

## **Social conflicts and mediation in Ecuador's public sector: a multidisciplinary approach**

### *Los conflictos sociales y la mediación en el sector público del Ecuador: un enfoque multidisciplinar*

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## Abstract

Over the last four decades, Ecuador has experienced a series of social, economic, and political conflicts that have significantly affected the well-being of its population due to governmental decisions, natural disasters, and structural problems such as unemployment, poverty, and transnational crime. This research analyzes social conflicts in the public sector and the involvement of mediation in the branches of government. The approach applied was descriptive and qualitative to identify trends and emerging conflicts, as well as prospective research to understand the history of conflicts and the evolution of mediation. Finally, statistics on mediation in the public sector were analyzed to assess its effectiveness and scope. The results highlight the need to implement mediation as a state policy to effectively address conflicts and promote social cohesion. Although mediation has been used in the judicial sphere, its application in other branches of government and in society, in general, is limited. However, there is an increase in the use of mediation in the public sector, suggesting a growing recognition of its effectiveness in conflict resolution, promoting a culture of peace and peaceful coexistence..

**Keywords:** Mediation, conflict, policies, culture of peace, social cohesion, public sector

## Resumen

Durante las últimas cuatro décadas, Ecuador ha experimentado una serie de conflictos sociales, económicos y políticos que han afectado significativamente el bienestar de su población, debido a decisiones gubernamentales, desastres naturales y problemas estructurales como el desempleo, la pobreza y la delincuencia transnacional. Esta investigación analizó los conflictos sociales en el ámbito público y la participación de la mediación en los poderes del Estado. El enfoque aplicado fue el descriptivo y cualitativo para identificar tendencias y conflictos emergentes, así como el estudio prospectivo para entender la historia de los conflictos y la evolución de la mediación. Finalmente, se analizaron estadísticas de mediación en el sector público para evaluar su efectividad y alcance. Los resultados evidenciaron la necesidad de implementar la mediación como una política estatal para abordar los conflictos de manera efectiva y promover la cohesión social. Aunque la mediación se ha utilizado en el ámbito judicial, su aplicación en otros poderes del Estado y en la sociedad en general es limitada. Sin embargo, se observa un aumento en el uso de la mediación en el sector público, lo que sugiere un reconocimiento creciente de su eficacia en la resolución de conflictos como cultura de paz y la convivencia pacífica.

**Palabras clave:** Mediación, conflicto, políticas, cultura de paz, cohesión social, sector público

# Introduction

The economic, political, and social decisions made by governments in recent decades have had a significant impact on the well-being of their inhabitants. Recurring social conflicts in Ecuador have been characterized by armed conflict, power struggles, delayed approval of migration policies, transnational terrorism, and drug trafficking (Unda, 2020), as well as the influence of external agents such as natural disasters. In this context, the crisis and social challenges highlight the need to implement mediation in public institutions as part of a vitally important and lasting state policy, contributing to social cohesion that would improve the current situation.

Existing programs promoting mediation have not been sufficient to comprehensively address conflicts between the government and citizens, as mediation is limited solely to the judiciary and its agencies, neglecting the executive, legislative, and electoral branches, as well as transparency and social oversight. Furthermore, the challenges of combating unemployment, poverty, and crime act as catalysts for discord and social unrest.

In this context, incorporating mediation as a tool to strengthen social cohesion is important for promoting peace justice. Mediation is presented as a collaborative approach to reaching mutually beneficial agreements, emphasizing the importance of dialogue and the pursuit of common interests (Bush and Folger, 1994). Both authors emphasized that this method can transform conflicts by focusing on the underlying needs and concerns of the parties involved, rather than simply imposing external solutions.

## 1.1. Social conflicts and governance in the political and legal framework.

Social conflicts vary in nature and severity, but do not necessarily involve hostility or violence in all situations. These conflicts are diverse in terms of causes, duration, resolution, outcomes, and effects (Kriesberg, 1973), and their perception can vary according to different points of view, being considered necessary, admirable, regrettable, or unjust.

