220> [Accessed: April 29, 2024]. In turn, the Superior Court of Electoral Justice is the supreme authority in electoral matters and only the action of unconstitutionality is possible against its resolutions (Art. 5. Law No. 635 / Regulates Electoral Justice) Available at: <<https://www.bacn.gov.py/leyes-paraguayas/2491/ley-n-635-reglamenta-la-justicia-electoral#:~:text=Los%20Members%20del%20Tribunal%20Superior,225%20de%20la%20Constituci%C3%B3n%20National>> [Consultation: April 29, 2024].

⁴⁰ Currently the National Electoral Institute (INE- electoral administrative function) is an autonomous public body, endowed with legal personality and its own assets, in charge of organizing the federal elections of processes to renew the president of the United Mexican States. As well as the legislators of the Chamber of Deputies and the Chamber of Senators that make up the Congress of the Union (CPEUM, article 41, base V, section A). The Electoral Tribunal of the Judicial Branch of the Federation (TE-electoral jurisdictional function) which is the specialized body of the Judicial Branch of the Federation. It is the maximum jurisdictional authority in electoral matters, permanent, collegiate body, endowed with full jurisdiction, which heads the administration of electoral justice in Mexico and whose resolutions are final and unassailable (CPEUM, article 99), with the exception of unconstitutionality actions that fall within the jurisdiction of the Supreme Court of Justice of the Nation. For more information visit: <https://www.wipo.int/wipolex/en/text/583949> [Accessed: April 29, 2024].

⁴¹ In Brazil, there is integrated electoral jurisdiction of the judicial power with the Superior Electoral Tribunal (TSE) since in addition to the jurisdictional function and its competence to investigate electoral crimes. It also supervises electoral propaganda and the contestation of the registration of candidates, additionally bringing together the administrative function, assuming the executive, operational and regulatory administration of the electoral process. (Art 118 The Electoral Justice System consists of: I. the Superior Electoral Court; II. the Regional Electoral Courts; III. the Electoral Judges; IV. the Electoral Boards). For more information visit: https://www.constituteproject.org/constitution/Brazil_2017.pdf?lang=es [Consulted: April 29, 2024].

⁴² For Cuba we find a non-autonomous integrated competence in terms of administrative and jurisdictional matters as indicated in its constitution (Article 211 and Article 212).For more details visit: <<https://www.wipo.int/wipolex/en/text/586184>> [Accessed: April 29, 2024].

TABLE 4. ELECTORAL SYSTEMS AND FUNCTIONS IN LATIN AMERICA

COUNTRY	ELECTORAL SYSTEM	ADMINISTRATIVE FUNCTION	JURISDICTIONAL FUNCTION	COMPETENCE
Venezuela	M	C NE	C NE	I
Uruguay	RP	CE	CE	I
Dominican Republic	RP	JCE	TSE	D
Peru	RP	OR	JNE	D
Paraguay	RP	TSJ	TSJ	I
Panama	M	TEI	TEI	I
Nicaragua	RP	CSE	CSE	I
Mexico	M	INE	TE	D
Honduras	RP	CNE	TJE	D
Guatemala	RP	TS EI	TS EI	I
El Salvador	RP	TS EI	TS EI	I
Ecuador	RP	CNE	TC oE	D
Cuba	P M	CEN	CEN	I
Costa Rica	RP	TS uE	TS uE	I
Colombia	RP	RN	CNE	D
Chile	RP	SE	TCE	D
Brazil	RP	TSE	TSE	I
Bolivia	M	OEP	OEP	I
Argentina	RP	DNE	CaNE	D

Note: ELECTORAL SYSTEM: RP- Proportional Representation; PM- Plurality-Simple Majority; M- Mixed (Proportional Representation and Single-member Districts).

