

# FREE LEGAL CLINICS AS A COOPERATION MECHANISM FOR THE RESOLUTION OF INTERNAL CONFLICTS IN RURAL PARISHES OF ECUADOR

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## ABSTRACT

*In compliance with the provisions of Convention 169 of the International Labor Organization (1989) on indigenous and tribal peoples, the Ecuadorian State, with the Political Constitution of 1998, recognizes and guarantees the application of another form of justice to resolve conflicts generated within the native communities, peoples and nationalities. With the 2008 Constitution of the Republic, it is admitted that in Ecuador there is pluralism and cultural, political and organizational diversity, which gives rise to legal pluralism, i.e., the existence of various legal and customary systems to administer justice is recognized, this constitutional and legal recognition has generated controversies and conflicts between ordinary and unworthy justice. The conflicts that currently exist between state and aboriginal justice is the reason for this study, which aims to present the theoretical and legal foundations for accepting the theory that free legal clinics are not only legal mechanisms of cooperation between indigenous and ordinary justice, but are also legal tools to ensure legal certainty and free access to justice for the inhabitants of rural parishes in Ecuador.*

**Key words:** Rural Parishes, Legal Clinics, Cooperation Mechanism, Internal Conflicts

## INTRODUCTION

To write about the origin of the aboriginal peoples and nationalities of America & Ecuador is to discuss an unfinished subject, because up to the present time their origin has not been defined with certainty; however, the most accepted theory "about the origin of man in America is that which indicates that he came from Asia through the Bering Strait" (Ayala, 2008). In Ecuador according to the vestiges found the first settlers settled in the Inga, in the Ilaló area, near the capital, according to the results of several investigations, the first settlers, "were nomadic, lived from hunting and gathering vegetable food, and lived in caves or very simple constructions made of branches and straw" (Flacso, 2016).

The needs and the emergence of new problems, forced the native peoples to deploy to other places, a fact that caused the division of communities and the formation of other cultures, such as Valdivia, Chorrera, Jambelí, Guangala, Bahía, La Tolita, Tuncahuán, Cosanga. Pastaza, among others, peoples who developed their knowledge and improved in relation to agriculture, construction and ceramics. Upon the arrival of the Incas, in the 15th century, they found several well-organized aboriginal peoples with their own structure that in certain sectors stopped the intentions of the conquest. The conquest of the southern empire, caused that many customs and traditions of the native peoples of Ecuador were lost & others were assumed, such as, for example, the principles: ama quilla, ama llulla, ama shua (do not be idle, do not lie, do not steal). The Spanish conquest led by Christopher Columbus, wanted to completely exterminate the native aborigines, the invaders, in their intention to seize everything that was from the people, committed atrocious crimes against humanity, genocide, forced disappearance, murder,

rape, arbitrary detention, torture, slavery and even so, they could not completely annihilate their roots, because those who fled this inhuman massacre, maintained and transmitted from generation to generation their customs and traditions.

One of the impositions of the Spanish conquest is the Catholic religion, along with it came the priests, the crown appointed many of them as parish priests, and their mission was to train with a supposed evangelization to our Indians to facilitate submission to the resolutions and decisions issued by the Spanish authorities that from every point of view were unfair, illegal and illegitimate. The parish priest exercised authority within the community, which they called parish, under these arguments, possibly in the Spanish conquest (1492), the parish was born, which later assumed the name of rural parishes and later rural parish councils were created.

The rural parish councils, since their creation, have been a representative body whose objective is to watch over the wellbeing of the inhabitants of the rural sector, which is made up mostly of indigenous people, and to a lesser extent of peasants and mestizos; Their authorities have been appointed, elected and designated, many of them have essentially defended the interests of the power that elected them, few have stood out for fighting and achieving benefits for the community.

This theory can be evidenced and verified by analyzing the socioeconomic situation and the quality of life that the inhabitants of these sectors called rural parishes live, to cite an example, the Cacha parish, is a rural parish belonging to the Riobamba canton located in the province of Chimborazo, characterized because 80% of its inhabitants are indigenous, who survive on 1 dollar a day, due to several factors including human, economic and natural, 100% of inhabitants consume piped water, considered by the World Health Organization, unfit for human consumption because of the negative effects it causes in the life and health of people.

Indigenous people in the beginning and now together with the peasants, for many years have been claiming and fighting for their rights, this struggle has not been easy, it has caused deaths, aggressions, arbitrary detentions, however, the goal of being included and legally recognized, has not ceased. Thanks to this strength, union and decision, politicians had no choice but to write in the Constitution of the Republic of 2008, that Ecuador is an intercultural, plurinational State, and not only recognizes Spanish as the only official language, but also Kichwa, Shuar and other ancestral languages. It is guaranteed the application of legal pluralism, and it is pointed out that the territory is a legacy of the ancestors and ancestral peoples, reason enough to guarantee to the communities, peoples, indigenous nationalities the rights enshrined in the Constitution and international instruments, but despite this, several presidents of the republic and lower authorities, are not committed to the good living of all citizens, have neglected the dignified life of the inhabitants of the rural sector, showing a formal and material inequality of human and constitutional rights.

Based on these arguments and considering that since 2008 Ecuador has become a constitutional State of rights and justice, the purpose of this paper is to describe and explain the factual and legal foundations that support the free legal clinics to be considered as cooperation mechanisms for the solution of internal conflicts in rural parishes in Ecuador, thus contributing to guarantee legal security, equality and social equity in the country.

## **Rural Parishes in Ecuador**

Ecuador is a country located in the American continent, specifically in South America; politically it is divided into four natural regions: Coast, Highlands, East and Insular Region or Galapagos. Each region is divided into provinces, metropolises, cities, cantons, parishes and communities. The parishes are urban and rural, within the rural, communities and communes are located, where most of the aborigines of our country reside.

