Journal of Posthumanism

2025
Volume: 5, No: 5, pp. 5009–5020
ISSN: 2634-3576 (Print) | ISSN 2634-3584 (Online)
posthumanism.co.uk

DOI: https://doi.org/10.63332/joph.v5i5.2082

Analysis of the Impact and Effects on the State Patrimony in the Direct Contracting Modality in the Framework of Public Calamity and Manifest Urgency

Alfredo Emilio Muñoz Velasco[1]

Abstract

Public procurement in Colombia is articulated through a complex structure that ranges from strict state procurement to exceptional regimes and the participation of private entities. Despite regulatory efforts, such as Law 80 of 1993 and Law 1150 of 2007, significant challenges persist, such as legal uncertainty and lack of planning. The current situation suggests the urgency of a critical review of the existing legal framework, avoiding improvisations that could exacerbate the crisis already latent in the contracting system. To move towards a safer and more reliable environment, it is imperative that the national government, together with experts and communities, address this problem with a methodical and responsible approach, establishing practices that promote transparency and efficiency in the management of public resources. Only in this way will it be possible to build a future in which public procurement effectively fulfills its purpose of serving general interests and promoting citizen trust in institutions.

Keywords: *Public Calamity, Manifest Urgency, Direct Contracting, Risk Management and Disasters.*

Introduction

Law 80 of 1993 establishes a fundamental framework for public procurement in Colombia, prioritizing processes such as bidding and merit-based competition, but also recognizing the need for flexibility in crisis situations through the figure of manifest urgency. This exception allows entities to act quickly to meet pressing needs, while safeguarding objectivity in the selection of contractors. The rulings of the Attorney General's Office reiterate the importance of an immediate response to emergencies, avoiding the delay of procedures that could compromise social welfare. Recognizing the duality between the urgent need and the principles of transparency, it is essential that entities act responsibly in the application of these provisions, thus ensuring not only administrative efficiency, but also the integrity of the procurement system. It is a call to all actors involved to maintain a balance between agility and control, ensuring that every decision contributes to the common good.

The actions of territorial entities in emergency situations must be strictly framed within the principle of legality, ensuring that each decision taken is validated by the criteria established in current regulations. The identification of irregularities in direct contracting processes highlights the need for a rigorous and responsible approach to supplier choice, where transparency and efficiency are paramount. The correct declaration of public calamity and the manifestation of urgency are essential to sustain any direct contracting, highlighting that the mere existence of a disaster is not enough; requires clear and effective administrative diligence. It is therefore

[1] Candidato a Doctor en Derecho; Universidad Santiago de Cali – USC, Email: alfredo.munoz02@usc.edu.co

imperative that civil servants act with ethical rigour and commitment to the public good, ensuring that the execution of contracts responds not only to the immediacy of needs, but also to the principles of efficiency and legitimacy. We call for reflection on the importance of these guidelines to strengthen confidence in the management of public resources, promoting management that prioritizes collective well-being and institutional integrity.

Tensions Generated in the Public Administration and in the Control Bodies

The performance of public management at the national level and fiscal control are inseparable, constituting a fundamental pillar to ensure transparency and responsibility in the management of State funds. The implementation of a system of checks and balances, where fiscal control entities play a leading role, is essential to ensure that public administrators adhere to the principles and values that govern their function. This approach not only strengthens oversight over the use of state resources, but also fosters a culture of integrity and accountability, even in critical circumstances. Thus, it is imperative that a robust regulatory framework continue to be promoted that, without sacrificing agility in emergency response, maintains firm subsequent control mechanisms. In doing so, public confidence in the administration of State assets will be strengthened and the commitment of officials to the fulfilment of their mission, for the benefit of the collective welfare, will be strengthened.

