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# Merit-based competitions for entry into the Colombian administrative career: an obstacle to youth transitions into the labour context\*

## *Los concursos de mérito para ingresar a la carrera administrativa colombiana: obstáculo para las transiciones juveniles al contexto laboral*

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### ABSTRACT

The Social State of Law, currently in force in Colombia, mandates that all individuals should be able to fully exercise their rights beyond mere formal written provisions. To this end, various strategies have been structured to contribute to personal, familial, and socio-economic development, among others. One of these strategies focuses on opportunities for access to public employment, through merit-based public competitions that enable the filling of positions within the administrative career. However, these competitions apply a uniform approach without a differential perspective for both young adults and adults. Therefore, the present article sets forth the following general research objective: to determine whether merit-based competitions for access to public

### RESUMEN

*El Estado Social de Derecho, vigente actualmente en Colombia, exige que todas las personas puedan ejercer plenamente sus derechos más allá de la formalidad escrita. Para ello, se han estructurado diferentes estrategias que aporten al desarrollo personal, familiar, socioeconómico, entre otros. Una de estas estrategias se ubica en las oportunidades de acceso al empleo estatal, a través de concursos públicos de méritos que permiten proveer los cargos propios de la carrera administrativa y se da un tratamiento sin enfoque diferencial tanto a los jóvenes adultos como a los adultos. Por ello, el presente artículo acoge el siguiente objetivo general de investigación: determinar si los concursos de mérito para el acceso al empleo público en el Estado Colombiano pueden ser entendidos como un obstáculo fundamentado*

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employment within the Colombian State can be understood as an obstacle, rooted in natural variables such as age, to facilitate the current labour market transitions of young people. Grounded in a hermeneutic, socio-critical research approach, using qualitative methods that include documentary review, the study concludes that certain criteria employed to assess young adults in merit-based public competitions result in structural inequities that hinder youth labour transitions in the public sector context. Consequently, the article suggests strengthening strategies, including reasonable adjustments informed by differential approaches and the segmented application of merit based on age-related criteria.

**Keywords:** Colombian Administrative Career; Merit-based Competitions; Youth Transitions; Labour Context; Legal barriers.

*en variables naturales como la edad para materializar transiciones juveniles al mercado laboral en la actualidad. Con fundamento en un enfoque de investigación hermenéutico sociocrítico, basado en métodos cualitativos que incluyen revisión documental, se concluyó que algunos de los criterios utilizados para evaluar a los jóvenes adultos en los concursos públicos de méritos conllevan inequidades estructurales que afectan las transiciones laborales juveniles en el contexto estatal, por lo cual se sugieren estrategias de fortalecimiento que incluyen ajustes razonables desde enfoques diferenciales y que incluyen el mérito segmentado por criterios etarios.*

**Keywords:** carrera administrativa colombiana; concursos de mérito; transiciones juveniles; contexto laboral; obstáculos legales.

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## 1. INTRODUCTION

Colombia is currently aligned with a Social State of Law, which seeks to guarantee basic rights for the population, ensuring that, through employment, individuals can contribute to the country's development based on solidarity. As a means of achieving these constitutional objectives, legal norms aim to adopt anti-formalist guidelines that create objective opportunities<sup>1</sup>. Within this framework, it is considered imperative that access to public employment be through merit-based competitions, in which all interested individuals may participate, meeting the requirements explicitly established by calls designed to ensure that the best candidates occupy state positions. Therefore, in contemporary Colombia, merit-based competitions are understood as a means to fully realise one's rights through objective access to income-generating employment.

In this way, merit for obtaining public sector jobs is considered both a constitutional principle and a legal imperative for public sector recruitment. Legal norms provide, seemingly objective, guidelines for selecting, hiring, and dismissing individuals working for the state. This is even more significant when considering that failure to adhere

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<sup>1</sup> PERILLA, Juan. Los límites de la transparencia en los concursos de mérito para elegir personeros en Colombia. *Revista Española de la Transparencia*, Madrid, n. 20, p. 251-266, 2024, p. 255.



to these guidelines results in different types of legal liabilities. Thus, from a formal perspective, it is understood in Colombia that clientelism, based on political patronage, is not necessary to secure a position in the public sector<sup>2</sup>; this belief is enshrined in written law and embedded in the collective imagination of national reality. Accordingly, merit is linked to equality, transparency, and even to the socio-economic development of individuals.

