

Estructuras organizativas y económicas de las comunidades ancestrales

Egas Moreno, Fanny Graciela; Quiñónez Cabeza, Manuel Ruvin

Fanny Graciela Egas Moreno

fanny.egas@utelvt.edu.ec

Universidad Técnica Luis Vargas Torres de
Esmeraldas, Ecuador

Manuel Ruvin Quiñónez Cabeza

manuel.quinonez@utelvt.edu.ec

Luis Vargas Torres Technical University of
Esmeraldas, Ecuador

Centro Sur

Universidad Nacional de San Agustín, Perú

ISSN-e: 2600-5743

Periodicidad: Semestral

vol. 6, núm. 1, 2022

compasacademico@icloud.com

Recepción: 03 Junio 2021

Aprobación: 12 Octubre 2021

URL: [http://portal.amelica.org/ame/i/jatsRepo/384/3842827005/
index.html](http://portal.amelica.org/ame/i/jatsRepo/384/3842827005/index.html)

Resumen: Las comunas ancestrales, como forma de organización cuenta con su propia jurisdicción y territorio colectivo, en el que ejercen sus actividades administrativas, productivas, sociales y culturales. El objetivo de esta investigación es analizar las estructuras organizativas y económicas de las comunas ancestrales ubicadas en el cantón San Lorenzo, provincia de Esmeraldas-Ecuador. La metodología se construyó desde una revisión e interpretación documental, sustentado en diferentes disposiciones constitucionales, legales, reglamentarias, estatutarias, doctrinarias, libros y artículos científicos; al igual que la información solicitada y proporcionada por los organismos competentes. Los resultados arrojaron la necesidad de reestructurar las normas sustantivas y adjetivas que regulan la existencia, formas de convivencia, organización social y operaciones económicas desarrollados en sus espacios legalmente reconocidos. Lo que implica coordinar, planificar, gestionar y ejecutar las acciones de cada instancia de gobierno, respecto al régimen de las comunas, para la consecución del bien común.

Palabras clave: Comunas ancestrales, estructuras organizativas, estructuras económicas.

Abstract: The ancestral communes, as a form of organization, have their own jurisdiction and collective territory, in which they exercise their administrative, productive, social and cultural activities. The objective of this research is to analyze the organizational and economic structures of the ancestral communes located in the San Lorenzo canton, province of Esmeraldas-Ecuador. The methodology was built from a documentary review and interpretation, based on different constitutional, legal, regulatory, statutory, doctrinal, books and scientific articles, as well as the information requested and provided by the competent agencies. The results showed the need to restructure the substantive and adjective norms that regulate the existence, forms of coexistence, social organization and economic operations developed in their legally recognized spaces. This implies coordinating, planning, managing and executing the actions of each government instance, with respect to the regime of the communes, for the achievement of the common good.

Keywords: Ancestral communes, organizational structures, economic structures.

Introduction

From a more general perspective, the commune "constitutes the group of families settled in a given territory, who identify themselves as part of a people and/or nationality, who base their way of life on a collective practice of reciprocity and solidarity, with a system of collective political, administrative, spiritual and cultural organization" (SIISE, 2008 cit. in Torres, 2009:14).

In this sense, the commune is the unit where ancestral, cultural and traditional practices are developed, settled on collective lands, so that they participate in the use and enjoyment of the natural resources found in their territories, as well as preserve their own forms of coexistence and social organization.

In similar terms to the previous paragraph, communes are identified as "The association of a group of production units that have rights over their delimited territory which they control and usufruct: the collective exercise in matters such as, among others, the allocation of land and water, (...) the distribution of positions and the organization of collective tasks; and the interaction with other external institutions, from neighboring communities to the same State in which they are inserted (Bretón, 1997: 74, cited by Álvarez, n.d.).

The territory constitutes the main basis of identity and relevance of the ancestral communes, since from there, it gives way to the recognition of customary rights, in which the State has the primary duty to ensure compliance, among which stands out the conservation of community property that cannot be divided or sold, and rather respond to the collective interests of its inhabitants.

Therefore, the objective of this research is to analyze the organizational and economic structures of the ancestral communes located in the San Lorenzo canton, province of Esmeraldas-Ecuador, from a documentary theoretical perspective, based on various sources such as regulations, books, scientific articles and information provided by the Ministry of Agriculture and Livestock, the Municipal Decentralized Autonomous Government of the San Lorenzo del Pailón canton and the Provincial Federation of Communes; so the methodology used is of the documentary theoretical type.

Consequently, the organizational structure of the ancestral communes is represented by the cabildo, made up of the president, vice-president, treasurer, trustee and secretary, who are responsible for ensuring the enjoyment of the collective rights that belong to them; The community has the possibility of generating economic activities, at a collective or individual level, so that they have access to consumer goods, housing, food and other basic needs that allow them to subsist, which is executed through the cultivation of the land, management and exploitation of domesticated animals, mining, forestry and deforestation, collection of products from the sea, mangrove and rivers.

Materials and Methods

The present research is of a documentary type, informative in nature, because it depends fundamentally on written information, which implied the compilation, revision, selection and analysis of the same, taking into account epistemological considerations and contextualizing criteria in which the knowledge was and is given.

This indicates an approach to the different concepts and perspectives of the ancestral communes, in relation to their notion, organizational and economic structure, from a documentary theoretical viewpoint; supported by printed and electronic material: constitutional, legal, regulatory, statutory, doctrinal provisions, consultation sources such as books and scientific articles; as well as the information requested and provided by the Ministry of Agriculture and Livestock, the Autonomous Decentralized Municipal Government of San Lorenzo del Pailón canton and the Provincial Federation of Communes.

This study focuses exclusively on the fifteen ancestral communities located in the San Lorenzo canton of the province of Esmeraldas, which have acquired legal existence and legal status from the National Agrarian Authority (Ministry of Agriculture and Livestock).