The comptroller function is a fundamental pillar for the protection of public assets in Colombia, guaranteeing compensation for damages and the proper management of state resources. Through regulatory frameworks such as the Political Constitution and specific laws, an auditing system is established that not only promotes efficiency and transparency, but also highlights the importance of ethical principles in public administration. It is imperative that the control bodies adopt effective strategies and clear mechanisms to ensure that these principles are translated into concrete actions that benefit society. The defense and safeguarding of public heritage depend on a collective commitment to accountability, morality and equity, calling on all actors involved to join in this fundamental effort for the common good and sustainability of our resources.

The adequate protection of public resources and the robustness of internal control in territorial entities are fundamental pillars to ensure transparency and efficiency in administrative management, especially in emergency situations. The implementation of a system of checks and balances not only legitimizes the exercise of control, but also ensures that agility in the execution of contracts does not compromise accountability. It is imperative that institutions maintain their commitment to legality and ethics, promoting a balance between speed and control to safeguard the public interest. In a context where urgency can lead to bad decisions, a call is made to strengthen oversight and accountability mechanisms to strengthen trust in the public administration.

The constitutional doctrine on the organization of territory in Colombia highlights the importance of control over resource managers to ensure equity and the full exercise of individual rights. Through the framework established by Loewenstein and Hesse's notion of "tangible", it is evident how constitutional guarantees are essential for the functioning of the democratic State. However, tensions between branches of government, although designed for the common good, can hinder the efficient management of processes and activities. It is imperative to strengthen collaboration between these branches and foster constructive dialogue to resolve these tensions, ensuring that the social contract is fulfilled and translated into effective actions for collective well-being. Only in this way will it be possible to move towards a management that not only promises, but also guarantees equity and justice for all citizens.

Tax auditing emerges as a strategic pillar in the formulation and execution of legitimate public policies, whose foundation lies in transparency and a commitment to accountability. The provision of adequate information by contract administrators is crucial for institutional strengthening and the effectiveness of fiscal control. This will only be possible if the State allocates resources to the training of its teams, thus ensuring a proactive approach in the fight against corruption. Honest management of resources not only solves urgent problems, but also reiterates a clear message: public integrity and accountability are essential to restore and maintain citizen trust in institutions. It is therefore imperative that state officials take responsibility for rigorously monitoring compliance with procurement objectives, thus ensuring that the rights of all those involved are protected and that regulations are in force. Only through these actions will it be possible to build a solid institutional framework that highlights the legitimacy and effectiveness of public management.

The principle of responsibility in the state contract stands as a fundamental pillar of governance, orienting its function towards the common welfare and the effective materialization of constitutional rights. By prioritizing service to citizens over individual interests, a strong bond is established between the State and its citizens, encouraging participation in public life and promoting social justice. This perspective not only ensures the protection of sovereignty and territorial integrity, but also lays the foundation for a more equitable and pluralistic future. It is imperative that both public servants and citizens commit to upholding these principles, building together an environment where responsibility is translated into action and where constitutional promises become tangible realities for all.

The state contract transcends its role as a simple agreement between parties; it stands as a fundamental instrument for social transformation and compliance with constitutional principles. By integrating strategic plans and instruments within this regulatory framework, each contract becomes a vital tool to meet essential needs and promote the integral development of society. Thus, it is imperative that the authorities and agents involved recognize their responsibility not only in the formalization of these agreements, but also in their execution and monitoring, guaranteeing the protection of human dignity and the full exercise of the rights and freedoms of all citizens. In the end, a well-managed state contract not only complies with the law, but activates a process of change and improvement that benefits the community as a whole.

Disciplinary Responsibility of the Public Servant in the Breach of Functional Duty

The state, through its legal representatives, with regard to contracting practices, must answer for the failure to comply with due attributions, since, in accordance with current doctrine, it must respond in time with accountability with respect to each of the functions assumed, due to the important controlling role over the same servants with contractual responsibilities.

