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La mediación en el Ecuador, desafíos y oportunidades para la resolución de conflictos

Mediation in Ecuador: Challenges and opportunities for conflict resolution

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Resumen

Introducción: Este artículo académico examina el desarrollo y la relevancia de la mediación en Ecuador, resaltando su transformación desde la Ley de Mediación y Arbitraje de 1997. Se destaca la distinción que existe entre mediación y transacción, haciendo un enfoque en la legislación ecuatoriana que reconoce la transacción como un contrato para resolver aquellas disputas extrajudiciales. Se compara la experiencia de la mediación en México y España, resaltando las características y regulaciones que son específicas de cada país. Se concluye destacando perfiles de mediadores similares en México y España, subrayando la mediación como una herramienta valiosa para la resolución pacífica y eficiente de conflictos suscitados en el contexto ecuatoriano e internacional. Este enfoque integral proporciona una visión panorámica de la mediación, destacando su contribución a la construcción de un sistema de justicia accesible en Ecuador. **Objetivos:** analizar la mediación en el Ecuador, desafíos y oportunidades para la resolución de conflictos a través de la investigación descriptiva. **Metodología:** se realiza por medio del empleo de una metodología cualitativa y descriptiva. **Resultados:** los resultados de esta investigación se ven reflejados al aplicar la fórmula del ganar-ganar, ya que las partes que acuden a este proceso de mediación restablecen sus vínculos de forma ágil y menos engorrosa. **Conclusiones:** la mediación brinda un empoderamiento a las partes para resolver el conflicto, al ser autocompositiva se rige en la voluntad de las partes para llegar a un acuerdo y poder resolverlo. **Área de estudio general:** Derecho. **Área de estudio específica:** La mediación.

Keywords:
Alternative conflict resolution methods, mediation, national legislation, legal culture, access to justice.

Abstract

Introduction: This academic article examines the development and relevance of mediation in Ecuador, highlighting its transformation since the Mediation and Arbitration Law of 1997. The distinction that exists between mediation and transaction is highlighted, focusing on Ecuadorian legislation that recognizes the transaction as a contract to resolve those extrajudicial disputes. The experience of mediation in Mexico and Spain is compared, highlighting the characteristics and regulations that are specific to each country. It concludes by highlighting profiles of similar mediators in Mexico and Spain, highlighting

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mediation as a valuable tool for the peaceful and efficient resolution of conflicts that arise in the Ecuadorian and international context. This comprehensive approach provides a panoramic view of mediation, highlighting its contribution to building an accessible justice system in Ecuador. Objectives: analyze mediation in Ecuador, challenges and opportunities for conflict resolution through descriptive research. Methodology: it is carried out through the use of a qualitative and descriptive methodology. Results: the results of this research are reflected when applying the win-win formula, since the parties who attend this mediation process reestablish their ties in an agile and less cumbersome way. Conclusions: mediation provides empowerment to the parties to resolve the conflict; as it is self-composing, it is governed by the will of the parties to reach an agreement and be able to resolve it.

Introduction

Mediation, as a valuable strategy for conflict resolution, has played a fundamental role in Ecuador since the entry into force of the Mediation and Arbitration Law on September 4, 1997 (Presidency of the Republic of Ecuador, 1997)This legislation not only recognized institutional and community mediation, but also established formal requirements for both mediators and mediation centers.

It is crucial to differentiate between mediation and transaction, since the former requires the intervention of a neutral third party to facilitate the solution, while in the latter the parties resolve the conflict themselves. This distinction is reinforced in the Ecuadorian Civil Code, which defines transaction as a contract in which the parties extrajudicially terminate a pending dispute or prevent a potential one.

Mediation not only has an impact at the national level, but practices and approaches are also observed in other countries. Mexico, for example, considers mediation as self-composed, guided by a neutral third party that facilitates agreements based on the interests and needs of the parties (Castillo, 2021).Political Constitution of the United Mexican Stateshighlights the need to anticipate alternative mechanisms to resolve conflicts, including mediation, demonstrating its commitment to this practice as an effective means of resolving disputes (Chamber of Deputies of the H. Congress of the Union, 1917).