Results

From a theoretical point of view, the notion and characterization of ancestral communes is presented from different perspectives and authors, prior to analyzing their organizational and economic structures, as follows:

According to the Organic Law of Communes of the Republic of Venezuela, the commune is "a socialist space that, as a local entity, is defined by the integration of neighboring communities with a shared historical memory, cultural traits, uses and customs, which are recognized in the territory they occupy and in the productive activities that sustain them." (National Assembly of the Bolivarian Republic of Venezuela, 2010).

In this sense, the commune is a group of people with certain characteristics in common, conserving and maintaining traditions, habits, qualities and customs, in addition to living on communal lands, from which they extract the natural resources produced in their territories, with the purpose of satisfying and covering the needs of the population.

Article 2 of the General Law of Peasant Communities of the Republic of Peru states that "peasant communities are organizations of public interest, with legal existence and legal status, made up of families that inhabit and control certain territories, linked by ancestral, social, economic and cultural ties, expressed in the communal ownership of land, communal work, mutual aid, democratic government and the development of multisectoral activities, whose purposes are oriented towards the full realization of its members and the country". (Congress of the Republic of Peru, 1987).

In this context, Peru recognizes them as peasant communities, since they acquire legal identity and are formed in rural areas, where their essential condition is to have collective ownership of the land, so that their members are organized to develop agricultural, forestry, livestock and fishing activities, which contribute to the best use of their heritage; in addition to promoting and respecting the social, cultural, religious, customs, values and traditions that are specific to them.

For Flores et al. (2021), from a broader perspective "a commune is a political-administrative subdivision of a rural or urban area corresponding to instances of local administration. In many countries the name commune refers to the

minor, local or basic administrative unit, some of these are Germany, Argentina, Belgium, Peru, Chile, Colombia, Ecuador, France, Venezuela, among others".

In Ecuador, the political-administrative division ranges from higher to lower hierarchy, i.e. provinces, cantons and parishes that make up the different levels of territorial organization of the Republic; in fact, there are two types of urban and rural parishes, in the case of the ancestral communes of San Lorenzo canton, they deploy their powers on the rural territory, they are usually accentuated in comarcas, precincts or neighborhoods, whose inhabitants live from agricultural and mining work that they obtain from nature.

According to (Martínez, 1998) a community "is conceptualized in the Ecuadorian case as a group of families that control varied resources (individual and communal) and a micro-diversified ecological system, develop cooperative relationships, mainly based on consanguineous or ritual kinship, for common benefit".

Certainly, the ancestral communes are made up of diverse people with blood ties or affinity, who mainly live in community and in voluntary society, and in the place where they live, through community work, participate, enjoy and take advantage of the natural or artificial resources that are produced or generated in their respective sectors.

According to (Rayner, and Mérida 2019). Ecuador's communes "are characterized, to varying degrees, by property relations involving usufruct rights in inalienable lands, participatory democracy constituted in assemblies, collective practices of communal work (mingas) and community festivals".

Particularly, the communes exist because of the physical space in which they have historically generated an identity and sense of belonging, the ancestral possession of inalienable lands and territories, with prohibition to alienate, cede, sell or transfer, being allowed the use, administration and conservation of the natural resources found in their lands, without this condition can modify the characteristics of community property; as well as, the conservation and implementation of management practices of the natural environment and the development of their own forms of coexistence and social and economic organization.

According to (Andrade, 2016), "as a result of some historical processes of resistance, there are human settlements that identify themselves as descendants of the Kitus who maintain their own cultural and identity traits, in some cases with the purpose of guaranteeing the collective ownership of their territories, they have been legally recognized as communes and due to their remote origin they have been given the qualifier of ancestral".

It is categorically reaffirmed that the communes are made up of individuals and families that have acquired legal status through the recognition of their ancestral lands, existing historically through the preservation of culture, uses and customs, linked by common characteristics and interests.

The Plurinational and Intercultural Conference of Food Sovereignty of Ecuador, in the proposed Law of Communes, Article 5, states that "the Commune is a social organization settled within a local territory, which is formed by people who have common interests, share the same collective history, customs, traditions, knowledge, social and productive practices and have a high sense of group belonging; For the purposes of this law, a commune shall be understood as

any populated center that does not have the category of parish and that is known by the name of hamlet, anejo, barrio, partido, parcialidad, palenque or any other designation".(Plurinational and Intercultural Conference of Food Sovereignty, 2016)..

In Ecuador, the Plurinational and Intercultural Conference of Food Sovereignty of Ecuador is a public body responsible for influencing the construction, implementation and participatory monitoring of public policies, whose purpose is to strengthen the communes within the framework of the Intercultural and Plurinational State of Ecuador, In this context, the draft Law of Communes conceptualizes the communes as a group of individuals who share a history, needs and cultural, social and territorial potential, located in areas outside the main city, not considered as parishes but which are also part of the district of the same.

In similar terms, Article 1 of (National Congress, 2004) Article 1 of the Constitution, determines the establishment and naming of the communes, as "every population center that does not have the category of parish, that currently exists or that will be established in the future, and that is known by the name of hamlet, anejo, neighborhood, partido, community, partiality, or any other designation, will bear the name of commune, in addition to the proper name by which it has existed or by which it was founded".

The Law of Organization and Regime of the Communes in force in Ecuador defines communes as a concentration of contiguous, neighboring or adjoining houses, inhabited by families whose purpose is the common good, located in rural areas that, although they do not have the status of parish, must be integrated into the territorial circumscription and boundary of the same.

The Constitution of the Republic of Ecuador recognizes and guarantees to the ancestral communes, the collective right to "Preserve the imprescriptible property of their communal lands, which shall be inalienable, unseizable and indivisible. These lands shall be exempt from the payment of taxes and duties". (National Assembly, 2008) .