ADMINISTRATIVE FUNCTION: DNE- National Directorate of Elections; OEP- Plurinational Electoral Organization; TSE- Superior Electoral Court; SE- Electoral Service (Servel); RN- National Registry of Civil Status; TSuE – Supreme Court of Elections; CEN- National Electoral Commission; CNE- National Electoral Council; TSEI – Supreme Electoral Tribunal; INE- National Electoral Institute; CSE- Supreme Electoral Council; TEI – Electoral Tribunal; TSJ- Superior Court of Electoral Justice; OR- National Office of Electoral Processes and the National Registry of Identification and Civil Status; JCE- Central Electoral Board; CE- Electoral Court.

JURISDICTIONAL FUNCTION: CaNE – National Electoral Chamber; OEP- Plurinational Electoral Organization; TSE- Superior Electoral Court; TCE- Election Qualifying Tribunal; CNE- National Electoral Council; TSuE – Supreme Court of Elections; CEN- National Electoral Commission; TC oE – Electoral Contentious Tribunal; TSEI – Supreme Electoral Tribunal; ECJ- Tribunal of Electoral Justice; TE- Electoral Tribunal of the Judicial Branch of the Federation; CSE- Supreme Electoral Council; TEI – Electoral Tribunal; TSJ- Superior Court of Electoral Justice; JNE- National Elections Jury; CE- Electoral Court.

COMPETENCE: D- Derived Attribution. It derives electoral administrative function and electoral jurisdictional function.; I- Integrated Attribution. It integrates the electoral administrative function and the electoral jurisdictional function.

Source: Own elaboration based on the review of national legislation, depending on the case, available at <https://www.wipo.int/wipolex/en/members>, as well as the ACE, Comparative Data, 2023. The information is collected by the ACE Regional Centers, available at: <https://aceproject.org/epic-en> [Consulted: April 29, 2024].

All the elements expressed are finally condensed in the current electoral competence is in Latin America:

TABLE 5. CURRENT ELECTORAL COMPETENCE IN LATIN AMERICA

INTERACTION	INSTITUTION	DERIVATIVE	INTEGRATED
	AUTONOMOUS	<u>CHILE</u> COLOMBIA <u>HONDURAS</u> <u>MEXICO**</u> PERU <u>DOMINICAN REPUBLIC</u>	EL SALVADOR COSTA RICA GUATEMALA PANAMA URUGUAY
	ELECTORAL BRANCH	ECUADOR	<u>BOLIVIA</u> NICARAGUA <u>VENEZUELA</u>
	JUDICIAL BRANCH	ARGENTINA* <u>MEXICO**</u>	<u>BRAZIL</u> PARAGUAY
	NOT AUTONOMOUS	ARGENTINA*	CUBA

Note: * Argentina. Interinstitutional Derived Electoral Competence, given that the administrative electoral function is related to the Ministry of the Interior, while the jurisdictional activity is located within its Judicial Branch.

**Mexico. Interinstitutional Derived Electoral Competence, given that the administrative electoral function is related to the National Electoral Institute as an autonomous body, while the jurisdictional activity is located within its Judicial Branch.

Source: Own elaboration based on the review of national legislation, depending on the case, available at <https://www.wipo.int/wipolex/en/members>, as well as the ACE, Comparative Data, 2023. The information is collected by the ACE Regional Centers, available at: <https://aceproject.org/epic-en> [Consulted: April 29, 2024].

Let us return to our initial outline. The two great traditions from the point of view of the legislative system are the unicameral system and, on the other, the bicameral system, both of which observe specificities since the most prevalent system in the group observed is the unicameral system. In turn, with the legislative system we associate the electoral system, given which we find that the vast majority of countries refer to a system of proportional representation, while Bolivia, Mexico, Panama and Venezuela have a mixed system that involves Proportional Representation and Uninominal Districts. Regarding the electoral competences, both administrative and jurisdictional, it is of an integrated type, Honduras transitions from an integrated electoral competence to an electoral competence derived from the perspective of the unicameral legislative system. Same case as the Dominican Republic, which is based on a bicameral system that involves a derived electoral competence for a better adjustment of its electoral-related systems. Additionally, it would seem better to have an electoral authority that separately manages its powers in two electoral bodies than in just one. That is in terms of the intra-institutional changes in the systems observed in these two countries.