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In Spain, mediation in civil and commercial matters is regulated by Law 5/2012. This law establishes that the duration of mediation must be as short as possible, and the actions of the parties must be carried out in a few sessions (Head of State, 2012)Family mediation in Europe, including Spain, seeks to improve communication between family members, reduce conflicts and economic costs associated with divorces or separations. Spanish legislation establishes specific requirements for mediators, guaranteeing a professional and qualified profile.

Methodology

In response to the problems presented, the qualitative method will be applied in this research process that seeks a deep understanding of the topic to be explored. In this case, the research has a descriptive and exploratory nature in order to understand the value of mediation within Ecuador. This research will be carried out using a documentary nature in which Ecuadorian and foreign legal regulations will be taken into account in order to understand the importance of MASC in access to justice.

Alternative methods of conflict resolution

When talking about conflict there are different opinions, but it is one of the least convenient ways to try to solve a controversy, there is usually a clash of interests, points of view, etc. The diversity of opinions between some causes conflicts since each one will defend his point of view and some do not even have a good attitude or reaction towards the other and this can become more serious.

There are various classifications of these methods for conflict resolution according to Pérez (2015), in order to understand them in terms of their contribution to a culture of peace. It is important to say that within these methods there are adversarial or contentious methods and non-adversarial or peaceful methods. In the first, it is said that there is a conflict "litis", which is recognized by the parties when they realize that they cannot resolve it by themselves and for which they require a process to resolve these conflicts and a third party determines which of the parties is right and a solution is provided.

MASC figures

There is an important list of methods, including mediation, arbitration, conciliation, and negotiation; they all have their distinctive features, but they all have a characteristic that leads to a peaceful solution.

What characterizes this method is that the parties are facing each other, a third party decides for them, one of the parties wins and the other loses, a resolution puts an end to this dispute.

In alternative methods of conflict resolution, the parties themselves are the ones who resolve the dispute and they can be self-composing, as has been stated above. They are very different procedures from jurisdictional ones and their purpose is to resolve the conflicts that arise between the parties with problems of common interest.

Origin of MASC in Ecuador

Within Ecuador, this approach to alternative methods of conflict resolution appeared for the first time in civil procedural legislation; as soon as it came into force, the importance of conciliation could be noted, making it an obligatory stage within the knowledge processes.

On October 23, 1963, the Commercial Arbitration Law was enacted through Supreme Decree No. 735 published in the Official Registry No. 90 on October 28, 1963, for which it became the first special law that was related to this topic and was aimed at the resolution of conflicts between merchants through arbitration (Encalada, 2021).

Encalada (2021) argues that in 1995 the first Comprehensive Plan for the Modernization of the Administration of Justice in Ecuador was issued and states the following: The administration of justice is slow and this forces citizens to protect their rights and also to resolve their differences by other means. When citizens decide to opt for another judicial route and succeed despite the fact that it is something complex, its slowness, the costs that are sometimes not transparent and above all the deficiency of the professionals.

Such an accelerated transformation of our Ecuadorian legislation is due to the lack of an efficient justice administration system that can provide some kind of guarantee to users, making these shortcomings of the Judicial Branch the greatest ally for MASC to enter this field.

When this impetus is given constitutionally in a formal manner and for the first time the MASC are reflected in the high-ranking norm issued by the Constituent Assembly.

Mediation

When we talk about mediation, we understand that a third party is involved in this process and will help to resolve the conflicts of those involved.

It is self-composing because the parties involved in the conflict become protagonists in the mediation and decide what will be the content of the agreement that will be carried out in order to resolve the disputes.

It is less onerous since each expense made will be worthwhile, it is more flexible, participatory and contributes to the empowerment of the parties where solutions to

problems may be shorter but the most important and striking thing is that there is a win-win.