Since 2008, when the Constitution of the Republic of Ecuador came into force, the communes have obtained important recognition in terms of the ownership of collective rights, especially in relation to the possession of ancestral lands and territories, free adjudication and exemption from payment of taxes, which guarantees that their communal properties cannot be subject to alienation, seizure or division.

The Organic Code of Territorial Organization, Autonomy and Decentralization, Article 103, in relation to community lands and territories, "recognizes and guarantees to the communes, communities, indigenous peoples and nationalities, the imprescriptible ownership of their community lands which shall be inalienable, unseizable and indivisible and exempt from payment of fees and taxes; as well as the possession of ancestral lands and territories, which shall be awarded to them free of charge". (National Assembly, 2010)

The constitutional recognition of ancestral communes is ratified in the Organic Code of Territorial Organization, Autonomy and Decentralization, by granting rights of protection of communal territories, through the control, use and enjoyment of renewable natural resources found in their physical spaces.

Article 5 of the manual of administrative procedures and formalities regarding rural lands, (Ministry of Agriculture, Livestock, Aquaculture and Fisheries, 2017). , determines that "Community lands of ancestral possession of communes, communities, peoples and nationalities that self-define themselves as nationalities of ancestral roots and comply with ancestral possession of more than 50 years shall not be considered rural lands of the State. The State, through the National Agrarian Authority, will protect the lands destined for the development of the indigenous, Montubio and Afro-Ecuadorian populations; and will grant them free of charge".

The Ecuadorian State strengthens the sense of belonging of the population groups of ancestral origin, through collective property, as a substantial element for the existence of the communes, a means by which its inhabitants enjoy the right of usufruct and participate in the use of renewable natural resources.

The Legal Statute of the Peasant Communities, regarding the use of communal property, indicates that "The families of the same community shall use the communal property in proportion to the number of its members; and in the work carried out in common, the individuals shall receive the benefits in relation to the work done by each one, except when the purpose is to carry out works of collective use, such as canals, bridges and other similar works". (Legislation Commission, 1976) .

The aforementioned norm seeks that when maintaining the possession of ancestral lands and territories, the general interest prevails over the particular, in relation to the free administration, use and enjoyment of the collective goods owned or acquired in common, which will be the patrimony of all its inhabitants, and will be adapted to the best convenience of each one of them.

After the theoretical tour on the notion of ancestral communities, Table 1 identifies the ancestral communities located in the San Lorenzo canton of the province of Esmeraldas, the subject of this study, which have legal existence and legal personality, granted by the Ministry of Agriculture and Livestock; and are supported by the inventory that appears in the Property Registry of the Municipal Decentralized Autonomous Government of the San Lorenzo del Pailón Canton.

1

Ancestral communities located in San Lorenzo Canton

No.	Name of Commune	Address/Parish	Legal Status	
			Ministerial Agreement Number	Date
1	La Loma Commune	Tambillo	234	25/09/1997
2	La Alegria Commune	Tambillo	235	25/09/1997
3	El Progreso Commune	Tambillo	335	31/12/1997
4	Guabal de Cachavi Commune	Urbina	187	13/08/1997
5	Wimbicito Commune	Urbina	193	22/08/1997
6	Los Ajos Commune	Urbina	307	16/12/1997
7	Comuna Río Bogotá	Concepcion	0006'	12/01/1986
8	La Seiba del Sagrado Corazón de Jesús Commune	Concepcion	090'	05/05/2000
9	Comuna San Francisco de Bogotá	Santa Rita	201	01/07/1998
10	Santa Rita Commune	Santa Rita	Y/N	S/F
11	Commune of Afro-Ecuadorians Carondelet del Bogotá	Carondelet	124	13/05/1998
12	La Boca Afro-Ecuadorian Commune	Carondelet	163	02/06/1998
13	Comuna de Afroecuatorianos Lucha y Progreso (Afro-Ecuadorian Commune for Struggle and Progress)	Mataje	379	10/12/1999
14	El Pan Commune	Mataje	149	07/12/1992
15	Commune of Afro-Ecuadorians Barranquilla de San Javier	San Javier	318	17/12/1997

Own elaboration, 2021.

Organizational structures

The Law of Organization and Regime of the Communes, specifies that the governing body of the ancestral communes that are located in Ecuadorian territory, is the Ministry of Agriculture and Livestock, with the power to supervise administratively, legally and technically the actions developed by these communities; even, in the same legal body, they are attributed the competence to grant direct support in terms of material and intellectual improvement of the associates, with economic financing for the acquisition of collective goods, farmland, installation of industries, irrigation works, equipment, tools, etc.and, in the conditions in which the agrarian authority does not have attributions, to request to the other organisms of the State, the collaboration to cover the necessities and priorities of these sectors.

These attributions are ratified in the Organic Functional Regulation of the Ministry of Agriculture and Livestock, an instrument that delegates functions to the Management Division of Peasant Organizations, in the following terms: "...f) Study, analyze and legalize the approval of legal status of communes, cooperatives, associations, foundations and second degree organizations; (...) h) Elaborate the regulations to supervise the administrative and financial management of cooperatives, communes, associations and second degree organizations;..." (Ministry of Agriculture and Livestock, 1998)..