The basis of this special responsibility, arising from the actions of an official under his supervision or of an individual performing similar functions, lies in the obligation to exercise continuous vigilance. Although the functions are delegated to other public servants, the incumbent retains the authority to direct, instruct and supervise such activities. Therefore, the delegate of the state entity must maintain effective control over the contractual activities carried out by others and may be exempted from liability only if he demonstrates diligence in his actions and compliance with his supervisory duties. In this sense, holding periodic meetings, carrying out constant follow-ups, issuing circulars or reviewing outsourced attributions will become the best defense mechanisms for that representative in the event of a disciplinary investigation.

In this case, it is not intended to carry out an exhaustive analysis of the figure of the position of guarantor according to the criteria set by national criminal law, since this responsibility is particular and is based on the violation of the functional duties of supervision and control, instead of following the parameters of criminal law. Although there are some commonalities between these branches of law, they also have significant differences.

In the disciplinary field, it can be stated that the legal delegate of the state entity, with regard to contracting practices, is responsible at the disciplinary level only if he fails to comply with the legal duties imposed on him by the legal system. These duties refer to the obligation to supervise and establish monitoring mechanisms for officials and individuals who provide services to the State body, from the perspective of current legislation, as indicated above.

It is not appropriate to conclude that the legal representative of the state entity is automatically responsible for all disciplinary infractions that may be committed by his subordinates in the practice of the contractual public function. In reality, the liability of the legal representative is only activated if it is proven that he has failed to comply with his duties of supervision and control; This official has no obligation to prevent the commission of misconduct or to assume the adverse consequences of its materialization, unless there is evidence of a breach of his duty of vigilance over the public employees and private individuals who are under his supervision. Therefore, the proxy must be held accountable only when it is proven that he or she has failed to comply with the supervision and control of the acts of his or her subordinates.

In this way, legal representatives are considered passive subjects of disciplinary law because of both their direct actions due to neglect of their responsibilities, both by action and omission, and by their absence of monitoring of their delegates. These subordinates include both public employees and individuals who intervene in the contractual field by means of delegation or administrative supervision. Therefore, it is necessary to adopt an attitude that involves monitoring, guiding and issuing guidelines to ensure compliance with the principles and legislation.

According to disciplinary law and the current jurisprudence of the Council of State (2019), a mayor will only be liable for the contractual actions of a delegated secretary that represent infractions, even if he did not intervene directly in them, as long as it is proven that there were failures or omissions in the control and supervision of the public function assigned to the mayor. In any other case, no liability can be attributed. The president is guilty of not fulfilling his functional responsibility to supervise and control his delegate, and not for the latter's transgressions.

This is demonstrated by the support of the Council of State (2019) by ensuring that, taking into account the postulates of Article 211 of the Constitution, the action of delegating absolves the respective delegate from assuming responsibilities, which must guarantee a continuous exercise of vigilance.

The Normativity of Misdemeanors in Disciplinary Law

Colombian disciplinary law is defined by the regime of disciplinary offenses, clearly reflecting the intention of the legislator in recent years to classify a series of infractions, categorized into different levels of severity, in order to satisfy the requirements of legality and typicity demanded in this specific form of the state sanctioning power. Thus, the passive subject of this aspect of the State's ius puniendi will be subject to investigation, trial and possible sanction only if it is proven that he has committed a disciplinary conduct that is reprehensible, either by action,

omission or overreach, which is known as a misdemeanour.

Disciplinary non-compliance is defined as the conduct of action, omission or overreach that compromises the personal responsibility of the public servant or the individual who performs public functions. This regime of disciplinary offenses is legally reserved, since only the legislative branch has the power to determine which behaviors constitute offenses (CC, C-328, 2003). This excludes that any other regulation, such as a regulatory decree, can establish faults. In line with this, the Council of State has affirmed that it is exclusive to the legislative power to objectively specify those conducts that in the hands of public servants can be subject to sanctions, either for obstruction of the process to be carried out, or for excess of power in the practice of their attributions (CE, 2018).

Likewise, with respect to the classification of misdemeanours, the typology of the different levels (very serious, serious, minor) was established in Law 1952 (2019, art. 46). The most serious infractions will only be those that are expressly listed in the disciplinary code. As for serious or minor offences, their classification will be determined according to the grading criteria established in the same regulation.