Regarding inter-institutional changes, countries such as Chile, Bolivia, Brazil, Mexico and Venezuela with a bicameral system, as well as Costa Rica with a unicameral system, generate changes in the modality in terms of the type of institution that is observed from the respective electoral competence. In this

perspective, Chile now reflects total autonomy in the competence derived from its electoral bodies of derived electoral competence, which is shared with Costa Rica in that, if it is part of the Electoral Branch of its country, it is institutionalized in a scheme of autonomy for its electoral authority of integrated electoral competence. In its case, Bolivia transitions from its integrated electoral competence from the Judicial Branch to the Electoral Branch, a case similar to that of Venezuela, only that the latter starts from autonomous electoral bodies to later form part of the Electoral Branch of its country. Regarding the journey from an electoral institution with integrated competence that enjoyed autonomy to one that is part of the Judicial Branch, this is the case of Brazil, since this inter-institutional change provides a better adaptation to its bicameral legislative system. Mexico also shares this from a perspective of derived electoral jurisdiction, due to the inter-institutional evolution that occurs when the electoral jurisdictional jurisdiction changes when the Electoral Court is now part of the Judicial Branch of the Federation in the Mexican case. Regarding the previously mentioned, it should be noted that Argentina and Colombia (bicameral legislative system), and Ecuador (unicameral legislative system) that share derived electoral competence, as well as countries with integrated electoral competence such as El Salvador, Guatemala, Panama, Uruguay, Nicaragua, Paraguay and Cuba have not generated changes in their respective electoral competence.

The above also allows us to see that previous systems, in terms of interaction with the executive system and its form of election, have had some changes to consider. Shown in the three aforementioned modalities⁴³ are outlined in considerations focused on how countries have changed with the simple majority Head of State election system. In short, they have changed their system of electoral competence more in comparison with the countries of Head of State elected by absolute majority with second round.

Regarding the first, Mexico and Venezuela report inter-institutional changes, while Honduras reported intra-institutional change, regarding their electoral branches. As for the second group, following the same logic indicated, Bolivia, Brazil, Chile and Costa Rica are located in terms of inter-institutional transit, while the Dominican Republic in terms of intra-institutional transit.

This leads us to consider whether there has been an evolution since the main electoral competences in Latin American countries have changed. In this regard, it is possible to compare the years in which the initial electoral competence stated in tables 3 and 5 of this document. Above all, to be able to know if it is possible to consider an evolution based on this evolution of the electoral competence of Latin American nations has been modified, coupled with what is contextualized with respect to the system of the Legislative Branch and what refers to the Executive Branch.

In this regard, you can take into account the data that is available regarding the World Justice Project, specifically to be able to observe some evolution with respect to the year 2015, which reflects consistency with respect to the elements that

⁴³ The system of Head of State who is also Head of Government indirectly elected by the Legislative Branch; the system of Head of State who is also Head of Government elected by absolute majority with second round; and system in which the Head of State is also Head of Government elected by a simple majority.

are measured with said study, making it comparable in its progression with the year 2023. This index evaluates countries in eight key factors, such as limits on state power and corruption, based on data from 142 countries and territories. This unique measure reflects the perspective of the population and is a tool to identify strengths and weaknesses and promote public policies that strengthen the rule of law.

In this regard, the following results are evidenced to show recognizable changes with respect to this international indicator, the current electoral competence in Latin America and the systems addressed:

TABLE 6. DISTINCTIONS OF LATIN AMERICAN SYSTEMS AND COMPARISON OF RULE OF LAW PROGRESS OF WORLD JUSTICE PROJECT BETWEEN 2015 AND 2023