Within this legal framework, the Ministry of Agriculture and Livestock gives direct responsibilities to the Division of Management of Peasant Organizations, in relation to the issuance of favorable reports that support the preparation and signing of ministerial agreements that grant legal existence and legal status to ancestral communities, as well as the preparation of the regulations governing the control of the administrative and financial operations of these social groups.

a) Ministerial Agreement 089 of June 29, 2018, issued by the Ministry of Agriculture and Livestock, delegates to the provincial agricultural directors, the

following powers and administrative competencies, in matters of institutional management:

b) To supervise the elections of the Communes under the jurisdiction of the Ministry of Agriculture and Livestock, and extend by Resolution the respective appointments to the winners of the same. Likewise, it shall ensure the exercise of the collective rights of the communes within its territorial jurisdiction, which are recognized and granted in the Constitution of the Republic of Ecuador and in the Law of Organization and Regime of Communes in the Legal Statute of the Peasant Communities.

c) Approve the regulations for the election of the communal councils.

d) To remove and replace the members of the town councils that are immersed in the cases established in Article 14 of the Law of Organization and Regime of Communes.

e) To hear and process cases of acephalia or dissent of the communal cabildos and appoint another cabildo for the remaining time. (Ministry of Agriculture and Livestock, 2018, pp 5-6).

In the referred Ministerial Agreement, the functions and responsibilities assumed by the provincial agricultural directors in their corresponding circumscription are accurately described, that is to say, the powers in relation to the ancestral communes, granted in the Law of Organization and Regime of the Communes are expanded and specified; additionally, the agrarian authority, with Ministerial Agreement 137, dated October 26, 2018, adds the following task:

g) To hear and resolve any controversies that may arise regarding the formation of electoral rolls, communal registry of elections and election procedures, challenges to communal assemblies and all those acts of the organizations to improve their operation, and to safeguard the rights of the members in accordance with the applicable regulations. (Ministry of Agriculture and Livestock, 2018, pp 2-3).

With this additional regulation, a better formation is given to the treatment and operation of the ancestral communes, so as to avoid incurring in vices or nullities in the application of procedures, due to the lack or absence of the norm and guidelines to follow; in this context, the agrarian authority has full powers to give solutions to disagreements, contradictions, litigation, conflicts or oppositions that are generated internally in these sectors and that could affect the tranquility and harmony of the inhabitants of the communes.

It is important to highlight that the Plurinational and Intercultural Conference of Food Sovereignty of Ecuador, through the draft Law of Communes, establishes that the communes as a form of territorial ancestral organization have their own jurisdiction, over which they exercise their administrative, territorial and jurisdictional functions and project their actions on the basis of the Collective Rights contemplated in the Constitution of the Republic of Ecuador, Universal Human Rights, both individual and social rights; This situation is not clearly determined in the Law of Organization and Regime of the Communes, in force in Ecuador since April 16, 2004, without having been modified.

In order to refer to the organizational structure of the ancestral communes of the San Lorenzo canton of the province of Esmeraldas, we will base ourselves on the current Law of Organization and Regime of the Communes, which regulates

the constitution and representation of these human settlements; However, a summary of the Internal Regulations of the Communes, issued since 1985, 1992, 1997 and 1999, with the character of being in force, in view of the fact that they have not been reformed or repealed, in which effect, it is considered that the bodies that govern the commune in its administration are: the National Assembly, the Cabildo and the Special Commissions.

Table 1 shows a comparison of the administrative bodies of two ancestral communes of San Lorenzo canton, between 1985 and 1999, which are included in their respective internal regulations, in order to identify how they are integrated and whether there have been any changes or modifications.

2

Comparison of the administrative bodies of two ancestral communes, 1985 and 1999.

Internal Regulations	Approved in third session August 2, 1985 Comuna Rio Bogotá	Approved in third session April 11, 1999 Comuna de Afroecuatorianos Lucha y Progreso (Afro-Ecuadorian Commune for Struggle and Progress)
The General Assembly	The General Assembly is the highest authority of the Commune and shall be composed of all or the majority of the communal members in attendance, men and women of legal age and whose names appear in the communal registry.	It is the highest authority in the commune and is made up of all or the majority of the attending community members, men and women of legal age, whose names appear in the Register of Community Members.
The Cabildo	The Cabildo is the administrative and representative body of the commune; it will be composed of the President, the Vice President, the Treasurer, the Trustee and the Secretary.	The Cabildo is the administrative and representative body of the commune, and is composed of the President, the Vice President, the Treasurer, the Trustee and the Secretary.
Special commissions	Attribution of the General Assembly, to integrate the commissions that are necessary for the good running of the commune, chaired by the principal members, appointed by the General Assembly itself.	Attribution of the General Assembly, to create and form the special commissions that are necessary for the good functioning of the commune.

Own elaboration, 2021.

As shown in Table 1, in relation to the way in which the administrative bodies of the ancestral communes are integrated in the canton of San Lorenzo, there have been no changes in their organic structure; also, the Law of Organization and Regime of the Communes, in force, recognizes the Cabildo as the official and representative body, and establishes in Article 14, that they must represent

the commune judicially and extrajudicially in all acts and contracts, having in particular, the management and administration of common goods, (National Congress, 2004) Article 14 establishes that they must represent the commune judicially and extrajudicially in all acts and contracts, having in particular, the management and administration of the communal goods.

On the other hand, the town council is composed of five members, who serve as president, vice-president, treasurer, trustee and secretary; these appointments are made by election at a general assembly, presided over by the political lieutenant of the parish, a member of the town council and a citizen elected by the latter, the men and women of legal age will vote to elect the town council, by written or verbal ballot, with immediate scrutiny, in accordance with the provisions of Article 12 of the aforementioned Law.

Once elected, which will take place on any day of the month of December of each year, by popular election or designation by the Ministry of Agriculture and Livestock, the appointment of the cabildo will stipulate that their functions must be exercised for one year, starting on January 1. Table 2 shows for each ancestral commune located in the San Lorenzo canton, the numbers of administrative resolutions, dates of issuance of the appointments, district director who signed the resolution, and form of appointment.