Conflicts seek to modify public decisions or promote new policies, in many cases influencing government regulations, administrative processes, or rules that affect the entire population. Therefore, public decisions can cause conflicts (Huamani and Macassi, 2022). However, public policies can offer meaningful and lasting solutions to the problems underlying these conflicts (Roth, 2019) and establish social order by offering a specific solution to the problem through agreements and consensus that are effective and efficient for the parties.

It's reasonable for each government to have a distinct vision and perception of governance, which is reflected in the policies and regulations it issues; however, societal satisfaction can be perceived as invasive and non participatory, which demotivates and delegitimizes civil society.

Governance within the Ecuadorian political and legal framework began to develop after the return to democracy in 1980, when inflation, the crisis, and economic policy focused on the fiscal deficit, aggravated by the 1981 war under President Hurtado and continued under Febres

Cordero in 1985. As a result of these events, structural adjustment policies were implemented to stabilize the country's economy, although these macroeconomic measures were considered late and inconsistent. In 1984, due to the turbulent economic, political, and social crisis, the first international emigration occurred, mostly from the province of Azuay, representing the largest influx until the late 1990s. At that time, there were no regulations or immigration policies to support Ecuadorians abroad (Herrera, 2022).

In 1992, President Rodrigo Borja faced one of the historic challenges of the Indigenous uprising, which went unrepressed, and opened the first channels of dialogue and negotiation through the Catholic Church. The consensus was achieved with the granting of property titles to Indigenous lands and providing the organizations gathered in CONAIE with the appropriate infrastructure to facilitate their meetings (Ortiz, 2015).

From 1992 to 1996, Sixto Durán-Ballén governed amid the “Flowers and Honey” scandal, in which the National Finance Corporation granted loans to the president's relatives without verifying their credit history. Over the next seven years, Ecuador went through five different presidents: Abdala Bucaram, Fabián Alarcón, Rosalía Arteaga, Jamil Mahuad, and Lucio Gutiérrez. This instability was due to oppressive measures and cases of corruption that fostered the emergence and strengthening of movements demanding their rights (Sánchez, 1996).

In 1998, the El Niño phenomenon and the Bahía de Caráquez earthquake further complicated the country's economic and social situation. Preventive health policies were created to mitigate the damage (Ministry of Public Health and Pan American Health Organization, 2000). This dire situation placed Ecuador as the fifth poorest country in Latin America, where more than half of the Andean population lived in extreme poverty (Hung-Hui, 2008).

The ousting of Jamil Mahuad's government on January 21, 2000, in a coup d'état, was prompted by intense popular protests against the economic measures implemented, such as dollarization and the freezing of bank accounts. These measures deprived many citizens of access to their savings, causing uncertainty and distrust in the financial system.

Faced with this situation, a second wave of massive international migration occurred, the result of the country's worst historical crisis beginning in 1999. With the growing emigration, the first migration policies for Ecuadorians abroad were established, with an emphasis on migrant rights and ties (Herrera, 2022). Remittances sent by Ecuadorians were the second source of foreign currency income for the country. With dollarization in place since January 9, 2000, remittances amounted to \$1,316.7, surpassing even oil in income for the country and thus becoming one of the most important items, above bananas, shrimp, coffee, and cocoa (Central Bank of Ecuador, 1999-2000).

With dollarization, Ecuador adopted a different regime for the economic transformation of its monetary system, including changes in the country's tax and financial policies. These legal and institutional reforms consolidated the dollarization process with the Law for the Economic Transformation of Ecuador, issued on March 13, 2000 (Central Bank of Ecuador, 2001). Following

this crisis, subsequent administrations focused on raising the standard of government policies related to fiscal policy and structural reforms.

From 2007 to 2017, Rafael Correa's administration experienced several political disputes that became polarized over the years, with criticisms turning into attacks and a rift between supporters and opponents of Correa's administration, which generated divisions among social movements. Likewise, the discourse on social justice was reinforced in the weekly Saturday press conferences. Social protests were characterized by a strategy of confrontation in the streets, organizing sit-ins, vigils, and counter-marches in response to demonstrations by opposing factions.