<i>INTERACTION</i>	<i>EXECUTIVE SYSTEM</i>	<i>LEGISLATIVE SYSTEM</i>	
		<i>BICAMERAL (B)</i>	<i>UNICAMERAL (U)</i>
	PEL		(I) CUBA PM (-)
	PMA	(D) ARGENTINA RP (0.52-0.55) ↑ (I) BOLIVIA M (0.41-0.37) ↓ (I) BRAZIL RP (0.55-0.49) ↓ (D) CHILE RP (0.69-0.66) ↓ (D) COLOMBIA RP (0.51-0.48) ↓ (D) REPÚBLICA DOMINICANA RP (0.49-0.49) (=) (I) URUGUAY RP (0.73-0.72) ↓	(I) COSTA RICA RP (0.69-0.68) ↓ (D) ECUADOR RP (0.47-0.47) (=) (I) EL SALVADOR RP (0.51-0.45) ↓ (I) GUATEMALA RP (0.44-0.44) (=) (D) PERÚ RP (0.51-0.49) ↓
	PMS	(D) MÉXICO M (0.48-0.42) ↓ (I) PARAGUAY RP (0.48-0.46) ↓*	(D) HONDURAS RP (0.43-0.41) ↓ (I) NICARAGUA RP (0.42-0.35) ↓ (I) PANAMÁ M (0.53-0.51) ↓ (I) VENEZUELA M (0.31-0.26) ↓

Note: ELECTORAL COMPETENCE: (D) – Derived Attribution. It derives electoral administrative function and electoral jurisdictional function; (I) – Integrated Attribution. It integrates the electoral administrative function and the electoral jurisdictional function.

EXECUTIVE SYSTEM: PEL- Presidential, the Head of State is also Head of Government indirectly elected by the Legislative Branch;

PMA- Presidential, the Head of State is also Head of Government elected by absolute majority with a second round; PMS- Presidential, the Head of State is also Head of Government elected by simple majority.

LEGISLATIVE SYSTEM: B- Bicameral; U-Unicameral.

ELECTORAL SYSTEM: PR- Proportional Representation; PM- Plurality-Simple Majority; M- Mixed (Proportional Representation and Single-member Districts).

*For the case of Paraguay, it is possible to compare with the available date the years 2021 and 2023.

Source: Own elaboration based on the data provided by the INDEX OF LAW, World Justice Project (WJP). Available at: <https://worldjusticeproject.org/rule-of-law-index/global> [Accessed: April 29, 2024]. This is a quantitative assessment tool designed by World Justice Project to provide a detailed and comprehensive picture of the extent to which countries adhere to the rule of law in practice.

Factors in the WJP Rule of Law Index include: 1. Restrictions on government powers 2 . Absence of corruption 3. Open government 4. Fundamental rights. 5. Order and security 6. Compliance with regulations 7. Civil Justice 8. Criminal Justice. (Data is collected for a Ninth factor, Informal Justice, but

is not included in the aggregate scores and rankings. This is due to the complexities of these systems and the difficulties in measuring their fairness and effectiveness in a matter that is both systematic and comparable across countries). A detailed description of the process by which data is collected and the rule of law is measured is provided in: Botero, J and Ponce, A. (2011) "Measuring the Rule of Law". WJP Working Paper No. 1, available online at www.worldjusticeproject.org. Likewise, based on the review of national legislation, depending on the case, available at <https://www.wipo.int/wipolex/en/members>, as well as the ACE, Comparative Data, 2023. The information is collected by the ACE Regional Centers, available at: <https://aceproject.org/epic-en> [Consulted: April 29, 2024].

Depending on the point of view is how we can observe recurrences. We start with the electoral competence. We realize that there is a balance between derived electoral competences and integrated electoral competences that refer to Latin American countries where the system is presidential and the Head of State is also Head of Government elected by absolute majority with a second round. Regarding the presidential system where the Head of State is also Head of Government elected by simple majority, it can be recognized that fundamentally integrated electoral competences are present, the only exceptions being the cases of Mexico and Honduras. The only case we find regarding the system in which the Head of State is also Head of Government indirectly elected by the Legislative Branch is Cuba, having an integrated electoral competence.

Now, with respect to the legislative system, the bicameral tradition fundamentally opts for derived electoral competences, while the unicameral tradition mainly opts for integrated electoral competences. This element is very interesting, especially because it allows us to recognize that the exceptions for countries with a bicameral legislative system with integrated competence are Bolivia, Brazil, Uruguay and Paraguay. In turn, regarding exceptions to the unicameral legislative system, we find countries with derived electoral competences in the cases of Ecuador, Peru and Honduras.