3

Appointments of the members of the Cabildo of the ancestral communes of the canton of San Lorenzo

Name of Commune	No. Resolution	Date of appointment	Esmeraldas District Director	Form of appointment
La Boca Afro-Ecuadorian Commune	002-DDE-2021	27/01/2021	Dr. Rider Sánchez Valencia	Popular election (complete requirements)
Comuna Rio Bogota	38-DDE-MAG-2021	31/05/2021	Dr. Rider Sánchez Valencia	Designation (with Ministry support)
Comuna de Afroecuatorianos Lucha y Progreso (Afro-Ecuadorian Commune for Struggle and Progress)	004-DDE-2021	29/01/2021	Dr. Rider Sánchez Valencia	Popular election (complete requirements)
Comuna San Francisco de Bogotá	012-DDE-2021	08/03/2021	Dr. Rider Sánchez Valencia	Popular election (complete requirements)
El Progreso Commune	37-DDE-MAG-2021	31/05/2021	Dr. Rider Sánchez Valencia	Designation (with Ministry support)
La Alegria Commune	043-DDE-2021	23/08/2021	Cristhian Flores Aguirre	Designation (with Ministry support)
Guabiel de Cachawi Commune				Designation (with Ministry support)
La Loma Commune	010-DDE-2021	01/03/2021	Dr. Rider Sánchez Valencia	Popular election (complete requirements)
Wimbicito Commune	41-DDE-MAG-2021	05/05/2021	Dr. Rider Sánchez Valencia	Designation (with Ministry support)
El Pan Commune	015-DDE-2021	11/03/2021	Dr. Rider Sánchez Valencia	Popular election (complete requirements)
Los Ajos Commune	31-DDE-MAG-2021	27/05/2021	Dr. Rider Sánchez Valencia	Designation (with Ministry support)
Comuna de Afroecuatorianos Carondelet de Bogotá	006-DDE-2021	08/02/2021	Dr. Rider Sánchez Valencia	Popular election (complete requirements)
Santa Rita Commune	39-DDE-MAG-2021	31/05/2021	Dr. Rider Sánchez Valencia	Designation (with Ministry support)
Commune of Afro-Ecuadorians Barranquilla de San Javier	041-DDE-2021	19/08/2021	Cristhian Flores Aguirre	Designation (with Ministry support)
La Seiba del Sagrado Corazón de Jesús Commune	009-DDE-2021	01/03/2021	Dr. Rider Sánchez Valencia	Popular election (complete requirements)

Own elaboration, 2021.

The powers of the council are set forth in Article 17, (National Congress, 2004) In summary, they are: to dictate dispositions and freely reform the uses and customs, relative to the administration, use and enjoyment of the goods in common; to lease part or all of the goods in common; to receive and accept donations, legacies or adjudications of goods that are made in favor of the commune; to defend, judicially or extrajudicially, the integrity of the territory;

to watch over the security and conservation of all the goods in common; acquire goods for the commune; study the division of the common goods owned or acquired by the commune, the possibility and convenience of their alienation; promote the moral, intellectual and material improvement of the commune; fix a monthly, annual or extraordinary fee, obligatory for all the associates; impose a moderate contribution for the use of the collective goods.

In these circumstances, the law clearly defines and assigns the duties, attributions and competencies that must be fulfilled by those who make up the official, representative and executing body of the communes; in which case, they must comply with and enforce the provisions of the Constitution of the Republic of Ecuador, the Law of Organization and Regime of the Communes, the Legal Statute of the Rural Communities, the Internal Regulations; Election Regulations; and other resolutions adopted by the Ministry of Agriculture and Livestock or the pertinent authority.

In the internal regulations of each ancestral commune of the San Lorenzo canton, it compiles the different functions of the members of the cabildo, separating for each one the activities and tasks that must be fulfilled in the exercise of the designation received.

4

Functions of the members of the Cabildo

Dignities of the chapter	Duties, powers or attributions
Chairman	<ul style="list-style-type: none"> - To arrange with his signature or verbally the fulfilment of the services inherent to the commissions appointed by the General Assembly - To call and preside over the general assemblies and the meetings of the Cabildo, proposing the corresponding agenda - Legatize with his signature the minutes, communications, registration certificates of the community members and other documents or activities related to the community - Authorize with his signature the expenses up to one hundred thousand pesos, in case of higher expenses, he shall require the approval of the Cabildo - To supervise the economic accounting of the communal cash office - To issue, jointly with the Treasurer, the values for the collection of dues and other revenues in favor of the commune, which shall be deposited by the Treasurer in a bank account - Oversee the execution of programmed works and ensure the proper maintenance of the works carried out - Ensure that the community's dues and other values of the entity are collected on time and paid into the community's account - Comply with and enforce compliance with the provisions of the Law of Organization and Regime of the Communes, the Legal Statute of the Peasant Communities, the Internal Regulations and the resolutions issued by the General Assembly, the Council and the Ministry of Agriculture and Livestock
Vice President	<ul style="list-style-type: none"> - To substitute for the President and perform his duties in the event of absence, temporary absence or definitive excuse - To assist in the administration of the commune in all matters pertaining to the President, such other duties as may be assigned by the General Assembly or the Board of Directors
Treasurer	<ul style="list-style-type: none"> - To keep accurate and clear accounts of the commune - Collect ordinary and extraordinary dues and other income corresponding to the commune for any concept by issuing the corresponding receipts and depositing such amounts in a bank account - To keep the money, valuables and other goods of the commune under his personal and economic responsibility, providing a personal or mortgage bond, if so resolved by the Assembly or the Cabildo - Submit quarterly reports to the City Council on such movements, with the respective discharge vouchers, as well as monthly reports on delinquent debtors of the municipality - Organize and update with clarity and timeliness the inventories of all personal property, real estate, equipment, etc. of the municipality - To carry out the income and investments authorized by the General Assembly, by the Board of Directors or by the President, depending on the amount thereof - To prepare, together with the President, the budget pro-forma and present it to the Cabildo for approval and ratification by the General Assembly - Such other duties as may be assigned by the General Assembly or the Cabildo
Treasurer	<ul style="list-style-type: none"> - To take care and watch over, in close collaboration with the President, that no alienation is contracted within the commune - To ensure faithful compliance with the Law of Organization and Regime of the Communes, the Legal Statute of the Rural Communities, the Internal Regulations and the resolutions of the General Assembly, the Council and the Ministry of Agriculture and Livestock - Advise and intervene in all judicial and extrajudicial matters related to the interests of the commune - To oversee treasury operations and report monthly to the Cabildo - To ensure that harmony and cordiality reign in the commune and that the spirit of solidarity is fully cultivated - To give suggestions to the Cabildo for the best administrative progress of the commune - To perform and fulfill the commissions entrusted to him/her by the Assembly, the Cabildo or the President
Secretary	<ul style="list-style-type: none"> - To call meetings of the General Assembly and the Cabildo, by order of the President, and to act in them with punctuality and diligence - To keep the minute books and prepare the communications of the Cabildo, subscribing them with the President - Organize and keep the register of community members and periodically inform the Ministry of Agriculture and Livestock of the departure or entry of members of the commune - To grant certified copies, with the proper authorization of the President, on matters related to the commune and of communal interest - To act and attend to all matters relating to the commune - Any other duties as indicated by the Law of Organization and Regime of the Communes, the Legal Statute of the Peasant Communities, these Regulations or its superiors

