

Summary

The theme of this thesis is the assessment of the prerequisites for the pluralism of law and non-state justice systems to improve the possibilities of solving disputes in society. The main research question is whether non-state justice systems fulfil a social role in providing justice. The thesis should offer a descriptive analysis of the concept of legal pluralism and methodological procedures for the inclusion of non-state justice systems in the state. The outcome of the work should be an overview of the possibilities of interaction between different legal systems, whether formal or customary, of the different ways of resolving disputes in this environment, and of the contribution of such proposals to the reform of the legal environment that count on the real situation in society.

This work will first deal with a descriptive analysis of the concept of legal pluralism in the professional discourse and its relation to the outlined topic, then compare the methods and procedures of legal pluralism, respectively the functioning of non-state justice systems, and finally summarize the implications of the analytical concept of legal pluralism for planning and improvement of the legal environment.

In addition, the work will focus on examining the implications of the different approaches in the relationship between formal and customary legal systems and on specific themes to these examples, namely the current possibilities of using the concept of pluralism of law, whether in specific countries or on an international and global scale. With regard to conceptual closeness to the design of dispute settlement systems, this part of the thesis will also deal with the method of designing a dispute settlement mechanism using a combination of informal legal systems and the state judiciary, i.e. procedural pluralism.

In the next part the thesis will deal with the overview of legal systems for which legal pluralism is relevant and cases where it is or, on the contrary, not working with this dimension in the reform of the legal environment. In this part, the work will focus on the way the formal and customary system is connected to one another and, in general, on methods of dispute resolution.

For comparison, the Latin American countries are offered, not only because they are historically and socially based on comparable conditions of colonial administration, statist governance and the presence of indigenous peoples in the countryside and in cities, but also because of the recent history of dictatorship in society that ended in the nineties of the last century. In addition, the work will focus on the impact of international and regional instruments on this development. Comparing the texts of these instruments can historically capture the development of concepts such as access to justice and a fair process whose content is expanded not only by the interpretation but also by the very factual scope of the relevant provisions. The right to a fully autonomous legal system of customary law, however, is still not part of these instruments. More will be devoted to the Colombian model of incorporation of ordinary legal systems, taking into account the role played by the decision of the Constitutional Court of Colombia.

The thesis of procedural pluralism and participatory methods of solving disputes that have a user, a citizen in the center of these systems is offered as a starting point for new designs. The final part of the work will therefore explore current approaches to improving legal systems that aim to increase participation of user based on their needs, and will include some cases for comparing individual programs to improve legal systems. The work will present the Centre for Citizens Justice, the model of a solution chosen by Chile for its reform of the approach to justice. The work will also focus on a functional shift in providing access to justice, which offers the use of modern technologies such as online dispute resolution.

Participatory models of the judiciary, to the needs of people-focused justice, show that there are new initiatives for further development in the provision of this service, i.e. the right to a fair trial.