Among the measures imposed were the prohibition on inheritance and gratuitous donations, which was composed of seven scales for tax payments, the issuance of Decree No. 16 regulating the creation of a unified information system for social and citizen organizations to oversee their formation and operation, and the elimination of the 40% contribution to IESS retirement pensions, which sparked protests among the affected sectors.

In 2016, a magnitude 7.8 earthquake struck Ecuador's northern coast, leaving hundreds of people affected. In response to this situation, the Organic Law of Solidarity and Citizen Co-responsibility for the Reconstruction and Reactivation of the Areas Affected by the Earthquake was enacted. This law sought to collect one-time solidarity contributions divided into different categories, such as salaries, assets, profits, and real estate. However, the implementation of reconstruction and productive reactivation policies was questioned due to its slow pace and concerns about latent corruption.

During Lenin Moreno's term between 2017 and 2021, he faced multiple political and social crises, including the controversial implementation of Decree 883 in 2019, which allowed for fuel price increases. This measure sparked protests and opposition from various social sectors, including Indigenous peoples, leading the government to call for dialogue. Mediation by UN representatives facilitated the negotiations, resulting in agreements that included the repeal of Decree 883 and the creation of a commission to draft a new decree that better reflected the needs of the population (Diario el Comercio, 2019).

At the end of 2019, the economic crisis, aggravated by the COVID-19 pandemic, created a complicated situation that culminated in the collapse of the healthcare system and mass layoffs, further worsening the country's situation. Furthermore, in 2020, an increase in the homicide rate and the strengthening of organized crime in rural areas began to be noticed. The impacts of the pandemic exacerbated the country's crisis. "Poverty at the national level stood at 32.2% and extreme poverty at 14.7%" (National Institute of Statistics and Census - INEC, 2021).

The steadily increasing homicide rate since 2020 reached 608, while in 2021 it reached 1,039; in 2022 it reached 2,128, and in 2023 it reached a record 8,004 homicides (Ecuadorian Observatory of Organized Crime, 2023). This progressive increase underscored the need to implement effective measures to address violence and improve public safety, a challenge that remains complex to date.

In 2021, President Guillermo Lasso maintained his governance amid constant paralysis; due to rising fuel prices, the failure to reach agreements with political blocs, and the lack of majority support in the National Assembly; and because the instability of his position and constant protests led to a failed impeachment trial for an alleged crime against public administration.

By 2022, nationwide protests by Indigenous groups paralyzed the entire country for 17 days. These protesters caused losses and damages of USD 281.6 million in the public sector and USD 833.8 million in the private sector (Villareal, 2022). The possibility of establishing dialogue between the government and the Indigenous population forced them to opt for mediation. Some agreements were reached; however, they were not sufficient to overcome the existing political crisis.

Due to political instability, on May 17, 2023, President Lasso decided to issue the “crusade death” decree for the first time due to the serious political crisis, which entailed the cessation of his functions and the dissolution of the National Assembly and the call for early elections, in accordance with the provisions of Article 148 of the 2008 Constitution of the Republic of Ecuador. In the same year, the country faced a short electoral campaign and a disturbance occurred in society: the murder of former candidate Fernando Villavicencio in August and which, apparently, the investigations involved high-ranking officials involved in narcopolitics.

The August 20, 2023, elections led to a runoff. Daniel Noboa and Luisa González faced off on October 15, with the presidential candidate winning, Daniel Noboa, who would finish Guillermo Lasso’s remaining term. So far, the president has made progress implementing the security policies established with the “Phoenix Plan.” The performance of economic variables and corruption scandals will be key to his administration. In addition, he will have to address the results of the metastasis, purge, and plague cases, among others, that are becoming evident as the days go by.

In 2024, the Daniel Noboa administration committed to comprehensively addressing the security issue in Ecuador, recognizing the importance of this issue to the well-being and peace of the population. Therefore, it is establishing various policies and actions aimed at strengthening the national security system.