Own elaboration, 2021.

In addition to the functions indicated in the respective internal regulations of each ancestral commune, the Law of Organization and Regime of the Communes prescribes for the president and the secretary to keep a record of the names of all the inhabitants residing in each commune; in addition, to keep an inventory book of the collective goods possessed by the commune, in the model provided by the Ministry of Agriculture and Livestock, which shall be delivered in authenticated copy to the aforementioned Ministry.

Economic structures

The tax administration of Ecuador, through Resolution No. NAC-DGERCGC20-00000060, (Internal Revenue Service, 2020) establishes that the main economic activity, "Consists of the development of an economic activity previously registered in the Single Taxpayers Registry, whose income obtained in a fiscal year exceeds other income obtained in any additional economic activity"; adding to the above, a natural person, private or public company, in order to generate income, is obliged to provide information to the Internal Revenue Service, so that by registering, registering and identifying itself, it can habitually exercise economic, productive, commercial, labor, business, professional, agricultural, industrial, mining, service or any other economic activity.

The ancestral communities, having legal existence and legal status, are obliged to register their economic activities with the Internal Revenue Service, constituted as private companies, obliged to keep accounts, classified as non-governmental non-profit organizations or in the popular and solidarity financial system; of the fifteen ancestral communities in San Lorenzo canton, only thirteen have obtained the RUC (Registro Único de Contribuyentes), under the following considerations, see table 3.

5

Single Registry of Taxpayers of ancestral communes in the canton of San Lorenzo

Registration Single Taxpayer	Reason social	Economic activity	Ranking	State	Start date of activities	Date of cessation of activities
0891706415001	La Boca Afro-Ecuadorian Comuna	Activities of organizations for the protection and advancement of special groups, e.g., ethnic and minority groups.	Not-for-profit corporations and non-governmental organizations	Active	02/06/1998	
0891723059001	Comuna de Afroecuatorianos Lucha y Progreso (Afro-Ecuadorian Comuna for Struggle and Progress)	Advocacy for the interests of trade unions and their members; activities of associations whose members are employees primarily interested in making their views known on the labor and wage situation and taking concerted action through their organization.	Not-for-profit corporations and non-governmental organizations	Active	10/12/1999	
0891711488001	Comuna Rio Bogota	Breeding and reproduction of cattle, including hair and excrement production.	Not-for-profit corporations and non-governmental organizations	Active	12/01/1988	
0891703740001	Comuna San Francisco de Bogota	Community and neighborhood activities	Not-for-profit corporations and non-governmental organizations	Liabilities	01/07/1998	03/07/2013
0891719647001	Afro-Ecuadorian Comuna Barranquilla de San Javier	Advocacy for the interests of trade unions and their members; activities of associations whose members are employees primarily interested in making their views known on the labor and wage situation and taking concerted action through their organization.	Not-for-profit corporations and non-governmental organizations	Liabilities	17/12/1997	21/08/2007
0891711549001	La Loma Comuna	Community and neighborhood activities	Not-for-profit corporations and non-governmental organizations	Liabilities	25/09/1997	28/05/2018
0891729189001	Wimicito Comuna	Community and neighborhood activities	Not-for-profit corporations and non-governmental organizations	Liabilities	22/08/1997	05/02/2021
0891732627001	Guabal de Cachabí Comuna	Forest inventory and timber stock assessment activities; forest pest control and forest management consulting services.	Not-for-profit corporations and non-governmental organizations	Liabilities	13/08/1997	27/02/2015
0891736142001	La Alegria Comuna	Community and neighborhood activities	Not-for-profit corporations and non-governmental organizations	Liabilities	10/05/2012	07/12/2015
0891747152001	El Pan Comuna	Advocacy for the interests of trade unions and their members; activities of associations whose members are employees primarily interested in making their views known on the labor and wage situation and taking concerted action through their organization.	Popular and subsidy-based financial system	Liabilities	09/04/2015	31/12/2015
0891747837001	La Seiba del Sagrado Corazón de Jesús Comuna	Activities of community and educational service support organizations N.G.P.	Not-for-profit corporations and non-governmental organizations	Liabilities	12/06/2015	06/11/2020
0891782888001	Afro-Ecuadorian Comuna El Progreso	Activities of organizations whose members are primarily interested in the development and ownership of enterprises in a particular commercial business sector, including the agricultural sector, or in the economic status and growth of a particular geographic area or subdivision.	Not-for-profit corporations and non-governmental organizations	Liabilities	23/08/2019	17/09/2019
0891763501001	Comuna Afroecuatoriana Carondelet del Bogota	Activities of community and educational service support organizations N.G.P.	Not-for-profit corporations and non-governmental organizations	Liabilities	21/11/2017	31/10/2020

Own elaboration, 2021.