The rural parish as a territorial unit "is conceived as the territory that is under the spiritual jurisdiction of the priest of souls or parish priest" (Torres, 2004), which means to point out that these entities were created with the arrival of the Catholic Church in America, its

objective, possibly, was to accelerate the process of evangelization of the ancestors. With the misnamed discovery of the new continent in the 15th century, the migratory flow and territorial expansion grew significantly and had an impact on the increase of rural parishes, the same ones that since the colony (16th century) have been the most exploited, discriminated and excluded.

When Ecuador became independent and part of Gran Colombia, to give a regulatory and legal context to the rural parishes, the parish councils were created (1824). In effect, the Law of Territorial Division, divided the country into Districts, made up of twelve Departments, each Department at the same time divided into Provinces, Cantons and Parishes, under their responsibility would be the public management and local development. Upon separating from Gran Colombia, Ecuador became an autonomous and independent state. According to the Political Constitution of 1830, the country was divided into departments, provinces, cantons and parishes, and who administered the parishes were the political lieutenants.

The Political Constitution of 1998 indicated that the indigenous movement represented the rural sectors, however, in most cases, the mestizos were the ones in charge of the so-called rural parish councils, through them the runas & longas demanded a better distribution of power, mainly political, from which they had been excluded for centuries. They also demanded the transfer of powers, but above all the power to decide on solutions to their problems; and they recommended the allocation and delivery of economic resources, applying the principles of justice and equity.

The rural parish councils were constituted as auxiliary bodies of the Municipalities, "in each of the urban and rural parishes of the canton there will function a Parish Council, which will act as an auxiliary of the municipal government and administration and as an intermediary between these and their immediate representatives" (Organic Law of the Municipal Regime, 1971, Art. 139). Currently, according to Article 45 of the Organic Code of Territorial Organization (20201), the creation of rural parish councils depends on the number of inhabitants that the province has, for example, if a province has up to one hundred thousand inhabitants in the rural area, there will be three rural parish councils, if it has one hundred thousand one to two hundred thousand inhabitants, there will be five councils, and if it has more than two hundred thousand inhabitants, there will be five councils as the body in charge of the elections of the representatives of these community institutions is the National Electoral Council. However, there are communities in which, applying community democracy, each parish elects its representatives without the intervention of any movement or political party. With the new Constitution of the Republic of Ecuador (2008), for the first time, exclusive and concurrent competences are assigned to the rural parish councils, the exclusive ones are characterized because the ownership corresponds to a single level of government in accordance with the Constitution and the law and whose management can be done by concurrently between different levels of government, and concurrent, are those whose ownership corresponds to several levels of government based on the sector or subject matter, therefore, they must be managed in a concurrent way.

By constitutional mandate, the rural parish councils are a kind of decentralized autonomous government, with administrative, financial and political autonomy, currently there are 799 councils, many of them due to the "scarce budgetary resources allocated, the lack of machinery and human talent have not been able to improve the performance of their functions and exercise of competencies" (Almeida, 2011). To all this, the lack of knowledge of the current regulations on the part of the inhabitants, directors and authorities is added, a fact that justifies the theory in which it is pointed out that the free legal clinics are fundamental legal mechanisms of cooperation for the solution of internal conflicts in the rural parishes of Ecuador.

### **Rural Parish Authorities in Ecuador**

The National Council of Rural Parish Governments of Ecuador, hereinafter CONAGOPARE, is considered a national institution of which the Decentralized Autonomous

Governments of rural parishes are part, it is a public law entity with legal personality and legal capacity to make contracts and execute works in favor of the development of the inhabitants residing in the rural sector, most of whom belong to the indigenous peoples and nationalities of Ecuador. This constitutional recognition has not been easy to obtain, due to a process of constant struggles and demonstrations throughout history.

In 1824, the Law of Territorial Division of Gran Colombia was created, with the main objective of dividing the country into districts, departments, provinces, cantons and parishes. In 1830, Ecuador separated from Gran Colombia and declared itself an independent state, immediately General Juan José Flores convened a Constituent Assembly in the city of Riobamba to draft the first Political Constitution in which the rural parishes were included as part of the national territory. In the year 1835, the second Constitution of the Republic was elaborated and put into effect, for many, the first one that declared the country as an autonomous and sovereign State, in it was ordered that each parish should hold a parish assembly every four years to elect their representatives.

The Supreme Charter of May 2, 1861 provided that in each parish there would be municipalities and the Municipal Regime Law issued on June 13, 1861, specified more clearly the functions of the parish municipalities, which were under the direction of the political lieutenant appointed by the State. The Municipal Regime Law of 1863 authorized the creation of cantonal municipalities, but for this to proceed there had to be a unification of the parishes and their authorities were democratically elected. The Municipal Regime Law of 1978 affected the Parish Councils, because this regulation eliminated the parish municipalities on the grounds of lack of budget to maintain these institutions, which were re-established in 1863.

The Parish Council has its legal basis in the 1945 Constitution and is empowered to carry out the necessary activities to improve public services and other works that contribute to the improvement of the quality of life of the inhabitants of the rural sector. The executive decree of 1970 recognizes the Parish Councils as auxiliaries of the municipalities. The Constitution of 1998 and the legislative reform of September 2004 grants autonomy to the municipal bodies, including the parish councils. In fact, the current Constitution, in force since 2008, recognizes the autonomy and decentralization of the Rural Parish Councils. Based on this constitutional mandate, in 2011 the CONAGOPARE was created with legal status at the national level. Finally, the fact of having a law that regulates the Decentralized Autonomous Governments in the administrative sphere led to the enactment in 2014 of the Organic Code of Territorial Planning, Autonomy and Decentralization, hereinafter COOTAD.