As established by Gómez (2017), the definition of the seriousness and lightness of the offenses will be set by the open list system (numerus apertus), that is, by a relationship that must be willing to include new values, being the approach that the authorities must adapt to include and apply criteria that, previously, were established in the articles (art. 67). Thus, faults committed in relation to contractual practices will maintain their serious or minor nature, based on criteria previously established by the same law.

Very Serious Faults in the Framework of State Contracting

The disciplinary regulations, in relation to infractions of a high level of seriousness, implemented a system of numerus clausus. It is essential to bear in mind that not every infraction of this type automatically entails the dismissal or inhabitation of the corresponding one, since it is necessary that it has been committed with intent or with a very serious fault, as established at the doctrinal level (Gómez, 2017).

The disciplinary nature of the rule, when defining the most serious infractions in the contractual field, qualifies as serious only some specific conducts, those that, due to the relevance of such acts, represent a violation of functional rights that the legislative branch considers crucial and strategic. Therefore, it is not any breach of a contractual functional duty that is considered a very serious fault, but only those conducts that have been expressly established by law. That designation of a misdemeanor as very serious also intensifies the sanctioning response of the State, since, generally, depending on the degree of guilt involved, the resulting sanction will be dismissal and disqualification.

Based on the above argument, it is crucial that disciplinary operators pay special attention to the performance of the typical adequacy judgment, since it cannot be assumed that any conduct investigated in the field of state procurement automatically constitutes a very serious offense, since for many it might seem that any situation related to a public contract automatically entails an infringement of this caliber.

Making Use of Manifest Urgency in the Framework of State Contracting

Serious disciplinary infraction (L. 1952, 2019, art. 54, no. 5) By sanctioning the conduct of a public employee who uses the cause of manifest urgency to formalize state contracts without

complying with the legal requirements established for it, it is demonstrated that the scope of application of manifest urgency is defined in articles 42 and 43 of Law 80 of 1993.

Manifest urgency is configured as a legal tool that makes it possible for the legal representative of the state entity to contract without observing the principle of transparency or the assumption of objectivity, with the exclusive purpose of responding to extraordinary, urgent and urgent situations that demand prompt and effective action by the state body. Thus, despite the fact that the disciplinary regulations recognize this exception in hiring, it also seeks to prevent that, under this pretext, the regular contractual selection procedures are circumvented, establishing a very serious disciplinary infraction.

The origins of this exceptional figure that allows the State to contract in emergency situations, according to the jurisprudence of the Council of State (2006, Exp. 14.275), date back to France. In 1902, the notion of urgency was introduced by the government commissioner Romieu in the Société Just case, where he stressed that urgency represents a threat to social and public stability, because it empowers the administration to take measures that may contravene the formality of the rule, at the procedural and competence level.

The cause of urgency, as an exception for the contract, must comply with certain essential requirements to be admissible. These requirements are: specificity (the need must be specific, particular and for a specific case), immediacy (the public demand must be urgent, current and cannot be postponed), unpredictability (the urgency must have been unexpected), accreditation (it must be duly proven and substantiated) and objectivity (it must respond to a public need and a state requirement). Only when these conditions are met can urgency justify the use of the exceptional direct procurement procedure. Otherwise, waiting to complete the ordinary selection process could cause more serious harm to the public interest than would be avoided by omitting the procedures required for reasons of convenience and administrative morality, which protect the public interest.

The Council of State (CE, 2011, Exp. 34.425) when referring to this reason of exceptionality in contractual matters, established that manifest urgency is appropriate in situations where it is necessary to remedy or prevent current or imminent damage, whether due to states of emergency, interruption of public services, circumstances of calamity, force majeure events, catastrophes, or any other similar situation that does not allow delay in its reaction. In such cases, it is inappropriate to follow the bidding procedure established in the contractual statute, since it requires the fulfillment of several stages that take time and prolong the process of awarding the contract, which, in an emergency scenario, could hinder the response and cause the solution to arrive late, once the damage has already occurred or aggravated (EC, 2006, Exp. 05229).