Table 3 shows that three ancestral communes have the status of active, while the others are in passive status, temporarily cancelled ex officio by the tax administration. The latter category is presented when the taxpayer does not exercise economic activity or there are no reports of economic transactions carried out by the taxpayer through own or third party information.

In addition, the ancestral communes, since they are obliged to keep accounting records, should declare the corporate income tax, in which they consolidate the information from the financial statements: statement of financial position and statement of comprehensive income; however, from what is reported in the income tax, it is deduced that they declare the information at zero or simply do not present it, so it is presumed that they do not generate income from their economic activities registered with the Internal Revenue Service, at least in an official or formal manner.

Table 4 shows the information reported by the ancestral communes of San Lorenzo canton to the Internal Revenue Service for income tax incurred in the last 10 years.

6

Income tax registered by the ancestral communal lands of the canton of San Lorenzo

Company name	Fiscal year	Income tax incurred	Observation
La Boca	2019	\$0.00	
Afro-Ecuadorian Commune	2018	\$0.00	
	2017	\$11.00	
	2016	\$0.00	
	2014	\$0.00	
	2013	\$0.00	
	2012	\$0.00	
	2011	\$0.00	
Comuna de Afroecuatorianos	2020	\$0.00	
	2019	\$0.00	
Lucha y Progreso	2018	\$0.00	
	2017	\$0.00	
(Afro-Ecuadorian Commune for Struggle and Progress)	2016	\$0.00	
	2015	\$0.00	
	2014	\$0.00	
	2013	\$0.00	
	2012	\$0.00	
	2011	\$0.00	
Comuna Río Bogotá	2020	\$5.50	
	2019	\$0.00	
	2018	\$0.00	
	2017	\$0.00	
	2014	\$0.00	
	2012	\$0.00	
	2011	\$0.00	
Comuna San Francisco de Bogotá	2013	\$0.00	
	2012	\$0.00	
	2011	\$0.00	
Wimbicito Commune	2018	\$0.00	
	2017	\$0.00	
	2016	\$0.00	
	2015	\$0.00	
	2014	\$0.00	
	2013	\$0.00	
	2012	\$0.00	
	2011	\$0.00	
Guabal Commune of Cachabí	2014	\$0.00	
	2013	\$0.00	
	2012	\$0.00	
	2011	\$0.00	
La Alegria Commune	2014	\$0.00	
	2013	\$0.00	
	2012	\$0.00	
La Seiba del Sagrado Corazón de Jesús Commune	2017	\$0.00	
	2015	\$0.00	
La Loma Commune			Taxpayer has no information registered in the IRS database or reported by third parties.
El Pan* Commune			Taxpayer has no information registered in the IRS database or reported by third parties.
Afro-Ecuadorian Commune Barranquilla de San Javier			Taxpayer has no information registered in the IRS database or reported by third parties.
Afro-Ecuadorian Commune El Progreso			Taxpayer has no information registered in the IRS database or reported by third parties.
Comuna Afroecuatorianos Carondelet del Bogotá			Taxpayer has no information registered in the IRS database or reported by third parties.

From the above, it can be deduced that the ancestral communes collectively do not generate income according to their economic activities declared in the RUC (Registro Único de Contribuyentes); its members individually exercise jobs that allow them to receive income to access consumer goods, housing, food and other basic needs of each family, which are: dependency relationship, self-employment, business activity and liberal occupation; related to the cultivation of land for food production, management and exploitation of domesticated animals for production purposes, mining, forestry and deforestation, collection of products from the sea, mangrove and rivers.

The ancestral communities of the San Lorenzo canton are significantly dedicated to the extraction, production and commercialization of the concha prieta (*Anadara tuberculosa*), which economically represents the livelihood of the families, since this bioquatic resource: "is marketed and has great demand in the producing countries among them, therefore, of great export potential to the United States, Europe and China, once its production is increased and it complies with the safety regulations required by them". (Prado, E., Martínez, M., Rodríguez, C., Núñez, Y., Quiñónez, M., Nazareno, I., Egas, F. and Castillo, N., 2020).

This process generates employment and income, as well as benefits for the families in the area, according to the following statements (Quiñónez, M., Nazareno, I., Camacho, R. and Cedeño, M., 2020). The extraction of shell (*Anadara Tuberculosa* and *Anadara Similis*) in its commercialization in Cantón San Lorenzo, maintains a strong influence in one of the economic activities that generate family income for the sustainability of 12% of the economically active population.

With the coming into force of the Constitution of the Republic of Ecuador, that is, October 20, 2008, date on which it was published in the Official Registry, it recognizes and guarantees important collective rights in favor of the ancestral communes, whose purpose is to protect the common interests, the development and preservation of the cultural identity and sense of relevance, the traditional practices of conservation and maintenance of community territories and the traditional form of organization; that is to say, the supreme legal norm establishes new parameters for conceiving the customary rights of these ancestral groups, with a different perspective from that embodied in complementary norms such as the Law of Organization and Regime of the Communes, which entered into force on April 16, 2004 and to date has not been reformed, as well as the Legal Statute of the Peasant Communities, promulgated on October 7, 1976, which in general has not been replaced; Both legal systems regulate the constitution, forms of coexistence, social organization, representation and use of communal property, which merits that the Ecuadorian State carries out a comprehensive review and analysis of these instruments that are in conformity, competence and relevance with the Constitution of the Republic of Ecuador.