The approval of both parties is required to initiate this process and make decision-making easier.

Alternative media and mediation have undergone drastic changes over time, which has led to complications in the social sphere. Today, there is a clearer perspective of what mediation is from different dimensions.

For Francisco Gorjón (2022), the trajectory of mediation and methods for conflict resolution has been somewhat drastic on a planetary level, especially in the 21st century, where one of the most important ruptures in social action occurs. Currently, mediation is mentioned in some dimensions, first, mediation as a solution to conflicts in the pursuit of justice, second, mediation is considered a method, third, mediation as a profession, fourth, mediation is a growing social science and fifth, as a culture and way of life through intangible values.

The aim is to contribute to access to justice without having to resort to ordinary justice, since this can take too long and the process can become somewhat cumbersome. The parties themselves take the reins to resolve the conflict, which contributes to a culture of peace, since the parties end their problems, whereas this does not happen in ordinary justice.

Mediation is a source of power, it has a strength that produces empowerment in the people who attend it, this is because it produces cooperation and which makes the mediator a third party who will make a social change and above all will be an agent of peace. Therefore, Gorjón (2022) argues that this causes the mediated and the mediator to be evolutionary for a more modern society since mediation has the power to generate positive solutions where there are none.

This method should be considered one of the most accurate for achieving peace among people and that is why a peaceful culture should be promoted and dialogue should prevail above all else.

For Steele (2022), mediation should be imposed as a main and intelligent alternative to achieve good coexistence in improving one's life, neighborhood, city and it is the beginning of a new paradigm to promote the culture of peace and also dialogue.

The mediator

The mediator is not on the side of any of the parties, however, he provides the dialogue and it must be taken into account that those who carry out his role as mediator must comply with some formalities that are important. He is a neutral third party that enables

communication between the parties involved and structures a peaceful dialogue. Those who wish to act as mediators must meet an important profile.

In Ecuador, anyone who works as a mediator must take a training course, meet requirements, hours of learning and practice.

The Judicial Council (2018) states that in order for a person to be a mediator in Ecuador, they must have a university degree or higher professional training, certify at least 80 hours of theoretical training in mediation and 40 hours of practice in mediation. They must also have 4 years of work experience related to the position.

The mediator must be docile and manageable, patient in the face of changes, committed and responsible, empathetic, resourceful, assertive and impartial.

Mediation models

There are some mediation models that facilitate the process and transformation between the parties at the time of a conflict. The most well-known and famous models are the traditional Harvard linear model, the narrative circular model, and the transformative model.

Harvard Model

This model considers mediation as a negotiation with the contribution of a third party to resolve the dispute. It is understood that conflict is a barrier to satisfying the interests and needs of the parties. Pérez (2015) argues that through mediation the parties must work together to resolve the conflict.

It is essential to have a state of analysis and to see how the conflict progresses so that ideas or options for this mutual agreement can be generated. Since the mediator is the one who guides this process, he or she must be knowledgeable about the law and how the judicial system works.

Transformative Model

Pérez (2015), citing Robert Bush & Joseph Folger (2015) are the creators of this model and consider mediation as therapeutic, emphasizing communication and interpersonal relationships of the parties involved.

Under this model, the purpose is not to reach an agreement, but rather to develop the potential for change between the parties, who discover their own abilities during the process. There are also two important effects, such as revaluation, which consists of giving back to those involved their own value, strength and self-esteem, and the second

is recognition, which is based on acceptance and empathy regarding the conflict (Pérez, 2015).

Circular Narrative Model

Within this model, communication is the most important thing, not gestures of any kind. The aim is for the parties to communicate and find the best agreement.

According to Pérez (2015), citing Sara Cobb (2015), it is based on curricular communication, excluding verbal, corporal, gestural elements, etc. Any situation is communicated and the purpose is to change these narratives and reach an agreement. Through this perspective, mediation provides tools to carry out the process in a novel and different way of conflict, therefore communication is essential for this dynamic to be different.