It is, therefore, a procedure for the direct selection of the contractor, which allows a certain freedom of choice based on urgent and exceptional situations that prevent the use of the normal and ordinary methods of selection provided for by law, as indicated. Therefore, this exceptionality demands careful and responsible use from the administration.

Likewise, it is essential that the administering body, as soon as it determines the manifest urgency, specifies precisely which contracts must be signed to deal with the crisis that motivates such a declaration, without prejudice to the justification that must be included in the corresponding administrative act. However, manifest urgency should not be used as a mechanism to circumvent the regular contractor selection process, so its application, it is insisted, must be extremely exceptional. In this regard, the Chamber of Consultation and Civil

Service of the Council of State (1995, Concept 677) ruled in the following terms.

According to the consultation chamber, (opinion of March 4, 1994, file 587), under the basis of article 42 (L. 80, 1993), it is deduced that the declaration of urgency has the possibility of covering multiple contracts based on the same justification; however, it is necessary that the statement of reasons specifically details each contract that is the subject of the contract, clearly specifying its raison d'être and objective.

In this way, the administering body is obliged to develop only the contracts mentioned in the act of declaration of manifest urgency, so that it is unacceptable that, after said declaration, new contracts are included for the same reasons of urgency; thus opening a tool for control over direct practices in contractual matters, which are of an exceptional nature.

Once the contracts arising from the manifest urgency have been signed, these contracts, together with the administrative act that declared it and the file containing the administrative background, the action and the evidence of the facts, must be sent to the official or entity in charge of fiscal control in the respective institution (L. 80, 1993, art. 43). This body will have a period of two months to issue a pronouncement on the different factors and aspects that motivated said declaration.

It is pertinent to dwell on the term "immediately" used in Article 43 cited, since the correct interpretation of this condition suggests that the antecedents and contracts derived from the manifest urgency must be sent to the competent fiscal control body only after complying with all the requirements to perfect, execute and legalize each contract, thus ensuring a contract in line with the precepts of legality. Regarding this issue, according to the concept of Osorio (1995), the contracting public body must send to the controlling entity, no later than the day following the legalization of the contracts concluded, the complete documentation regarding the declaration of urgency, accompanied by the complete text and the corresponding administrative history.

In addition, it is crucial to point out that the automatic control of legality carried out by the competent control body on manifest urgency (L. 80, 1993, art. 43), must be binding on the disciplinary agent. This is due, in the first place, to the fact that the Comptroller's Office culminates this examination through a resolution that is presumed to be both valid and legal, which determines whether or not the causes and conditions that justify the declaration of urgency exist. Secondly, if the disciplinary officer were to seek to disregard this tax determination, he would have the obligation to refute the conclusions derived from the review procedure provided for in the aforementioned article.

In summary, the legal representatives of public bodies must act with extreme caution when resorting to the figure of manifest urgency as a justification for direct contracting. This is because, if the assumptions that justify its application are not validated by the corresponding body, it is highly likely that said official will face a disciplinary process proportional to the seriousness of the offense.

The Elements of Disciplinary Responsibility

The state contracting regime is composed of a structure of normative provisions, principles, regulatory tools and jurisprudential criteria, which, without a doubt, strengthen the guarantees that must protect the actors linked to the investigation process, specifically, the official or individual in charge of the contractual services. This panorama therefore requires progress in the

formulation of rules whose clarity depends on specifying disciplinary responsibility in matters of recruitment.

The disciplinary apparatus in state contracting is complex at a structural level from the perspective of typicity, since in general the fault is based on the contractual regulations relevant to the conduct, either by action, omission or functional overreach in question. The scope and achievement of the disciplinary investigation of the public servant will depend on the proper identification of the functional duty imposed by the relevant contracting regime. Moreover, it is essential to ensure that the guarantees linked to the principle of legality are taken into account (L.1952, 2019, n. 4).