However, beyond the formalistic parameters framing merit within the dynamics of public competitions, anti-formalist perspectives have raised questions as to whether, in practice, it is possible to fully realise these constitutional principles through this strategy. Merit-based competitions have been scrutinised from various criteria, but it remains important to analyse an additional variable: the age of participants. This is justified by the fact that merit competitions award points for variables such as professional experience and academic qualifications, which can be directly linked to a person's age. For instance, an older individual would, in principle, have more professional experience than a younger one, simply due to having had more years to accumulate work experience.

For these reasons, this research article poses the following research question: Can merit-based competitions for public employment in the Colombian State be understood as an obstacle based on natural variables such as age, hindering the realisation of youth transitions into the labour market? In response to this question, a positive hypothesis is formulated, suggesting that merit-based competitions in Colombia do indeed obstruct, based on natural criteria such as age, the possibility of facilitating youth transitions into the labour market in the context of access to public employment. To validate this hypothesis, the article adopts a hermeneutic, socio-critical research approach, grounded in qualitative research methods, with documentary review as the primary data collection strategy. This methodological design allows for the interpretation of a social phenomenon within the framework of previous research that provides critical perspectives on concrete phenomena present in the current reality.

To ensure alignment between the context, justification, the problem presented in the research question, hypothesis, and methodological design, this article adopts the following general research objective: To determine whether merit-based competitions for public employment in the Colombian State can be understood as an obstacle, based on natural variables such as age, hindering the realisation of youth transitions into the labour market. To achieve this general objective, the following specific objectives are adopted as the argumentative structure of the article: First, to legally systematise the design of the merit-based competitions currently in place for public employment in Colombia; second, to question, from the natural criterion of age, the formalist design

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<sup>2</sup> BÉJAR RIVERA, Luis José; GÓMEZ COTERO, José de Jesús. Cuando el Derecho se convierte en aliado de la corrupción: un caso en el derecho administrativo. *A&C – Revista de Derecho Administrativo & Constitucional*, Belo Horizonte, v. 83, n. 21, p. 11-30, 2021. Disponible en: <https://doi.org/10.21056/aec.v21i83.1447>. p. 15.



of merit-based competitions held to fill positions within Colombia's administrative career; and third, to propose adjustments to the current public competitions within the Colombian context, based on the need to facilitate youth transitions into the labour market. Consequently, the article proceeds to develop each of the specific objectives in order to ultimately fulfil the general objective.

## 2. LEGAL SYSTEMATISATION OF THE DESIGN OF PUBLIC MERIT-BASED COMPETITIONS IN THE CURRENT COLOMBIAN CONTEXT

With the Colombian Political Constitution of 1991, the aim was to replace a Liberal State of Law, under which the exercise of rights was subordinated to a few individuals with specific conditions outlined by law<sup>3</sup>. In this sense, the current Social State of Law seeks to ensure a broad protection derived from rights that can be claimed through objective criteria applicable to all individuals<sup>4</sup>; from an anti-formalist perspective, the exercise of rights transcends the individual parameters of those who have the power to draft the law and responds to dynamic social realities<sup>5</sup>. Thus, Colombia is currently understood as a constitutional context that grants opportunities to all individuals on an equal footing, ensuring the full realisation of the higher mandates agreed upon within the framework of popular will.

In this way, a protective constitutional framework exists, which must imperatively guide the actions of the State. One of the main debates held by the National Constituent Assembly of 1991 revolved around how these new principles would materialise in the provision of public employment positions<sup>6</sup>. Thus, the current Political Constitution of Colombia establishes three ways to access public office: first, through popular election; second, through the free appointment and dismissal of trusted officials by those who were elected by popular vote; and third, through merit-based public competitions for filling positions within the administrative career<sup>7</sup>. It is particularly important to note that the majority of those who work for the State have been appointed through the third method, referring to administrative career competitions.

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<sup>3</sup> CABRERA, Johanna. La constitución Colombiana De 1991: Entra La Rigidez Y La Flexibilidad. ¿es fácil Realizar Un Cambio De constitución Bajo Este Sistema?. **Saber, Ciencia Y Libertad En Germinación**, Bogotá, v. 15, p. 84-88, 2023, p. 86.

<sup>4</sup> COTES, Karol y GARCÍA, Andrea. El enfoque de género y la ley 1448 en Colombia. **Fractal: Revista de Psicología**, Bogotá, v. 31, p. 228-235, 2019, p. 231.