One of the most notable measures was the decision to eliminate the drug consumption schedule, a policy that seeks to more effectively address the problem of drug use and micro-trafficking. To implement these measures, the government declared a state of emergency in the country’s prison system and, with the support of the armed forces, intervened in all prisons to improve prison conditions and reduce the incidence of criminal activity within them.

Regarding the fight against drug trafficking, drug seizure operations were intensified, breaking a historic record. At the same time, a popular consultation and referendum were held with eleven questions, nine of which were approved by the population. These questions were aimed at improving the country’s security and combating drug trafficking and crime, reflecting Ecuadorian society’s commitment to strengthening institutions and promoting citizen security.

However, despite these efforts to improve internal security, Ecuador is currently embroiled in a major diplomatic conflict with Mexico. This conflict stems from Ecuador’s invasion of the Mexican

embassy, which has triggered tensions between the two countries and posed additional challenges in international relations.

## **1.2. Mediation in the judiciary**

Every social interaction brings with it tensions that can lead to conflicts as opportunities for consensus and peace (Jordán Buenaño and Mayorga, 2019). In this context, mediation emerges as a versatile and appropriate solution for addressing conflicts in all areas, facilitating reconciliation, the restoration of relationships, and the creation of lasting agreements (Jordán-Buenaño et al., 2021).

The historical development of mediation in Ecuador dates back to the initial recognition of alternative dispute resolution methods in the 1929 Constitution, which first mentioned arbitration and conciliation tribunals. This recognition was maintained throughout several subsequent constitutions, including those of 1945, 1946, 1967, 1978, and 1979, thus establishing a significant legal basis. Mediation was formally recognized in the 1998 Political Constitution, which was reaffirmed by the 2008 Constitution of the Republic. This latter document establishes the State's responsibility to promote a culture of peace through alternative dispute resolution methods.

With the enactment of the Arbitration and Mediation Law in 1997 and later in 2006, recognition within the State was consolidated; however, the lack of dissemination of information on its application limited its effective use in the justice system. Over time, mediation has gained ground in the public sphere, especially in the judiciary since 2014, when it was introduced as a support for justice with the support of the Judicial Council, which launched a national program on mediation, justice, and a culture of peace in 2013. This initiative included training for judges, training for mediators, and promotional campaigns in all judicial units on mediation as a peaceful alternative for conflict resolution (Jordán Buenaño and Mayorga, 2019).

## **1.3. Mediation in the other powers of the Ecuadorian State.**

Mediation as a conflict resolution tool in the judiciary has gradually gained traction (Vayas et al., 2022) since its connection with the judiciary in 2013; however, in the legislative, executive, electoral, and transparency and social control branches, analysis of the connection has been negligible and reluctant.

In the executive branch, the primary responsibility lies with the effective management of the state; however, a thorough analysis reveals a significant lack of participation in conflict management and the implementation of inclusive policies with civil society since the 1980s. Although there were brief periods of dialogue and mediation in 1992, 2019, and 2022, agreements were reached that somewhat calmed and curbed the protests.

The legislative branch, represented by the National Assembly, has undergone a series of political changes that have triggered several crises between the different parties, which are aligned with the interests of the political parties. These conflicts are often widely covered by the media, where



partisan disputes and power struggles have hindered legislative processes, which could have contributed to improving the country's situation in the face of the social challenges it has faced. Currently, corruption and the crisis of confidence in the Assembly are multiple and varied, with the lack of ethics within the legislative branch being one of the main problems (Chávez, 2006).

It cannot be said that mediation has played a role in resolving disputes between political parties or in conflicts of interest between the various branches of government. However, it has facilitated the negotiation of agreements benefiting certain political groups. It is important to highlight that mediation could be integrated into this branch as a valuable tool to strengthen its functioning by fostering collaboration, consensus-building, and the resolution of both internal and external conflicts, which would contribute to more efficient, equitable, and participatory decision-making.