The doctrine holds (Isaza, 2009) that the principle of criminality aims to safeguard personal liberty and security by previously determining which behaviors will be subject to sanction, as well as providing guarantees of security at the legal level. In addition, it clarifies that, in the disciplinary context, criminality has a different function, pointing out that, taking into account that individual freedom is limited or altered, criminality focuses mainly on providing legal certainty, since, in the functional environment, freedom may be restricted or modified, in order to achieve goals that do not correspond to the interests of the official.

In the field of disciplinary law related to state contracting, the offenses classified as very serious, serious and minor are based on open and blank types in terms of their typicity (CE, Exp. 11001, 2018). It is crucial to point out the conceptual difference between the two concepts (Gómez, 2017), because while the open type is constituted as one in which the legislator does not exhaustively specify the scope of the prohibition, leaving the judge the task of specifying its content; in contrast, the blank type (CC, C-507, 2006), refers to disciplinary infractions for which the legislator cannot provide an exhaustive list of behaviors that are considered infringing; instead, this type refers to a complementary set of regulations that includes all the provisions that establish duties, mandates and prohibitions applicable to such officials.

Thus, we note that the flexibility in the typicity applied to the disciplinary analysis of actions derived from performance in public procurement practices does not exempt the evaluator from complying with the guarantees imposed by the principle of legality and administrative due process. Therefore, when carrying out the typical adequacy assessment, it is crucial to accurately identify the regulatory framework applicable to the action in question, as this will allow the different functional duties required of the public servant or individual involved to be correctly determined.

The concept of substantial illegality, as explained by Professor Gómez Pavejau (2017), is the fundamental distinctive aspect that supports the autonomy of disciplinary law. This concept reflects the particularity of the judgment of disvalue in this area, marking a clear difference with a similar, although not identical, figure in criminal law, known as anti-legality. In line with this doctrinal perspective on substantial illegality, the Council of State (2019, Exp. 11001) also expressed itself.

From the definitions provided, it can be inferred that the notion of substantiality in the context of wrongfulness implies that the transgression of functional duty must possess significant importance with respect to state objectives, the realization of the public interest, and the principles governing the public sphere. In general, this implies that the conduct by action or omission of an official that violates his duties – that is, that is contrary to law, incurring in illegality – causes a real and substantial impact on the proper functioning of State institutions

and on the provision of public services. In this sense, although the law does not explicitly state it in this way, it can be stated that when these two features are presented together, a substantial illegality is configured; which constitutes an essential condition for a disciplinary conduct to be considered susceptible to sanction.

In the field of disciplinary research (CE, 2019, Exp. 11001), relating to contracting practices, the notion of guilt is configured in a particular way. According to the above, subjective responsibility, rooted in respect for human dignity, is organized in terms of intent or negligence (CE, 2015, Exp. 11001-03), in accordance with the provisions of Article 10 of Law 1952 of 2019.

Elements That Transform the Exception, Within the Framework of Direct Contracting.

Despite the procedure used to carry out procurement, territorial authorities must take into account the principles that govern state contracting (transparency, planning, economy, responsibility, objective choice, proportionality, publicity, due process, preeminence of the substantial over the formal). These principles seek, among other elements, to guarantee the disclosure and contradiction of the information and actions of the procedure; free participation and equal opportunities for participation.

The principles of the civil service, established in article 209 of the Constitution (equality, morality, efficiency, economy, celerity, equity and publicity, through decentralization, delegation and decentralization of functions), are also relevant to contractual activity.

In order to document compliance with the above principles, a crucial requirement that must precede any contractual process is the preparation and dissemination of previous analyses, research and documents. These correspond to the planning process carried out to identify a need, assign it priority and issue the disbursement. The foregoing, since they must consider, among other factors: the demand to be satisfied; the specific characteristics of the good to be contracted; the contractor selection procedure and its reason; the estimated value; the criteria for selecting the most beneficial proposal; the study of risks and how to reduce them; and the necessary guarantees.