On these grounds, it is observed that CONAGOPARE is legally governed and legally protected by the Constitution of the Republic of Ecuador, Organic Code of Territorial Organization, Autonomy and Decentralization, Organic Law of Public Service, Organic Functional Regulations by Processes of CONAGOPARE, Regulation of Autonomous Administration of the Human Talent of CONAGOPARE, Internal Administrative Regulations of CONAGOPARE. Its mission, according to its statute (2020), is to be the representative of the common interests of the Decentralized Autonomous Rural Parochial Governments (GADPRs) at the national level, prioritizing in its activities the benefit of the rural sector. Its vision, to consolidate the GADPRs and promote the good living of the inhabitants of the rural sector of the country.

To achieve these purposes in the medium and long term, the parish organization is administered under the principles of solidarity, integration, efficiency and effectiveness, transparency, ethical conduct, democracy, deconcentration, many of these principles have been embodied in fusion of the ancestral worldview, whose purpose is to work and ensure the improvement of the quality of life of the inhabitants of the rural sector to achieve equity and equality with social justice, a fact that is still a chimera, for several factors, especially human and economic.

The judicial system in Ecuador is a fundamental part of the Constitutional State of Rights and Justice, its mission is to administer justice under equal conditions with the objective

of guaranteeing legal security and the integral transparency of the judiciary, essential aspects to achieve peaceful and harmonious coexistence between people and nature, a basic principle of Sumak Kawsay.

The Constitution of the Republic (2020), in Ecuador is the highest-ranking norm that guarantees without any discrimination the right to free and free access to justice to enforce the enjoyment of fundamental rights. To achieve this constitutional purpose, a series of provisions and strategies have been embodied in the Magna Carta, such as the creation of the Public Defender's Office, whose purpose is "to serve and defend those who, due to lack of resources, do not have the ability to go to a private defender" (Ruiz, 2017).

The Public Defender's Office according to article 193 of the Constitution, articles 286, numeral 9, 292, 293 and 294 of the Organic Code of the Judicial Function, and the Regulations of Accreditation and Operation of the Free Legal Aid Offices, has the power to normalize, standardize, control, evaluate, accredit and authorize the operation of the Free Legal Aid Offices, which are defense and legal advice services created especially for people of limited economic resources and groups that require priority attention.

According to Article 293 of the Organic Code of the Judicial Function, legally accredited Higher Education Institutions offering degrees in Jurisprudence, Law or Legal Sciences have the legal authority to create free legal clinics. They may also be created by sectional agencies, community and grassroots organizations, legally constituted non-profit associations or foundations and Decentralized Autonomous Governments, and their organization and operation are based on the fundamental principle of providing legal representation and assistance free of charge to vulnerable persons. Currently, there is a total of 66 legal clinics distributed throughout the country, of which 42 belong to private universities, 14 to public universities and 5 to Decentralized Autonomous Governments.

The intention of a legal clinic is to provide quality services, with the objective of guaranteeing free access to the justice system, therefore, these groups advise those who need it on issues such as: family law, including issues of childhood and adolescence, and domestic violence, criminal law, only on behalf of the victim, labor law, constitutional law, human rights, and human mobility.

### **Internal Conflicts in Ecuador's Rural Parishes**

In Latin America, there has been a constant struggle, led by the indigenous people and then joined by the peasants. These two ethnic groups who live together in rural areas, have fought for the fair recognition of their rights and to be included in the decisions of the State through participation in the promulgation of the Constitution of Montecristi, Ecuador is recognized as an intercultural, plurinational State, where native peoples and nationalities live characterized by practicing their own customs, traditions, beliefs, language and in particular, with an autonomous way to resolve their internal conflicts. This recognition would give rise to legal pluralism in Ecuador, a legal system that recognizes and guarantees the administration of two types of justice to solve legal and customary problems.

Legal problems concerning mestizos and other ethnicities other than the native ones are judged through the ordinary or state justice system. While internal conflicts whose jurisdiction falls in an ancestral territory are treated under the rules and procedures of indigenous justice, although both types of justice have the same purpose, the peaceful and harmonious coexistence between citizens and the Pachamama, there are differences at the time of application, for example, indigenous justice is completely free, public and oral and there are even research studies which indicate that it is more effective than ordinary justice in terms of rehabilitation of the offender.

According to the results of the investigation, internal conflicts in the rural parishes of Ecuador are most frequently caused by land issues, boundaries and political participation. To a lesser extent, there are family conflicts, robberies, cattle rustling, rape and in extreme cases, as

in the case of La Cocha, murder. The solutions to internal conflicts are resolved based on the norms, customs and traditions, not only of each nationality and indigenous people, but of each ancestral community. Those who are invested to administer justice are not only the authorities of the community as indicated in the Constitution, but, depending on the seriousness of the fault, those who propitiate the execution are the parents, godparents, the president of the community, the community Assembly.

Within the indigenous justice system, in all instances, family, neighborhood and community, for the solution of conflicts, a procedure is followed that is not very different from the one applied in the ordinary justice system. On the contrary, many phases have the same procedure. Finally, the penalty, sentence or punishment, which our aborigines call a purification bath, depends on the seriousness of the contravention, however, in general, it has been observed that they apply the bath in ice water, the cleaning with nettle in the highlands region and in the east with chili, and the whipping with acial or cabresto. Currently for religious reasons, especially for the presence of the evangelical religion, in the indigenous communities, reconciliation and forgiveness are being applied for the solution of internal conflicts.