Historical background of mediation in Ecuador

In the lines of Rivera (2015), it is described how the Mediation and Arbitration Law came into force in Ecuador on September 4, 1997, which was published in the Official Registry No. 145, this law caused certain provisions about Arbitration to be repealed which were established in the Civil Procedure Code (Presidency of the Republic of Ecuador, 1997),like the Commercial Arbitration Law that was issued by Supreme Decree No. 735 on October 23, 1963 and published in the Official Registry No. 90 of the same year.

Ecuador gave way to mediation in regards to institutional mediation as well as community mediation, where certain requirements and formal aspects were established that mediators had to comply with, as well as mediation centers.

Currently, the Organic Code of the Judicial Function mentions in article 130, numeral 11, that if necessary, the process should be referred to an extra-procedural mediation center whose purpose is to reach a conciliation (National Assembly of Ecuador, 2009).

Pursuant to the provisions of Article 190 of the Constitution of the Republic of Ecuador, it mentions mediation and alleges that arbitration, mediation, and others are recognized as alternative methods of conflict resolution (National Constituent Assembly of Ecuador, 2008). In addition, these procedures will be applied in accordance with what the law establishes in matters that can be compromised.

Around eighteen years have passed and it has been somewhat impossible to know these statistical results of the Mediation Centers, Rivera (2015) mentions article 7 of the instructions issued by the Council of the Judiciary (2018), regarding the control of Mediation Centers, alleges that all Mediation Centers that are formally registered and authorized for their correct operation must deliver the minutes of impossibility, partial

agreements or definitive agreements, to the Secretary of the National Council of the Judiciary on a monthly basis.

Regulations

In the Arbitration and Mediation Law, article 43 states: "Mediation is a conflict resolution procedure by which the parties, assisted by a neutral third party called a mediator, seek a voluntary agreement, which deals with negotiable matters, of an extrajudicial and definitive nature, which puts an end to the conflict" (The Legislation and Codification Commission of the Honorable National Congressfrom Ecuador, 2006).

Mediation in Ecuador is a legal way to resolve conflicts, taking into account that the parties are willing to submit to this procedure.

Article 190 of the Constitution of the Republic of Ecuador establishes: "Arbitration, mediation and other alternative procedures for the resolution of conflicts are recognized. These procedures will be applied subject to the law in matters in which, due to their nature, compromises can be made" (National Constituent Assembly of Ecuador, 2008).

Features of mediation

Armas Hernández (2003) argues:

It is a cooperative negotiation, it is non-adversarial because it avoids antagonistic positions, the parties must be motivated and communication is the basis for conflict resolution.

Advantages of mediation

It provides relief to the courts, saves time, avoids winners and losers, develops creativity and agency, long-term agreements (Live, 2016).

It can be understood that in each of the points already mentioned the positive aspects of mediation are highlighted. In a very particular way, it can be stated that mediation allows cases known as minor causes not to go to court through legal proceedings and remain there without any response, but rather to negotiate and put an end to the conflict.

Mediation and transaction

We will begin by mentioning Felipe Osterling & Mario Castillo (1997) in this paragraph, who indicate that mediation and transaction are not the same, since in the first a neutral third party is needed to help them solve the problem, and in the second the parties resolve it on their own. In mediation, one of the two parties may be victorious, whereas in the transaction, the parties involved sort it out and look for a solution together.

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Within the Ecuadorian Civil Code, in its article 2348, it establishes that the transaction is a contract in which the parties extrajudicially terminate a pending litigation or prevent a possible litigation (The Legislation and Codification Commission of the Honorable National Congressfrom Ecuador, 2005).

The transaction is not only a means of extinguishing obligations, but it is also an important and complex figure in our legal system. Its usefulness is assumed by society in general because people often resort to the transaction to resolve their controversies and disputes.