Specifically, regarding the progress that has been made in terms of the rule of law in Latin American countries, focused from the lenses of electoral competences, the legislative system and the executive system. We can observe that in the vast majority there is a decreasing trend in the region, having as the only case of progress with respect to the years evaluated between 2015 and 2023, the case of Argentina, seconded by the cases of Ecuador, Guatemala and the Dominican Republic, which have remained the same over time. In this regard, the characteristic that possibly unifies these cases is that we are talking about countries with an electoral system of proportional representation, with derived electoral competence being the one that accompanies the majority of these nations (except Guatemala).

For their part, the countries that have had the most pronounced decrease with respect to the measurement of the Rule of Law have been Nicaragua and Mexico, countries with a presidential system where the Head of State is also the Head of Government elected by a simple majority. Two other countries where an important change is also generated are Brazil and El Salvador, these coinciding to be presidential systems where the Head of State is also Head of Government elected by absolute majority with a second round. It is interesting to recognize that the countries with the least variation in terms of measurement are with countries where the second round is expected, such as Argentina, Ecuador, the Dominican Republic, Guatemala, Costa Rica and Uruguay. At the same time, also remember that the first

three have derived electoral competence, while the three that follow have derived electoral competence.

Regarding the legislative system, the contrasts are important, since while we have the best evaluated in Argentina with a bicameral legislative system, we have the worst evaluated in Nicaragua with a unicameral legislative system. In the cases with the least variation, three are bicameral (Argentina, Dominican Republic and Uruguay) and three are unicameral (Ecuador, Guatemala and Costa Rica).

Finally, regarding electoral competencies, the best evaluated has derived competency and the worst evaluated has integrated competency. Although countries with derived competence have generally had less change over time in terms of the measurement of the Rule of Law, the exception is in Mexico given what the measurement reflects. It is important to point out both the similarities and the differences, however, in order to be more conclusive, it is necessary to be able to reference each case and its context. However, what is important are the guidelines that allow us to observe the location of countries with respect to the executive system, the legislative system and the electoral system, with respect to the electoral competence that is indicated for each Latin American country.

3 FINAL CONSIDERATIONS

The comparisons presented and the insight found in the respective identifications of the regressive and progressive diachronies presented must be taken with caution since, although an identifiable relationship can be observed, the danger is to generate a cognitive dissonance of correlation that does not necessarily imply causality⁴⁴. Therefore, the exploratory analysis gives us an idea of where we place the institutions of electoral competence. Also, their institutional relationship with the other systems with which they interact, especially given the elements of the Rule of Law that have been shown to contextualize, we recognized differences and similarities between the electoral, legislative and executive systems in which electoral competence takes place in Latin America.

With what has been shown at the moment, the paradox implied by the comparison in advance regarding the Rule of Law and the measurements in which its perception is reflected is confirmed, since depending on the point of view is how we can observe recurrences and the differences between the different systems proposed. Therefore, it will be necessary to delve into new studies, interpretations and research in order to find conclusive relationships regarding this implication.

However, it is still noticeable how there is a setback in the region and the paradoxes regarding the electoral system, the legislative system or the executive system allow us to question the progress that has been made in terms of the rule of law in Latin American countries. All the study is also focused from the lenses of the electoral system, the legislative system and the executive system, with a decreasing

⁴⁴ This is underlined since elements of the consolidation of democracy, the need to resume economic growth and the reduction of social inequality, guaranteeing social inclusion, could have been affected by the pandemic produced by SARS- Cov 2, the economic effects derived of the international recession, or even some phenomena specific to the situation of each country. Without a doubt, temporary elements that can influence perception through the measurement of the Rule of Law, which is why it is pertinent to be cautious regarding the implications observed in order to confirm the exploratory with a more robust inference.

trend in terms of perception, since there are few countries evaluated that have made progress, or even that remain the same after the threshold of time elapsed between 2015 and 2023. Despite this, this approach adds to the mosaic of empirical research on electoral, legislative and executive systems, the evolution of their legal institutions in general related to their electoral competence in particular. For instance, quantitatively with respect to their progress in relation to considerations of the Rule of Law and qualitatively with respect to the qualification related to the perception of the progress of Latin American institutions in our context.