### **Cooperation Mechanisms for the Solution of Internal Conflicts in Rural Parishes in Ecuador**

The peaceful and harmonious coexistence with people and nature is one of the main goals of the good living or Sumak Kawsay, an ancestral philosophy, for which the aborigines of America and Ecuador have been fighting for more than 500 years since their lands were invaded by foreigners, mainly Spanish and Portuguese. To speak of cooperation mechanisms for the solution of internal conflicts is to allude to the strategies, spaces for dialogue and activities carried out by the States, regions, provinces, cities, cantons, parishes and communities to solve peacefully some misunderstanding or problem that is causing a conflict and that affects the social, political, cultural and economic interrelations. In other words, they are community practices that aim to strengthen the interculturality between nationalities and peoples of the world.

History allows to identify several international cooperation mechanisms that have been created to solve conflicts. In the case of Ecuador, there is evidence of a series of international strategies to solve especially the border conflicts with Peru, Colombia and Brazil, many of them have ended with the signing of protocols, conventions and agreements for peace, friendship and limits, which have not favored the country, because in addition to losing human lives, the dominion of large tracts of land belonging to Ecuador has been lost.

The internal conflicts in the rural parishes of Ecuador are mostly generated by land, specifically by the internal territorial limits in regions, cantons and rural parishes, despite the fact that the Organic Code of Territorial Organization establishes the procedures and requirements to determine the boundaries of the communities, there are aboriginal territories and peoples who, claiming that the lands belong to them by millenary inheritance, have invaded lands that do not correspond to them, neither customarily nor legally, which has caused serious conflicts that have often ended in confrontations with serious consequences for the life and health of its inhabitants.

From the ancestral worldview or customary law, the solution of internal conflicts in the nationalities, peoples and aboriginal communities is developed in different ways, but all attached to the customs and traditions of each native social extract, who are responsible for mediating, conciliating and even seek forgiveness for the wrongs committed depending on the seriousness of the offense, responsibility that falls in hierarchical order, on the parents, godparents, the president of the community or the community assembly. The sanction for the offender is not considered as such, but as a ritual of purification of the body and soul to drive away the evil spirits that have possessed the runa or the longa and that forces them to commit impure acts, it is in charge of a member of the family or of the community. Sanctions are called

remedies, likewise depend on the seriousness of the case and range from advice to expulsion from the community; as mechanisms of cooperation for the solution of internal conflicts, in rural parishes, currently for political reasons they go to the public authorities such as the political chief or religious as the parish priest, priest or pastor.

In accordance with the provisions of Articles 8 and 9 of Convention 169 of the International Labor Organization and Article 191 of the Political Constitution of Ecuador of 1998, indigenous justice is constitutionally and legally recognized as one of the forms of administering justice, under this legal regulation the authorities of indigenous peoples are empowered to apply their own justice for the resolution of internal conflicts based on their own rules and procedures in accordance with their customs or customary law. At the same time, this legal fact, gives rise to legal pluralism in the country. With the enactment of the Constitution of the Republic of 2008, indigenous women are guaranteed their participation in the resolution of internal conflicts.

Customary law or native law is part of the cultural identity and organizational structure of ancestral peoples. Its origin dates back many years and has been transmitted from generation to generation as a custom and tradition. This type of justice was not governed by any rule of positive law, nor does it comply with a procedure or observe the basic guarantees of due process that applies in ordinary or state justice. With the promulgation of the Constitution of 1998 and 2008, the indigenous authorities are obliged to observe what the Magna Carta and the International Instruments of Human Rights indicate, to apply their own law, this in order to avoid the violation of human and constitutional rights, to achieve this purpose, the law must establish, "mechanisms of coordination and cooperation between the indigenous jurisdiction and the ordinary jurisdiction" (Constitution of the Republic of Ecuador, 2020, p. 123). However, until now, the indigenous authorities have been obliged to apply their own law in order to avoid the violation of human and constitutional rights (Constitution of the Republic of Ecuador, 2020, p. 123). However, up to the present date, "there has not been enough capacity, legal and political will to create an organic law that regulates the exercise, coordination and cooperation between both jurisdictions" (Luque, Ortega & Carretero, 2019, p. 8).

The legal plurality that currently governs in Ecuador by constitutional mandate and the controversies that have arisen between the ordinary and indigenous justice, requires the establishment of cooperation mechanisms for the resolution of internal conflicts in the rural parishes of the country. Tapia (2016) divides them into three: normative, institutional and jurisprudential mechanisms. The normative mechanisms constitute the legal part that empowers and indicates the scope of the indigenous authorities and administrators of ordinary justice, to fulfill their role in the resolution of internal problems and the defense of human and constitutional rights.

Institutional mechanisms refer to the characteristics of each state, social and community organization, which involves the indigenous and judicial authorities "who should provide mutual assistance and collaboration in the judgments and in accordance with the provisions of Article 346 of the Organic Code of the Judiciary" (Tapia, 2016, p. 56). The jurisprudential mechanisms are established in the sentences, resolutions and minutes of both indigenous justice and ordinary justice, such as, for example, sentence 113-14-SEP-CC, through which the Constitutional Court, the highest body of interpretation of the Constitution, pointed out that the jurisdiction and competence to know, resolve and sanction the cases that violate the Constitution is the jurisdiction and competence to know, resolve and sanction the cases that violate the Constitution. The jurisdiction and competence to hear, resolve and punish cases that threaten the life of any person is the exclusive and excluding power of the Ordinary Criminal Law system, even in cases in which the alleged parties involved and the alleged perpetrators are citizens belonging to indigenous communities, peoples and nationalities, even if the events occur within an indigenous community, people or nationality. For some critics of constitutional law, this resolution is an evident interference of the ordinary justice system in the indigenous justice system.