Based on the above, a second element that must not only be justified, but also recorded, are the reasons why a contract was awarded to a specific contractor, as well as its aptitude and ability to meet the objective of the contract. This with the aim of ensuring both the use of objective selection criteria, as well as that it has the technical components required to satisfy the objective of the contract.

Finally, to ensure that the public need that is the object of the contract is effectively satisfied, it is essential to carry out the actions of monitoring and verification of compliance with the contract. To this end, the measures taken by the entity in charge of these activities must also be recorded and disclosed. All of the above, with the aim of ensuring both transparency in the performance of public function and relevant social supervision.

Conclusions and Recommendations

Corruption in public administration not only undermines citizens' trust in their institutions, but also undermines the very foundations of the country's economic and social development. Despite the efforts of the Colombian State to establish a robust legal framework and promote transparency in government procurement, persistent corruption indicators highlight the need for a more dynamic and adaptable approach that responds to the changing nature of this

phenomenon. It is imperative that sanctions be strengthened, citizen participation is encouraged, and effective oversight mechanisms are implemented. Only through a collective and sustained commitment can a society be built where integrity and ethics prevail, thus restoring trust in the State and fostering an environment conducive to development. The fight against corruption is everyone's responsibility, and it is essential that every social actor actively participates in this transformation.

The inappropriate application of the manifest urgency modality not only leads to contractual infractions and irregularities, but also reveals significant flaws in the existing control system. The insufficiency of critical analysis by the monitoring bodies and the lack of timely submission of the file hinder the proper exercise of fiscal control, preventing the regulatory entity from acting with the necessary effectiveness. It is imperative that mechanisms are implemented to ensure a thorough review of the justifications that support this figure, thus guaranteeing legality and transparency in contractual activities. Only through strict vigilance and a robust evaluation process can trust in the system be restored and ensure that regulations are respected, promoting a more ethical and responsible contractual environment.

The analysis of the justification and legitimacy of administrative acts during emergency situations reveals a serious deficiency in the national control system. The arbitrariness and bias of the reasons justifying the suspension of standard selection procedures not only compromise government transparency, but also undermine public trust in institutions. It is imperative that the corresponding agencies carry out an in-depth review of the grounds that allow these exceptions, ensuring their conformity with constitutional regulations. Only in this way will a balance be guaranteed between the need for agility in public management and respect for the principles of legality and justice. We urge regulators to take a more rigorous and critical approach, thereby strengthening the integrity of the administrative system and governance in times of crisis.

The ineffectiveness of the Public Prosecutor's Office in investigating and punishing irregularities in state contracting not only promotes impunity in the face of legal breaches, but also opens the door to corrupt practices that undermine trust in institutions. Despite the legally established provisions, such as those that allow mediation by the Attorney General's Office, an alarming lack of timely control persists that fuels favoritism and mismanagement of public resources. It is essential that more robust and efficient mechanisms are implemented to guarantee transparency and respect for regulations, thus improving the quality of services and goods acquired through direct contracts. Only through a real commitment to ethics and accountability can citizen trust be restored and the proper use of resources for the benefit of society guaranteed.

Recommendations; The research highlights the urgent need for constant review and updating of the legislative frameworks that regulate public calamity and states of emergency due to declaration of manifest urgency. Addressing this phenomenon requires not only an approach based on constitutional regulations, but also the incorporation of lessons learned from past experiences, thus ensuring more effective and adaptable disaster risk management. To successfully face the catastrophes of the future, it is essential that public policy makers promote an ongoing dialogue among all stakeholders, strengthening the resilience of our communities and ensuring a rapid and effective response to emergencies. Only through these coordinated efforts can we aspire to a robust framework that protects society and minimizes the impact of calamities in an ever-changing world.