Since ancient times there has been a saying that goes "a bad settlement is better than a good trial", since whoever wrote it must have been aware of how expensive, complex and uncertain a judicial process is. It is well known to Osterling & Castillo (1997), that there may be unrest between those involved because it is more convenient for them to resolve their differences in a friendly and responsible manner, this will occur when both understand that there is some reason.

Transaction is one of the most agile mechanisms for resolving conflicts without the intervention of the courts of justice and through this the parties involved dictate their own sentence, saving the costs that a process implies.

In summary, the transaction is considered a contract and its purpose is to resolve this conflict by the parties themselves through reciprocal concessions and, therefore, its impact is found on two levels. The first is that the transaction is a contract and aims to solve existing issues between the parties, this means that existing legal relationships that are in dispute are extinguished. The second is that it focuses on seeking harmony and peace.

Reciprocal concessions are something that characterizes the transaction and this means that it is a point at which one gives in to a certain position that is decided to relax or grant to the opponent so that peaceful coexistence can occur or some type of benefit can be obtained.

Negotiable matter

- **Family:**Food, Visitation, Custody, Prenatal care
- **Civil:**Demarcation of boundaries, Voluntary partition of inheritance property, contractual, debts.
- **Tenancy**
- **Compensation for damages**
- **Transit**
- **Labor:**Forms of payment for settlements and pensions

- **Social and neighborhood coexistence**

Non-negotiable matter

Marital status or capacity of persons, causes that refer to public domain assets, tax matters, non-waivable rights (labor rights), domestic violence, human rights, constitutional matters, nullity actions

Mediation in the world

Mexico

In thePolitical Constitution of the United Mexican StatesIt is mentioned in its article 17 that laws must anticipate alternative mechanisms to solve conflicts, that is, some means such as mediation must be offered to solve conflicts (Chamber of Deputies of the H. Congress of the Union, 1917).

The most important motto within the mediation law of the State of Nuevo Leon is to promote a culture of peace and the restoration of interpersonal and social relations.Mexico is one of the references in mediation, there arespecialized mediation (Quadrans Law and Finance Editorial Team, 2020).

For comparison Bernal & Lescano (2022), They claim that in Ecuador the Arbitration and Mediation Law regulates matters that can be compromised due to their nature, however, at the time of its applicability there has been no effectiveness, especially in the criminal field where it was considered inapplicable. The regulation of mediation in criminal matters occurs in cases of adolescent offenders, which occurred after the reform of 2014. Regarding Restorative Justice, Ecuadorian legislation does not establish or mention anything, that is to say, in Ecuador it is in an initial stage regarding the subject, it is just beginning to be known what this justice consists of and many people have no idea what it is (Sánchez & Galeas, 2003).

The laws in this country regarding mediation are very advanced because they have a very broad mechanism regarding restorative justice and the criminal sphere. Ecuador still needs to mature regarding this issue.

The following are susceptible to mediation in the criminal field in Mexico: breach of trust that disposes of another's movable property for oneself or for another person, fraudulent administration, administration or care of another's property, breaking and entering, threats, fraud, theft, supply of harmful or inappropriate things (pharmacy employees)

On the other hand, in Mexico, Bernal & Lescano (2022) conclude that the laws will provide for the MASC and in criminal matters, if their application is regulated, it will

ensure the reparation of damages and, if necessary, there will be judicial supervision. What concerns Restorative Justice in the first place is to determine what has been the cause of the crime or offense and to dimension that they should focus on the needs and damages, this is because it is essential to have an extensive perception understanding that the damages go beyond economic or patrimonial effects, which has led this state to adopt Restorative Justice in its legislation (Sánchez & Galeas, 2003).

Restorative justice according to Baroné Villar (2005), taken from the text by CarlosMojica(2005) establishes that it is the application of a sanction that is a substitute for a monetary or pecuniary penalty or deprivation of liberty, taking into account the antecedents. This is given as a response to a crime and includes the healing of wounds that have been caused by criminals or communities.