Finally, research works that have been carried out on the subject point out that the indigenous justice applied in most rural parishes of Ecuador is contrary "to human rights and constitutional principles" (Calderón, 2014, p. 128), and its "improper application violates the Constitutional Guarantees and affects physically and psychologically the people" (Ocaña, 2015, p. 1), who are subjected to this type of justice, for these facts "violate the rights of people" (Guzmán, 2018, p. 103), violate the principles of due process and even reach the point of violating the principles of due process and even it is determined that the punishments or purification bath, in some indigenous communities, "are a method of torture that were applied in the Holy Inquisition, an institution of the Roman Catholic Church, inherited by aborigines and that are currently applied to punish the offender" (Quinche, 2015, p. 42), with these appreciations and taking into account what is stated in the Constitution of the Republic of Ecuador, Organic Law of Higher Education and the Organic Code of Territorial Organization, Autonomy and Decentralization, the free legal clinics, are established as mechanisms of effective cooperation for the solution of internal conflicts in the rural parishes of Ecuador. At the same time, it is a legal tool of the State, to guarantee free access to justice and legal security, thus strengthening the Constitutional State of Rights and Justice that governs the country.

### **Free Legal Clinics as Cooperation Mechanisms for the Resolution of Internal Conflicts in Rural Parishes in Ecuador**

A harmonious coexistence between societies & the environment around is one of the main objectives of Sumak Kawsay. In this sense, to speak of cooperation mechanisms as tools for the solution of internal conflicts in rural parishes of Ecuador is to speak of a strategy which aims to create a new space for dialogue to provide a peaceful solution to conflicts that are the main source of affecting internal relations within society and its various bases.

The recognition of the existence of legal pluralism in Ecuador, obliges the State, society and the family to accept that, in the territory there are other ways of administering justice that constitutionally can be applied within the corresponding jurisdiction. A legal fact that has caused several social and legal conflicts. In the social sphere, there are several social extracts that do not accept the application of indigenous justice because they consider it as an ancestral practice that violates human and constitutional rights. It is said that it violates the basic guarantees of due process, that it is a barbaric act where acts of torture, cruel and degrading treatment are evident. From the legal point of view, the conflicts that arise from the lack of coordination and cooperation between the administration of ordinary and indigenous justice are related to jurisdiction and competence, which resulted in Judgment No. 113-14-SEP-CC, whose ruling was issued by the Supreme Court of Justice, 113-14-SEP-CC whose resolution limits the jurisdiction and competence of the indigenous justice system to hear, resolve and sanction cases that attempt against the life of any person. According to the mentioned sentence, the crimes that go against the life of persons are exclusive and excluding faculty of the Ordinary Criminal Law system, even in the cases in which the alleged involved and the alleged responsible are citizens belonging to indigenous communities, peoples and nationalities, and even if the facts occur within a community, people or indigenous nationality. This legal resolution has also created a series of questions due to the fact that it is considered by several indigenous authorities and jurists as an attack against the autonomous and customary law of the indigenous peoples and nationalities of Ecuador.

In order to collaborate and cooperate with the solution to the problems generated by the application of legal pluralism in Ecuador, following the constitutional mandate established in Article 193, free legal clinics are created to offer defense services and legal advice to people of limited economic resources and groups that require priority attention. It is necessary to point out that, in the rural parishes generally inhabit the aborigines, who are characterized by being people of scarce economic resources, many of them subsist on a dollar a day and do not have enough money to pay the fees of a private attorney to defend their human and constitutional rights. In

this sense, the free legal clinics, not only constitute cooperation mechanisms for the solution of internal conflicts in the rural parishes of Ecuador, but also legal units to guarantee free access to justice and effective protection, fundamental pillars of the Constitutional State of Rights and Justice.

## METHODOLOGY

The study is located in the Province of Chimborazo, Canton Riobamba, specifically in the rural parishes of Cacha, Calpi, Cubijíes, Flores, Licán, Licto, Pungalá, Punín, Químiag, San Juan and San Luís. The study was carried out in the Ombudsman's Office and in the Free Legal Clinics of the city of Riobamba, where primary information was collected to determine whether the free legal clinics can be considered as cooperative mechanisms for the solution of internal conflicts in rural parishes in Ecuador. For the study, the inductive, analytical and descriptive method was used, and due to the results, objectives, complexity and place where it was carried out, the research is of a mixed approach, documentary - bibliographic, field, descriptive, and non-experimental design. The population directly involved is constituted by lawyers of the Public Defender's Office, free legal clinics and authorities of the Parish Boards of the Riobamba canton, to whom a questionnaire of 11 multiple choice questions was applied. For the treatment of the information, mathematical, computer, statistical and logical techniques were used.

## RESULTS & DISCUSSION

### Question No. 1

Can free legal clinics be considered legal mechanisms of cooperation between indigenous and ordinary justice?

<b>Legal Mechanisms For Cooperation</b>	<b>PUBLIC DEFENDER'S OFFICE</b>	<b>%</b>	<b>LEGAL OFFICES</b>	<b>%</b>	<b>PARISH BOARDS RURALES</b>	<b>%</b>
Totally agree	2	18.2%	7	63.6%	3	27%
Agreed	3	27.3%	2	18.2%	2	18%
Neutral	3	27.3%	2	18.2%	4	37%
Disagree	2	18.2%	0	0%	2	18%
Strongly disagree	1	9%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

### Source

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

Constitutionally, the Ecuadorian State must guarantee that the decisions of the indigenous jurisdiction are respected by the institutions and public authorities. For this to be effective, the Constitution (2020), in its article 171 points out that, "the law will establish the mechanisms of coordination and cooperation between the indigenous jurisdiction and the ordinary jurisdiction", this constitutional mandate obliges the actors of legal pluralism to seek and establish strategies that allow "that the systems of administration of indigenous and ordinary justice can coexist and mutually assist each other" (Tapia, 2016, p. 3). Effectively, with the purpose of avoiding conflicts between these two legal forms of administering justice in Ecuador, these foundations constitute the necessary arguments to conclude that the free legal clinics can be considered as legal mechanisms of cooperation between indigenous and ordinary justice.