Effectiveness in the management of manifest emergencies depends crucially on strong inter-agency coordination and collaboration at all levels. The lack of a clear legislative framework not

only hinders the rapid and adequate action of the entities involved, but also affects citizens' confidence in institutional responses. It is therefore imperative to advocate for legislation that not only establishes clear coordination mechanisms, but also precisely defines the roles and responsibilities of each actor. Only through a collaborative and well-structured approach can we ensure an effective and efficient response to crises, thus safeguarding the well-being of our communities. Joint action is not only a necessity, but an urgent duty that we must assume in favor of social development and institutional cohesion.

To achieve effective risk management and an adequate response to public calamities, it is vital that the State encourages the active participation of citizens. The involvement of civil society and communities not only strengthens transparency and accountability in management, but also ensures that preventive measures are aligned with local needs and realities. By including in legislation a clear focus on responsibility in planning and adopting robust contingency plans, the foundations are laid for building more resilient and less vulnerable communities. This is a call to action: we must join efforts and voices to transform risk management into a collaborative process, where each member of the community assumes their rightful role in the protection of their environment and well-being.

Establishing mechanisms for evaluation and continuous monitoring of the effectiveness of the declaration of manifest urgency is essential to ensure that the measures adopted not only mitigate the crisis, but also translate into tangible and beneficial results for society. Transparency in the administration of funds and in the communication of progress is essential to cultivate public trust and ensure accountability. It is imperative that institutions and governments commit to providing accessible information on the use of resources and the implementation of projects, involving civil society in the process. Only through rigorous evaluation and a clear focus on transparency can we build a more resilient and equitable future, where the lessons learned during these emergencies guide our actions towards better management in the present and beyond.

References

ALEXY, R. (1983). Theory of fundamental rights. Madrid: Centro de Estudios Constitucionales.

ALEXY, R. (1983). Theory of fundamental rights. Madrid: Centro de Estduios.

Arango, P. (2013). Socio-legal research.

Atienza Rodríguez, M. y. (1991). On principles and rules. Alicante, Spain: Doxa.

Benavidez, J. L. (2004). The State Contract: Between Public Law and Private Law. In Universidad Externado de Colombia (p. 75). Bogota.

Betancourt Jaramillo, C. (January 17, 1994). Contractual acts. Administrative Litigation Chamber.

Council of State. (2007). 11001-03-26-000-2003-00014-01. Bogotá: Ruth Stella Correa Palacio.

Constitucional, C. (2001). Judgment C-949.

Political Constitution. (1991).

Constitutional Court. (2007). C-932. (M. M. Cabra, Ed.) Bogota, Colombia.

Dávila Vinueza, L. (2003). Legal Regime of State Contracting. Legis. editors.

Dávila, V., & Guillermo, L. (2003). LEGAL REGIME OF CONTRACTING. LEGIS.

ESCOBAR, M. G. (2008). http://www.tesauro.com.co/REGIESPECIALES/JCOMPETUNIVERSIDADa_1.htm.

State, E. d. (1993). Law 80 Art. 42. Bogota.

Guerrero de Escobar, M. (2008). Judgment 14169.

Law 1437. (2011).

Law 1952. (2019). General Disciplinary Code.

Law 80. (1993). General Statute of Public Contracting.
López, P. G. (2013). Legal Pluralism. Eunomia. Journal in Culture of Legality , 186-193.
Matallana Camacho, E. M. (1993). Public Administration Contracting Manual. Bogotá: Universidad Externado de Colombia.
Medina, M. P. (2002). Judgment C-508. Bogotá: CONSTITUTIONAL COURT.
Pajón, P. (2013). Socio-legal research.
Portfolio. (2018). Contracting. 5.
Quintero, L. R. (2015). Judgment 00001-33-31-035-2007.
Republica, C. d. (2007). Law 1150.
Thomson, G. (2002). Introduction to the Practice of Philosophy.
Tobón-Tobón, M. L. (2016). States of exception. Legal opinion UM, 68-69.
Vinueza, L. G. (2003). Legal Regime of State Contracting. Bogotá: Legis editores.