In the Law on Alternative Conflict Resolution Mechanisms of the State of Nuevo León (Executive Branch of the State of Nuevo Leon, 2020), mentions restorative justice and in Article 24 establishes that it may be obtained by any method chosen by the parties, including MASC. This may be applied to repair damage or harm arising from a dispute in civil, family, school or community matters.

For this process to take place, there must be agreement between the parties, agreed amendments, responsibility and restoration, and the inclusion of all those involved so that it can be carried out.

Family mediation is also highly developed in Mexico, because it has always been present in civil codes through hearings or meetings, where the judge on duty or the secretary exhorts the parties to reach an agreement and the same happens with children regarding alimony, so that the parties have no choice but to reach a consensus and thus the judge sanctions (Caraveo, 2021).

The profile of the mediator in both Mexico and Ecuador is similar since it is necessary to have a university degree and have experience to be able to practice.

Spain

At the time of the promulgation of the European Directive, it obliged the member States to legislate on mediation and to immediately approve state laws on this matter.

This rule is exclusive for commercial and civil matters that are involved in national or border conflicts. The duration of this mediation procedure must be as short as possible and the actions of the parties will be in very few sessions in order to conclude this process. In addition, the law mentions that said procedure can be configured as an executive title.

This is based on encouraging the resolution of family conflicts since minors may be affected by the situation and this may cause greater damage. It should be noted that the

most important thing here is the stability of the child. There is something similar in Ecuador regarding family mediation since there are regulations that protect them and as previously mentioned, what matters is the social and economic stability of minors in these processes.

The Head of State (2012) states that the profile of a mediator according to Law 5/2012 on mediation in civil and commercial matters must be a natural person with a university degree and specific training in mediation through courses. The mediator must have a guarantee or insurance that can cover civil liability arising from the action in conflicts in which he intervenes (Head of State, 2012).

International Conventions

United Nations Convention on International Settlement Agreements Resulting from Mediation (New York, 2018) (Singapore Convention)

It should be noted that this Convention is related to everything concerning mediation, where it establishes several international transaction agreements and can also establish different procedural mechanisms when the Convention does not have requirements, and in addition this will be established in writing.

The United Nations Convention on International Settlement Agreements Resulting from Mediation was adopted in December 2018. Article 1 establishes that the Convention shall apply to international settlement agreements that result from mediation entered into in writing by the parties in order to resolve the dispute. The United Nations argues that each party to the Convention may determine the procedural mechanisms that may be used in cases where the Convention does not set any requirement (United Nations [UN], 2018).

The purposes of this Convention

Toscano (2019) argues that this Convention aims to establish a regime of enforcement abroad, said Convention is not applicable to transactional acts that were approved by a local court or that were reached in the course of a judicial process. In order for it to be enforced, the agreement must be signed by both parties and the interested party must prove that it was through a mediation process.

Basically, this article alleges that there must be agreements concluded by the parties and that it be in writing, in addition, that this be the result of mediation, understanding that whatever the manifestation that has been used or the reason for the controversy, a procedure by means of which the parties must try to reach a point that benefits both parties with the assistance of one or several third parties (mediator) and lacks said authority to impose any solution.

This agreement refers to the international disputes that Esplugues (2019) bases, and therefore this international nature of the mediation agreement is linked to article 1.1 because at the time of its celebration that data is supervening and at least the parties to the agreement have their establishments in different states.

Challenges and opportunities

Justice should be a field where transparency and above all promptness prevail, but instead we have in some cases slowness, inefficiency and corruption, which in the end sometimes causes citizens to lose the trust and hope that is so necessary in the Ecuadorian judicial system.

There is a lack of awareness about mediation, since most people do not even know what the word "Mediation" means. It would be important to provide training to society on the subject and for them to understand that when they find themselves in a conflict they can go to a Mediation Center and everything that it entails.