**Question No. 2**

What type of service can the free legal clinics offer to rural parishes in Ecuador?

**Table 2 THE FREE LEGAL CLINIC**

<b>Table 2 THE FREE LEGAL CLINICS</b>						
SERVICES OFFERED BY FREE LEGAL CLINICS	PUBLIC DEFENDER'S OFFICE	%	LAW FIRMS	%	PARISH BOARDS RURALES	%
Consulting	4	36.4%	7	63.6%	7	64%
Sponsorship	6	54.5%	4	36.4%	4	36%
Research	0	0%	0	0%	0	0%
Mediation	1	9.1%	0	0%	0	0%
Reconciliation	0	0%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

**Source**

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

In general, according to the instructions for the attention of users in the free legal clinics of the Public Defender's Office, the services that these free legal clinics are legally authorized to provide are: counseling and sponsorship, which implies that these free legal clinics are not competent to mediate or conciliate; however, if the scope of legal counseling is analyzed, it is determined that the advice or guidance that lawyers provide within these legal actions can be indirectly considered as ways to mediate and conciliate a legal conflict. In this sense, most respondents indicate that the service that the free legal clinics can offer to the rural parishes of Ecuador is that of counseling. In this sense, most of those surveyed indicate that the service that the free legal clinics can offer to the rural parishes of Ecuador is advice, but not sponsorship, because in the rural sector indigenous justice is applied more frequently, which is based on customary law, as autonomous justice based on their customs and traditions.

**Question No. 3**

Is the collaboration of free legal clinics important to guarantee legal security in rural parishes in Ecuador?

<b>Table 3 LEGAL CERTAINTY</b>						
LEGAL CERTAINTY	PUBLIC DEFENDER'S OFFICE	%	LEGAL OFFICES	%	PARISH BOARDS RURALES	%
Very important	9	81.8%	9	81.8%	7	64%
Important	1	9.1%	1	9.1%	4	36%
Neutral	1	9.1%	1	9.1%	0	0%
Not very important	0	0%	0	0%	0	0%
Not important	0	0%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

**Source:**

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

Legal security in Ecuador is a constitutional right that obliges Ecuadorian citizens and foreigners legally residing in the country to respect and enforce respect for the Constitution and legal regulations, as a priority, according to Article 25 of the Organic Code of the Judiciary (2021), judges have the obligation to ensure the constant, uniform and faithful application of the Constitution, international human rights instruments, international instruments ratified by the State and laws and other legal norms. For their part, the free legal clinics, by constitutional and legal mandate, must provide sponsorship, defense and legal advice services to persons of limited economic resources and priority attention groups, with the purpose that their human and constitutional rights are not violated by any condition.

Finally, priority attention to vulnerable people is a public policy with constitutional basis that seeks to achieve an adequate and integrated administration of justice to ensure the good living of all in the national territory. Based on these factual and legal foundations, it is concluded that the collaboration of the free legal clinics is very important to ensure legal certainty in rural parishes of Ecuador.

**Question No. 4**

Is the collaboration of free legal clinics important to guarantee free access to justice for the inhabitants of rural parishes in Ecuador?

FREE ACCESS TO JUSTICE	PUBLIC DEFENDER'S OFFICE	%	LAW FIRMS	%	PARISH BOARDS RURALES	%
Very important	7	63.6%	10	90.9%	10	91%
Important	3	27.3%	0	0%	1	9%
Neutral	0	0%	1	9.1%	0	0%
Not very important	1	9.1%	0	0%	0	0%
Not important	0	0%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

**Source**

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

Free access to justice in Ecuador is a constitutional right and one of the fundamental pillars of the Constitutional State of Rights and Justice, which aims to prevent citizens from being left in a state of defenselessness and guarantee the effective enjoyment of human and constitutional rights. On the other hand, according to the latest measurements of the National Institute of Statistics and Census INEC, in December 2020, 32.4% of the total population was immersed in poverty, most of this population is located in rural areas. This information allows to establish that the free legal clinics must have the necessary resources to serve approximately 5,599,802 inhabitants that due to their conditions are in a state of vulnerability and have become part of the priority attention groups. For this reason, since the free legal clinics are legally constituted non-profit institutions, they constitute legal offices to guarantee free access to justice not only for the inhabitants of the rural parishes of Ecuador, but also for all people of scarce economic resources and priority attention groups.

**Question No. 5**

Is the collaboration of free legal clinics important to improve the performance of the functions of the authorities of rural parish councils in Ecuador?

<b>Table 5 PERFORMANCE OF THE FUNCTIONS OF THE AUTHORITIES OF THE PARISH BOARDS IN RURAL PARISHES OF ECUADOR.</b>						
<b>PERFORMANCE OF THE FUNCTIONS OF THE AUTHORITIES OF THE RURAL PARISH COUNCILS OF ECUADOR</b>	<b>PUBLIC DEFENDER'S OFFICE</b>	<b>%</b>	<b>LAW FIRMS</b>	<b>%</b>	<b>PARISH BOARDS RURALES</b>	<b>%</b>
Very important	7	63.6%	9	81.8%	1	9%
Important	1	9.1%	0	0%	7	64%
Neutral	2	18.2%	2	18.2%	3	27%
Not very important	1	9.1%	0	0%	0	0%
Not important	0	0%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