Finally, mediation in electoral and citizen participation bodies can play a crucial role in resolving conflicts and promoting a fair and transparent electoral process. In the electoral field, mediation can intervene in disputes related to the organization of elections, the interpretation of electoral regulations, and the resolution of conflicts between different political actors. This includes managing disputes over candidate registration, the distribution of resources during the electoral campaign, and resolving complaints about irregularities during the electoral process.

Mediation can be instrumental in promoting citizen participation in the electoral process. It can facilitate dialogue between electoral bodies and civil society, promoting the inclusion of diverse voices and perspectives in the design and implementation of electoral policies. Mediation can also help resolve conflicts between citizen groups, ensuring that all voices are heard and that community interests are taken into account in the electoral process.

Therefore, the main objective of this paper was to analyze the implementation and evolution of mediation as a key tool for conflict resolution in Ecuador. The aim was to evaluate the effectiveness of mediation in strengthening social cohesion, its impact on reducing the judicial system's burden, and its relevance in forging agreements and consensus among the parties involved. Furthermore, the aim was to study the role of mediation in the different branches of government by analyzing its limitations and potential in the executive, legislative, electoral, and transparency and social oversight spheres, with the goal of proposing improvements that contribute to a more just and peaceful environment.

## Methodology

To meet the objectives set, a methodology based on systematic review with both quantitative and qualitative approaches was applied.

First, statistical information was collected on mediation cases in the public sector in Ecuador from 2014 to 2023. These statistics were extracted from official sources, such as the National Mediation Center of the Judicial Branch and other accountability reports from institutions such as the Public Defender's Office and the Attorney General's Office. Through a comparative analysis, the evolution of cases handled, hearings held, and agreements reached were assessed.



In addition, data on the creation and expansion of mediation centers in the country were reviewed. In parallel, a documentary review of previous studies on mediation in the Ecuadorian context was conducted, as well as an analysis of public policies related to mediation. This methodological approach allowed for a comprehensive understanding of the current situation of mediation in Ecuador.

## Results

Below are the statistics related to mediation in the public sector of the Andean country (*Table 1*)..

**Table 1**  
*Statistics on Mediation in the Public Sector in Ecuador.*

Year	Direct Request	Derivation	Transit Referral	Cases Attended	Audiences Installed	Agreements Reached
2014	25,449	10,108	No data	35,557	No data	13,801
2015	24,395	18,253	884	43,432	No data	28,836
2016	46,427	19,725	3,124	69,276	No data	34,781
2017	43,575	10,308	3,190	57,155	34,316	30,863
2018	39,771	9,840	2,724	52,335	31,577	28,475
2019	42,676	2,602	9,276	54,554	34,308	31,301
2020	19,677	4,779	880	25,336	14,607	13,461
2021	33,203	8,144	1,333	42,680	No data	No data
2022	40, 920	9,205	1,093	51,218	No data	No data
2023	44,044	8,853	871	53,768	No data	No data

*Nota:* National Center for Mediation of the Judicial Function (2024).

As can be seen, direct requests represented the number of cases that came directly to the mediation service without being referred from another source. Referrals indicated the number of cases that were referred from other institutions or by the judicial system itself; transit referrals show the number of cases referred from the transit system; cases attended to are those that went to mediation; and finally, data on the hearings held and the agreements reached in mediation are provided.

A gradual increase in the number of cases handled was observed over the years, peaking in 2019, which could indicate that mediation is an effective method for resolving conflicts in the public sector. An increase in direct requests and referrals was also evident, which could indicate greater awareness of the use of mediation services. The agreements reached appeared to fluctuate over the years, with peaks and valleys occurring at different times.



Regarding the reduction of the judicial system’s caseload, it is notable that mediation has helped reduce the number of cases reaching the courts. If the agreements reached from 2014 to 2023 are added together, the justice system has saved 181,518 cases, which can be demonstrated as a relief to the judicial system’s caseload.