4 REFERENCES

- ACE, *Comparative data*, La información es recabada por los Centros regionales de ACE, 2023. Available at: <<https://aceproject.org/epic-en>> [Accessed: April 29, 2024].
- ARGENTINA, *National Directorate of Elections*. Available at: <<https://www.argentina.gob.ar/interior/dine/la-direccion-nacional-electoral>> [Accessed: April 29, 2024].
- ARGENTINA, *National Electoral Chamber*. Available at: <https://www.electoral.gob.ar/nuevo/paginas/cne/competencia_cne.php> [Accessed: April 29, 2024].
- ARGENTINA, *Laws, Treaties, and Judgments*. Available at: <https://www.electoral.gob.ar/nuevo/paginas/cne/competencia_cne.php> [Accessed: April 29, 2024].
- ATRIO, Jorge y PICCONE, María, “De la Administración Pública a la Gerencia Pública. El porqué de la necesidad de gestionar la transición”, *Revista del CLAD Reforma y Democracia* (42), 2008, ISSN: 1315-2378. Available at: <https://www.redalyc.org/articulo.oa?id=357533673006> [Accessed: April 29, 2024].
- BRAZIL, *Constitution of Brazil*. Available at: <https://www.constituteproject.org/constitution/Brazil_2017.pdf?lang=es> [Accessed: April 29, 2024].
- BRAZIL, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/BR>> [Accessed: April 29, 2024].
- BOTERO, Juan and PONCE, Alejandro, *Measuring the Rule of Law. The World Justice Project – Working Paper Series WPS No. 001*, 2011. Available at: <<http://ssrn.com/abstract=1966257>> [Accessed: April 29, 2024].
- BOLIVIA, *Constitution of Bolivia*. Available at: <<https://www.wipo.int/wipolex/en/text/189098>> [Accessed: April 29, 2024].
- BOLIVIA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/BO>> [Accessed: April 29, 2024].
- CATT, Helena. Et al, *Electoral management design*. Revised edition. Stockholm, Sweden: International IDEA, Institute for Democracy and Electoral Assistance (Handbook series), 2014. Available at: <<https://www.idea.int/publications/catalogue/electoral-management-design-revised-edition>> [Accessed: April 29, 2024].
- CHILE, *Constitution of Chile*. Available at: <<https://www.wipo.int/wipolex/en/text/467337>> [Accessed: April 29, 2024].
- CHILE, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/CL>> [Accessed: April 29, 2024].
- COLOMBIA, *Constitution of Colombia*. Available at: <<https://www.wipo.int/wipolex/en/text/198962>> [Accessed: April 29, 2024].
- COLOMBIA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/CO>> [Accessed: April 29, 2024].
- CONSEJO CIENTÍFICO DEL CLAD, *Una Nueva Gestión Pública para América Latina*, Caracas, Venezuela, editado por el Centro Latinoamericano de Administración para el Desarrollo, 2008. Available at: <<http://old.clad.org/documentos/declaraciones>>. [Accessed: April 29, 2024].
- CONTINI, Francesco y MOHR, Richard, *Reconciling Independence and Accountability in Judicial Systems*, *Utrecht Law Review*, 3(2), 2007, pp. 26-43. Available at: <https://heinonline-org.bucm.idm.oclc.org/HOL/Page?public=true&handle=hein.journals/utrecht3&div=15&start_page=26&collection=journals&set_as_cursor=0&men_tab=srchresults> [Accessed: April 29, 2024].

COSTA RICA, *Constitution of Costa Rica*. Available at: <<https://www.wipo.int/wipolex/en/text/583754>> [Accessed: April 29, 2024].

COSTA RICA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/CR>> [Accessed: April 29, 2024].