On the other hand, since the powers and competencies of the Ministry of Agriculture and Livestock in relation to the ancestral communes are not specifically established, it has developed parallel legal instruments, which clearly expand the attributions of that governing body, as indeed occurred in ministerial agreements 089 and 137 of June 29 and October 26, 2018; resulting indispensable to gather in a legal body the conditions and elements

that guarantee the effective enjoyment and enjoyment of the rights that integrate these communities.

In addition to the above, the internal regulations of the ancestral communes of the San Lorenzo canton in the province of Esmeraldas, which establish the constitution, domicile and purposes of the commune, administrative bodies, powers and duties of the council's officers, rights and obligations of the community members, administrative operations, management of communal goods and funds, sanctions and general provisions, date back 36, 29 and 22 years, without having been modified until now, despite the legal provisions issued subsequently.

Conclusions

In the theoretical framework, various concepts about the ancestral commune are presented, in which it coincides as a group of social interest, united by a culture, tradition, use and customs, which mainly inhabit lands of ancestral possession, with the character of imprescriptible, inalienable, unseizable and indivisible, in which case the State has the primary duty to ensure that it is fulfilled; In addition to a series of acquired customary rights, which allow them, among other aspects, to develop their own forms of coexistence, administrative and social organization, usufruct of community property, free strengthening of identity, protection of ancestral knowledge, with which they exist and remain in daily life.

On the other hand, the governing body of the ancestral communes is the Ministry of Agriculture and Livestock, with full powers to grant them legal status, as well as to issue the regulations governing the control of the administrative and financial operations of these social groups. The organizational structure of the ancestral communes is represented by the official body called cabildo, made up of the president, vice-president, treasurer, trustee and secretary, who are primarily responsible for ensuring the effective fulfillment of the collective rights to which they are entitled.

Finally, the ancestral communities have the possibility of generating economic activities, at a collective or individual level, so that they have access to consumer goods, housing, food and other basic needs that allow them to subsist, which is executed through the cultivation of the land, management and exploitation of domesticated animals, mining, forestation and deforestation, collection of products from the sea, mangroves and rivers.

References

- Andrade, G. (2016). *Las comunas ancestrales de Quito Retos y desafíos en la planificación urbanística*. Quito: Universidad Andina Simón Bolívar, Sede Ecuador Corporación Editora Nacional.
- National Assembly . (2008). *Official Register 449. Constitution of the Republic of Ecuador*. Manabí, Ecuador.
- National Assembly. (2010). *Organic Code of Territorial Organization, Autonomy and Decentralization*. Quito, Ecuador.
- National Assembly of the Bolivarian Republic of Venezuela. (2010). *Organic Law of the Communes. Official Gazette 6011 Extraordinary*. Caracas, Venezuela.

- Bretón, V. (2001). Development cooperation and ethnic demands in the Ecuadorian Andes. Essays on indigenism, rural development and neoindigenism. Quito - FLACSO.
- Committee on Legislation. (1976). Official Register 188. Estatuto Jurídico de las Comunidades Campesinas. Ecuador.
- Plurinational and Intercultural Conference on Food Sovereignty. (July 2016). Retrieved from <https://www.soberaniaalimentaria.gob.ec/prueba/servicios/wp-content/uploads/2016/07/FOLLETO-LEY-DE-COMUNAS.pdf>
- Congress of the Republic of Peru. (1987). Ley General de Comunidades Campesinas. Lima, Perú.
- National Congress. (2004). Law of Organization and Regime of the Communes. Registro Oficial Suplemento 315.
- Flores, J. P., Tarmeño, L. E., Cruz, J. M., and Franco, J. L. . (2021). Discussion of the notion of commune: A theoretical-documentary review. *Revista Venezolana de Gerencia (RVG)*, 26(95), 669-682.
- Martínez, L. (1998). Communities and land in Ecuador. *Ecuador Debate*, 45, 173-188. Quito: Flasco-Sede Ecuador.
- Ministry of Agriculture and Livestock. (1998). Ministerial Agreement 225 published in the Registro Oficial 372. Reglamento Orgánico Funcional del Ministerio de Agricultura y Ganadería. Quito, Ecuador.
- Ministry of Agriculture and Livestock. (2018). Ministerial Agreement 089. Delegation to the Provincial Agricultural and Livestock Directors. Quito, Ecuador.
- Ministry of Agriculture and Livestock. (2018). Ministerial Agreement 137. Modifying Ministerial Agreement No. 089 of June 29, 2018. Quito, Ecuador.
- Ministry of Agriculture, Livestock, Aquaculture and Fisheries. (2017). Ministerial Agreement No. 073. Official Register Special Edition 1008 . Manual de procedimientos y trámites administrativos en materia de tierras rurales. San Francisco de Quito, Ecuador.
- Prado, E., Martínez, M., Rodríguez, C., Núñez, Y., Quiñónez, M., Nazareno, I., Egas, F. and Castillo, N. . (2020). Description of the production chain of the bivalve mollusk "Anadara tuberculosa". *EasyChair Preprint no. 3749*, 1-10.
- Quiñónez, M., Nazareno, I., Camacho, R. and Cedeño, M. (2020). Marketing process and extraction of mangrove products, San Lorenzo-Ecuador. *Revista Venezolana de Gerencia (RVG)*, 885-899.
- Rayner, J. and Mérida Conde, J. (2019). The communes of Ecuador: autonomy, territory and the construction of the State. Quito: Instituto de Altos Estudios Nacionales (IAEN).
- Internal Revenue Service. (2020). Resolution No. NAC-DGERCGC20-00000060. Normas para la aplicación del régimen impositivo para microempresas. Ecuador.
- Torres, A . (2009). Quilloac: memory, ethnicity and migration among the Kañaris, Ecuador. Master's Thesis. Quito-FLACSO.