**Source:**

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

One of the problems that currently concerns the inhabitants of Latin America and Ecuador is the performance of the functions of public authorities. According to the National Plan for Public Integrity and Fight against Corruption 2019-2023, "the integrity and transparency of public authorities and public officials prevent unethical behavior, increase citizen confidence in public management, foster a participatory culture and promote a cultural and political environment conducive to development and the resolution of social demands for equity and justice" (Page 4). However, due to the facts of corruption in the country that has advanced by leaps and bounds in the last 15 years, everything mentioned in previous lines, is a chimera difficult to realize, and the authorities of the rural parish councils of Ecuador, do not escape from this reality, on the contrary, they are immersed in these acts of corruption. They are immersed in these acts of corruption, to cite a current case, alluding to the arrest of Antonio Vargas former president of the Confederation of Indigenous Nationalities of Ecuador - CONAIE, arrested for allegedly having incurred in the crime of illegal use and trafficking of land. In fact, one of the most frequent internal conflicts within the indigenous communities is specifically related to land. This fact constitutes a precedent that supports the importance of free legal clinics to provide legal advice to the authorities of the rural parish councils of Ecuador to improve the performance of their functions.

**Question No. 6**

Is the collaboration of the free legal clinics important for the exercise of the competencies of the authorities of the rural parish councils of Ecuador?

<b>Table 6</b>						
<b>EXERCISE OF COMPETENCES OF THE AUTHORITIES OF THE RURAL PARISH COUNCILS OF ECUADOR</b>						
Exercise of competences of the authorities of the parish boards of rural parishes of Ecuador	Public defender's office	%	Law firms	%	Parish boards Rurales	%
Very important	8	72.7%	8	72.7%	6	55%
Important	0	0%	0	0%	3	27%
Neutral	2	18.2%	3	27.3%	1	9%
Not very important	1	9.1%	0	0%	1	9%
Not important	0	0%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

**Source:**

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

Another problem that generates internal conflicts within the indigenous communities of Ecuador, is related to the competence of the authorities of the rural parish councils of Ecuador. When referring to competence, Véscovi (1999, p. 133) points out that "it is the legal orbit in which the public power that has been granted to the corresponding organ can be exercised", that is to say, whoever is legally invested or appointed to exercise a position has the competence to solve a conflict. However, the lack of knowledge of the norm has a negative impact so that many authorities exercise jurisdiction where they have no jurisdiction. For this reason, the collaboration of the free legal clinics to advise on the exercise of the competence of the authorities of the boards of the rural parishes of Ecuador, is important because it avoids internal conflicts in communities, peoples and indigenous nationalities of the country.

**Question No. 7**

Internal conflicts in the rural parishes of Ecuador should be solved by:

<b>Table 7</b>						
<b>INTERNAL CONFLICT RESOLUTION</b>						
INTERNAL CONFLICT RESOLUTION	PUBLIC DEFENDER'S OFFICE	%	LEGAL OFFICES	%	PARISH BOARDSRURALES	%
Ordinary Justice	1	9.1%	1	9.1%	1	9%
Indigenous Justice	2	18.2%	0	0%	3	27%
In cooperation	8	72.7%	7	63.6%	7	64%
Alternative means of conflict resolution	0	0%	3	27.3%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

**Source:**

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

With the promulgation of the Political Constitution of 1998 and the current one of 2008, the Ecuadorian State, recognizes that the country is a pluricultural, multiethnic, intercultural, plurinational State, which means to point out that in the national territory coexist several aboriginal cultures, peoples and nationalities, each one of them with their own characteristics and ways of life, including with their autonomous way of solving their internal conflicts.

This precedent is the basis for externalizing that the administration of justice is managed on the basis of positive and customary law, the first governed by ordinary justice and the other by indigenous justice, in this sense and because the rural parishes are considered ancestral territories of Ecuador where the largest number of indigenous and peasants live, internal conflicts must be resolved through the application of indigenous justice. However, constitutionally, there is the legal power to create coordination and cooperation mechanisms between the indigenous jurisdiction and the ordinary jurisdiction. In this sense and under this constitutional basis, internal conflicts in the rural parishes of Ecuador can be solved in cooperation or through alternative means of conflict resolution.

### Question No. 8

Are the free legal clinics competent to advise on internal conflicts in rural parishes in Ecuador?

<b>Table 8</b>						
<b>ADVISE ON INTERNAL CONFLICTS</b>						
ADVISE ON INTERNAL CONFLICTS	PUBLIC DEFENDER'S OFFICE	%	LEGAL OFFICES	%	PARISH BOARDS RURALES	%
Totally agree	3	27.3%	5	45.5%	5	46%
Agreed	3	27.3%	3	27.3%	3	27%
Neutral	1	9.1%	1	9.1%	2	18%
Disagree	4	36.4%	2	18.2%	1	9%
Strongly disagree	0	0%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

### Source

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

According to the criteria of the Public Defender's Office (2020), the Free Legal Clinics are networks that provide sponsorship service and free legal advice to people in vulnerable economic situation and priority attention groups, in order to receive a technical, efficient, effective and quality defense. People in vulnerable economic situations are citizens and families of scarce or low economic resources that require the support of the State and society to survive, and for this reason, they are also considered priority attention groups, since these people usually live mostly in rural and suburban sectors of Ecuador, and are human beings who have the same rights as any other person. However, due to their condition, they cannot hire or finance the sponsorship of a lawyer to enforce their rights. In this sense, taking into account the provisions of the Constitution of the Republic and the Organic Code of the Judiciary, the free legal clinics are competent to advise on internal conflicts in rural parishes of Ecuador.

### Question No. 9

Are the free legal clinics competent to provide legal representation in internal conflicts in rural parishes in Ecuador?