Through better dissemination of mediation, the service and, consequently, the culture of peace could be further expanded, as conflicts are linked to the provision of public services, contributing to improving their quality and effectiveness. Rapid and effective dispute resolution can ensure better access to and delivery of services for the population.

Finally, it is important to note in this table the existence of years where data were not provided, especially regarding hearings held and agreements reached, which makes a complete assessment of the service’s effectiveness in those years difficult. Regarding the creation of mediation centers, there has been constant growth in recent years. According to data collected by the Judicial Council, the entity responsible for approving these centers, 84 mediation centers were established in April 2019 (Jordán Buenaño and Mayorga, 2019). By the cutoff date of November 22, 2023, this figure had increased to 104 mediation centers, and a more recent review, with a cutoff date of February 19, 2024, found a total of 191 centers created (Judicial Council, April 11, 2024). This trend suggested a growing interest in mediation as a method of conflict resolution on the part of both public and private entities.

On the other hand, the Public Defender’s Office, the autonomous body of the Judiciary that guarantees full and equal access to justice for defenseless individuals, has its own mediation center where proceedings have been conducted to support the judicial system. *Table 2* reviews the results from 2016 onward.

**Table 2**  
*Cases Managed Mediation Center at the Public Defender’s Office – Ecuador.*

Year	Managed Cases
2016	2436
2017	1407
2018	3071
2019	4990
2020	2492
2021	2871
2022	2942

*Fuente:* Accountability of the Public Defender’s Office. Years 2016-2022 (Public Defender’s Office of Ecuador, 2023)

This analysis showed the number of cases handled over a seven-year period, from 2016 to 2022. It was observed that there was a progressive increase in the number of cases handled until 2019. However, in the following years, a decrease in the number of cases handled was observed, with a slight drop in 2020, followed by a more significant decrease in 2021 and 2022. This decrease could be attributed to external circumstances such as the COVID-19 pandemic.

**Table 3**

*Cases Managed Mediation Center at the State Attorney General's Office.*

Year	Managed Cases
2016	1012
2017	2060
2018	2472
2019	2962
2020	2570
2021	2403
2022	1033

*Fuente:* Accountability of the State Attorney General's Office for the years 2016-2022 (State Attorney General's Office, 2023)

Similarly, the State Attorney General's Office Mediation Center provides services to the community. The number of cases handled through mediation fluctuated between 2016 and 2022. There was steady growth until 2019, followed by a decline and stabilization in the following years.

## Conclusions

Ecuador has faced persistent challenges related to political polarization and a lack of empathy and conflict management among political leaders. A significant gap between the aspirations of the population and the actions taken by governments has clearly underscored the need for greater empathy, communication, and focus on the needs and demands of society, while also demonstrating a significant impact on the well-being of the Ecuadorian population.

Mediation has emerged as a highly effective method for resolving conflicts in Ecuador, demonstrating its ability to reduce government expenditures on the traditional judicial system and provide a faster and less expensive alternative for users immersed in legal disputes. The agreements reached through mediation have generated significant savings in resources and time, making a positive contribution to promoting a culture of peace and collaboration in society. Therefore, it is urgently necessary to implement mediation in public institutions as part of a state policy to strengthen social cohesion and promote peaceful justice.

The use of mediation in the judiciary represents a step forward in integration as a support for justice. Mediation programs have, over time, fostered a growing number of public and private mediation centers, reflecting positive long-term results in their development. However, work

remains to be done to ensure effective dissemination and more widespread use of this tool in the judicial system.

In relation to the executive, legislative, electoral, and transparency and social oversight branches, a lack of integration of mediation can be identified. Although it has been used at specific times to resolve political conflicts, its permanent incorporation in these areas could contribute to more equitable and participatory decision-making among those involved.

Finally, statistical data on mediation presented by the Judicial Council, the Public Defender's Office, and the Attorney General's Office have shown a gradual increase in the number of cases handled through mediation in the public sector, suggesting its effectiveness as a method of conflict resolution. Finally, the importance of greater transparency in data reporting was highlighted for a more complete assessment of mediation's effectiveness in future similar studies.

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