It is extremely difficult to resolve a dispute without the presence of a judge, however, in mediation this does not entail an overlapping of functions or the replacement of the judge, since the mediator plays the role of intermediary between the parties. This should be a catalyst according to Fellini (2002), who shows both parties the most viable way to satisfy their needs.

The preparation of the mediator is essential for carrying out his or her functions because it helps to eliminate blockages in the process and clarify misunderstandings by encouraging passive dialogue. In addition, when the parties move away from the objective, the mediator encourages the parties to seek real solutions. The role of the mediator is to be able to not judge and behave impartially since the success of this process depends on him or her.

Javier de Rosa & Gino Rivas (2018) argue that when people differ from each other, conflict theory appears, since there are various explanations, as well as the scarcity of resources. Within our reality, there is no good explanation about what elements allow people to satisfy themselves without affecting the other party. There are conflicting or incompatible interests that lead those involved to confront each other.

In a world with two people and an infinite number of identical apples, they will not care how many the other person appropriates, that is, it does not matter how many apples one party wants to appropriate from the other, and this is where conflicts begin.

As for carrying out a trial with a lawyer, it sometimes requires too much time and money, whereas with Mediation the process is less stressful, faster and less expensive.

The opportunities that arise are that there is no winner or loser, on the contrary, there is a win-win and in this way the parties are satisfied with the solution and it can be said that the conflict has been resolved.

Dissemination in the business field is not very common, since some people do not know about the subject, how it can be carried out and the benefits that it brings. Mediation in this field encourages having a more efficient company, increased productivity in workers and, above all, promoting dialogue since there are usually problems that can be resolved through mediation (Vieira, 2022).

As has been stated, Ecuadorian regulations recognize ADRs in the Constitution of the Republic of Ecuador in Article 190: "Arbitration, mediation and other alternative procedures for conflict resolution are recognized. These procedures will be applied subject to the law in matters that by their nature can be compromised" (National Constituent Assembly of Ecuador, 2008).

In the Arbitration and Mediation Law, in article 43: "Mediation is a conflict resolution procedure by which the parties, assisted by a neutral third party called a mediator, seek a voluntary agreement, which deals with negotiable matters, of an extrajudicial and definitive nature, which puts an end to the conflict" (The Legislation and Codification Commission of the Honorable National Congressfrom Ecuador, 2006).

A paradigm is created by being able to discover how fundamental verbal and non-verbal communication are. The first is a reasoned, thought-out, orderly dialogue, the second is characterized by being unconscious and is also transmitted through body language, as well as gestures, tones of voice, etc.

The work of the mediator is decisive during this process of analysis of existing narratives and construction; it is a work with words and with the resource of working with what comes with experience.

Discussion

The analysis of this research corroborates the importance of mediation because it provides empowerment to the parties to resolve the conflict, being self-compositive it is based solely on the will of the parties to reach an agreement and through this consensus the conflict is resolved.

The exploration carried out in other countries such as Mexico and Spain shows a perception of acceptance by users in the mediation processes; where there are also beneficial advances in restorative justice, which constitutes a range of opportunities when implemented in Ecuador for conflict resolution, promoting a culture of peace and decongesting ordinary justice.

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The research carried out confirms that users of the mediation process, when solving their conflicts peacefully, reestablish their ties in a quicker and less cumbersome way by applying the win-win formula.

Conclusions

- Over the years, Ecuador has enacted legislation and policies that recognize and promote mediation as an alternative method of conflict resolution. Although significant progress has been made, we cannot fail to recognize that many people are not familiar with mediation as a new method of resolving disputes, which makes its use and acceptance difficult.
- The experience of mediation in Ecuador shows significant progress, however, there are some sectors where mediation is not fully accepted due to the lack of a culture of dialogue that improves peaceful coexistence and social cohesion.
- Mediation offers the possibility of reducing costs and time in conflict resolution compared to other forms of conflict resolution, especially in ordinary courts.

Conflict of interest

There is no conflict of interest in relation to the submitted article.

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