TO SPONSOR IN INTERNAL CONFLICTS	PUBLIC DEFENDER'S OFFICE	%	LEGAL OFFICES	%	PARISH BOARDS RURALES	%
Totally agree	1	9.1%	5	45.5%	0	%
Agreed	2	18.2%	2	18.2%	0	%
Neutral	6	54.5%	2	18.2%	3	27%
Disagree	2	18.2%	2	18.2%	7	64%
Strongly disagree	0	0%	0	0%	1	9%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

### Source

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

The Constitution of the Republic of Ecuador (2021), in its Art. 75 states: "Everyone has the right to free access to justice and to the effective, impartial and expeditious protection of their rights and interests, subject to the principles of immediacy and celerity, and in no case shall they be defenseless". To make this right effective especially in low-income and vulnerable people such as those living in the rural sector of Ecuador, the State through the constitutional mandate established in Art. 193 of the Constitution, obliges the faculties of Law or Legal Sciences to offer defense services and legal advice, according to Art. 193 of the Constitution. 193 ibidem, obliges the faculties of Jurisprudence, Law or Legal Sciences to offer the services of defense and legal advice. According to Art. 294 Organic Code of the Judicial Function: "The Free Legal Clinics in charge of the Faculties of Jurisprudence, Law or Legal Sciences, are sectional organisms, community and grassroots organizations and non-profit associations or foundations". Under these legal grounds and taking into account that the competence in law refers to the fiscal space or territory in which a natural or legal person, public or private, has jurisdiction to advise, sponsor, mediate, conciliate or resolve based on current regulations and customary law conflicts that arise in society or community, the free legal offices have jurisdiction to sponsor in the internal conflicts that occur in the rural parishes of Ecuador, as long as the authorities agree to use this body as a mechanism of cooperation to reach a solution to the conflict.

### Question No. 10

What are the most frequent internal conflicts in rural parishes in Ecuador?

INTERNAL CONFLICTS	PUBLIC DEFENDER'S OFFICE	%	LEGAL OFFICES	%	PARISH BOARDS RURALES	%
Lands	4	36.4%	6	54.5%	6	55%
Boundaries	2	18.2%	1	9.1%	2	18%
Political participation	0	0%	0	0%	0	0%
Family matters	3	27.3%	3	27.3%	0	0%
Theft	2	18.2%	0	0%	0	0%
Abigeato	0	0%	1	9.1%	3	27%

Violations	0	0%	0	0%	0	0%
Murder	0	0%	0	0%	0	0%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

### Source

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

Indigenous communities, peoples and nationalities located in the rural sector of Ecuador are often involved in conflicts, "mainly in relation to their lands, territories and resources, or their civil, political, cultural, social and economic rights" (Permanent Forum on Indigenous Issues, 2016). According to the results of the research, internal conflicts in rural parishes of the country, precisely are due to land and boundary issues, in a smaller proportion is the abigeato which is a punishable offense consisting of theft or theft of cattle or domestic animals. Under these grounds, it can be noted, that the internal conflicts that originate in rural parishes of Ecuador, fall in the civil sphere.

### Question No. 11

Has the participation of the free legal clinics in the resolution of internal conflicts in rural parishes in Ecuador been efficient?

PARTICIPATION OF FREE LEGAL CLINICS	PUBLIC DEFENDER'S OFFICE	%	LAW FIRMS	%	PARISH BOARDS RURALES	%
Totally agree	2	18.2%	6	54.5%	0	%
Agreed	2	18.2%	3	27.3%	3	27%
Neutral	5	45.5%	2	18.2%	4	37%
Disagree	1	9.1%	0	0%	3	27%
Strongly disagree	1	9.1%	0	0%	1	9%
<b>TOTAL</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

### Source

Questionnaire applied to attorneys of the Public Defender's Office, Free Legal Aid Offices and authorities of the Rural Parish Councils.

## CONCLUSION

The rural parish councils in Ecuador and possibly in the American continent, are institutions created with the arrival of the Spaniards to these territories. They were initially governed by the parish priest of the community, later by a delegate of the Crown, then by the State, and although some norms indicate that the election of the political lieutenant was carried out in a democratic way, it is observed that in the beginning the requirements did not allow a native of the rural sector to accede to this position. Currently, the presidents or governments of the parish councils in most parishes are elected democratically under the system imposed by the State. There are few rural parishes that exercise the right to apply their own way of electing their authorities, for this reason, those who exercise this dignity, mostly do not represent the interests of the parish, but the interests of the movement or political party that sponsored it.

With the enactment of the Constitution of the Republic of 2008, Ecuador has changed from a Social State of Law to a Constitutional State of Rights and Justice, that is, it has become a nation that guarantees human and constitutional rights. In order to make this constitutional goal effective and with the objective of guaranteeing legal security through free access to justice, especially for people with limited economic resources and groups that require priority attention, the faculties of Jurisprudence, Law or Legal Sciences of the universities are empowered to create free legal clinics.

People of limited economic resources and priority attention, mostly located in the rural parishes of Ecuador, are people who are engaged in agriculture, livestock and handicrafts, many of them for lack of support have had to immigrate and emigrate in search of better opportunities. They are citizens to whom the State must guarantee priority attention; however, for many years they have been excluded and ignored, showing a real violation of formal and material equality that negatively affects the improvement of quality of life.

The internal conflicts in the rural parishes of Ecuador occur between the aborigines and peasants of the indigenous communities, peoples and nationalities that coexist in these territories considered by law as ancestral territories, most of them originate for reasons of land and boundaries. To solve this problem the parties involved cannot apply the indigenous justice system but to the ordinary justice system, on the other hand. This is reason enough to point out that the free legal clinics are not only legal mechanisms of cooperation between the indigenous and ordinary justice for the solution of internal conflicts, but they are also legal tools to guarantee legal security and free access to justice for the inhabitants of rural parishes in Ecuador.

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