CUBA, *Constitution of Cuba*. Available at: <<https://www.wipo.int/wipolex/en/text/586184>> [Accessed: April 29, 2024].

CUBA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/CU>> [Accessed: April 29, 2024].

DENHARDT, Janet et al., *The new public service: serving, not steering*, (Second ed.), Routledge, Reference and Research Book News, 18(1), 2007.

ECUADOR, *Constitution of Ecuador*. Available at: <<https://www.wipo.int/wipolex/en/text/584701>> [Accessed: April 29, 2024].

ECUADOR, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/EC>> [Accessed: April 29, 2024].

EL SALVADOR, *Constitution of El Salvador*. Available at: <<https://www.wipo.int/wipolex/en/legislation/details/21145>> [Accessed: April 29, 2024].

EL SALVADOR, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/SV>> [Accessed: April 29, 2024].

ESPINOSA, Arturo, *Modelos de justicia electoral en américa latina*. 1ª. Edición, México: Tribunal Electoral del Poder Judicial de la Federación, 2020. Available at: <https://www.te.gob.mx/publicaciones/sites/default/files/archivos_libros/Modelos_de_Justicia.pdf> [Accessed: April 29, 2024].

FERRER MAC-GREGOR, Eduardo. et al., *Diccionario de derecho procesal constitucional y convencional*. 1ª edición. México, D.F.: Universidad Nacional Autónoma de México, Instituto de Investigaciones Jurídicas (Serie Doctrina jurídica, 692-693), 2014. Available at: <<https://archivos.juridicas.unam.mx/www/bjv/libros/8/3683/27.pdf>> [Accessed: April 29, 2024].

GIRÓN, Renato, “Sinergia en la justicia electoral posmoderna nuevas tecnologías, redes sociales y participación ciudadana”. *Revista Justicia Electoral*, ISSN-e 0188-7998, Vol. 1, Nº. 26, 2020. Available at: <<https://dialnet.unirioja.es/servlet/articulo?codigo=8159827>> [Accessed: April 29, 2024].

GUATEMALA, *Constitution of Guatemala*. Available at: <<https://www.wipo.int/wipolex/en/text/194705>> [Accessed: April 29, 2024].

GUATEMALA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/GT>> [Accessed: April 29, 2024].

HONDURAS, *Constitution of Honduras*, Ratification of Electoral Reforms. Available at: <https://www.cne.hn/documentos/decretos_2019_2018/Decreto_002_2019_Ratificacion_Reformas_Electorales.PDF> [Accessed: April 29, 2024].

HONDURAS, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/HN>> [Accessed: April 29, 2024].

INDEX OF LAW, *World Justice Project 2015 (WJP)*, 2015. Available at: <<https://worldjusticeproject.org/our-work/research-and-data>> [Accessed: April 29, 2024].

INDEX OF LAW, *World Justice Project 2023 (WJP)*, 2023. Available at: <<https://worldjusticeproject.org/our-work/research-and-data>> [Accessed: April 29, 2024].

INTER-AMERICAN INSTITUTE OF HUMAN RIGHTS, & México. Tribunal Electoral del Poder Judicial de la Federación, *Diccionario electoral* (Segunda impresión de la Tercera edición IIDH/CAPEL, TEPJF y TSE, Costa Rica/México, República Dominicana, Serie elecciones y democracia). Tribunal Electoral del Poder Judicial de la Federación, 2018. Available at: <<https://www.iidh.ed.cr/capel/diccionario/example-assets/books/diccionario.pdf>> [Accessed: April 29, 2024].

KONRAD-ADENAUER-STIFTUNG, *Anuario de derecho constitucional latinoamericano 2019*. Berlín: Konrad-Adenauer-Stiftung. Available at: <<https://www.kas.de/documents/271408/4530743/Anuario+Derecho+constitucional+2019+WEB+KAS+final.pdf/a9a51c6b-6ba3-4ce8-e3eb-f205b06b7c58?version=1.0&t=1588184354807>> [Accessed: April 29, 2024].

MEXICO, *Political Constitution of the United Mexican States*. Available at: <<https://www.wipo.int/wipolex/en/text/583949>> [Accessed: April 29, 2024].

MEXICO, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/MX>> [Accessed: April 29, 2024].

NICARAGUA, *Constitution of Nicaragua*. Available at: <<https://www.wipo.int/wipolex/en/text/585187>> [Accessed: April 29, 2024].

NICARAGUA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/NI>> [Accessed: April 29, 2024].

NOHLEN, Dieter, *Tratado de derecho electoral comparado de América Latina* (2a. ed., Ser. Sección de obras de política y derecho). Fondo de Cultura Económica, 2007. Available at: <<https://www.idea.int/sites/default/files/publications/tratado-de-derecho-electoral-comparado-de-america-latina.pdf>> [Accessed: April 29, 2024].

OROZCO, Jesús. et al. *Justicia electoral: El manual de IDEA Internacional*. Manuales. México: IDEA Internacional, Tribunal Electoral del Poder Judicial de la Federación, UNAM, 2013. Available at: <<https://www.idea.int/sites/default/files/publications/justicia-electoral-manual.pdf>> [Accessed: April 29, 2024].

PANAMA, *Constitution of Panama*. Available at: <<https://www.wipo.int/wipolex/en/text/189352>> [Accessed: April 29, 2024].

PANAMA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/PA>> [Accessed: April 29, 2024].

PARAGUAY, *Constitution of Paraguay*. Available at: <<https://www.wipo.int/wipolex/en/text/585220>> [Accessed: April 29, 2024].

PARAGUAY, *Superior Tribunal of Electoral Justice, Law No. 635 / Reglamento de Justicia Electoral*. Available at: <<https://www.bacn.gov.py/leyes-paraguayas/2491/ley-n-635-reglamenta-la-justicia-electoral#:~:text=The%20Members%20of%20Tribunal%20Superior,225%20of%20the%20Constituci%C3%B3n%20National>> [Accessed: April 29, 2024].

PARAGUAY, *Laws, Treaties, and Judgments*. Available at: <https://www.electoral.gob.ar/nuevo/paginas/cne/competencia_cne.php> [Accessed: April 29, 2024].

PERU, *Constitution of Peru*. Available at: <<https://www.wipo.int/wipolex/en/legislation/details/21225>> [Accessed: April 29, 2024].

PERU, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/PE>> [Accessed: April 29, 2024].

PYUN, Hae & EDEY, Claire, “Looking for public administration theories?” *Public Organization Review: A Global Journal*, 18(2), 2018. Available at: <<https://doi.org/10.1007/s11115-017-0374-6>> [Accessed: April 29, 2024].

DOMINICAN REPUBLIC, *Constitution of the Dominican Republic*. Available at: <<https://tse.do/wp-content/uploads/2022/04/Constitution-Dominicana.pdf>> [Accessed: April 29, 2024].

DOMINICAN REPUBLIC, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/DO>> [Accessed: April 29, 2024].

URUGUAY, *Constitution of Uruguay*. Available at: <<https://www.wipo.int/wipolex/en/text/195962>> [Accessed: April 29, 2024].

URUGUAY, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/UY>> [Accessed: April 29, 2024].

USAID-PFMOLAC-ICMA, *El uso del Presupuesto basado en Resultados (PBR) en instituciones del Sector Justicia*, Documento de Investigación USAID, 2016.

VENEZUELA, *Constitution of Venezuela*. Available at: <<https://www.wipo.int/wipolex/en/text/235338>> [Accessed: April 29, 2024].

VENEZUELA, *Laws, Treaties, and Judgments*. Available at: <<https://www.wipo.int/wipolex/en/members/profile/VE>> [Accessed: April 29, 2024].

VIAPIANA, Federica, “A Performance-Based Budget in the Judiciary: Allocation of Resources and Performance Variability in First Instance Courts. An Analysis of Three Case Studies”, *Journal of Public Budgeting, Accounting & Financial Management*, 33(2), 2021.