<sup>5</sup> LOZANO, Jenny. Violencia por prejuicio de género y prácticas de autocuidado en mujeres transgénero residentes en Bogotá. **Saúde e Sociedade**, São Paulo, v. 32, n. 4, p. 1-8, 2023, p. 4.

<sup>6</sup> BARRETO, Piedad y OSORIO, Alexandra. Transparencia pública: análisis de su evolución y aportes para el desarrollo del gobierno abierto. **Innovar**, Bogotá, v. 32, n. 83, p. 17-34, 2022, p. 26.

<sup>7</sup> MARTÍNEZ, Eduardo. La carrera administrativa en Colombia: 70 años de ficción. **Opinión Jurídica**, Bogotá, v. 9, n. 18, p. 107-125, 2010, p. 115.



In this context, the administrative career underpins the State's labour structure due to the large number of people it encompasses. Thus, it is commonly assumed that those appointed through a merit-based public competition occupy positions due to possessing more advanced differential factors than other participants, which grants certain prerogatives in favour of public servants<sup>8</sup>. Some benefits of the administrative career include job stability, technical bonuses, and remuneration for personal achievements, among others. Therefore, there is significant interest in Colombia to participate in public competitions and secure a position within the State, which can offer opportunities for personal development, socio-economic improvement of the family unit, and even symbolic capital through being considered a meritocratic achievement.

In this way, merit-based public competitions are typically structured in three stages: first, the formulation of the call with the requirements for the public position; second, the recruitment of as many interested individuals as possible, without distinction of race, age, sex, sexual orientation, territorial origin, or any other subjectively exclusionary variable; and third, the application of eliminatory and classificatory tests to assign seemingly objective quantitative values<sup>9</sup>. Therefore, it is expected that merit-based public competitions have requirements known to all individuals, ensuring transparency in the criteria and equal opportunities for participation within the published framework. Given this prior formulation of rules, many more candidates typically apply than there are positions available, creating the apparent possibility of selecting the best candidates<sup>10</sup>. Consequently, it is assumed that the individual who most accurately meets the requirements will be appointed.

It should be noted that for merit-based public competitions, each entity has a broad margin of autonomy to set requirements, scoring systems, and selection tests. This is justified by the fact that constitutional and legal norms impose merit as a principle but recognise that each entity has specific needs, interests, and requirements that a single written legal norm could not fully address<sup>11</sup>. The contextual reality of each territory implies that national norms serve as a hermeneutic framework, within which each entity

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<sup>8</sup> VERGARA, Héctor. Principio del mérito y derechos fundamentales: elementos para el diseño institucional de un sistema de carrera administrativa en la perspectiva de los derechos fundamentales. *Estudios de Derecho*, Bogotá, v. 68, n. 152, p. 113-135, 2019, p. 131.

<sup>9</sup> VALENCIA-TELLO, Diana Carolina. La elección del Contralor General de la República en Colombia: la politización del control fiscal. *Revista de Investigações Constitucionais*, Curitiba, v. 10, n. 2, e251, 2023. Disponible en: <https://doi.org/10.5380/rinc.v10i2.91603>. p. 21.

<sup>10</sup> SAAVEDRA, Saúl. Las reformas del empleo público en Colombia bajo el marco de la Carta Política de 1991. *Papel Político*, Bogotá, v. 19, n. 2, p. 413-434, 2014, p. 417.

<sup>11</sup> ALFONSO, Óscar. Regiones metropolitanas de Colombia: la gravitación y la desarticulación como rasgos dominantes de la organización territorial en curso. *Cadernos Metrópole*, São Paulo, v. 19, n. 40, p. 919-949, 2017, p. 936; PINEDA, Luis. Estructura demográfica y desempeño financiero municipal en el departamento de Boyacá, Colombia. *Apuntes del Cenes*, Bogotá, v. 38, n. 68, p. 247-272, 2019, p. 257.



can generate regulations according to its particular conditions<sup>12</sup>. Therefore, each entity autonomously formulates its own call and operates it as rigorously as possible to maintain the legitimate trust of those willing to participate<sup>13</sup>. In any case, the criteria must be objective and prioritise the best possible performances to appoint the individual who will hold each permanent position.

Despite the diversity of contexts from which merit-based competitions are structured, there is uniformity in the adoption of the following criteria: first, knowledge tests related to the position; second, tests of labour competencies based on the expected performance in the position; third, evaluation of professional, teaching, or related experience; fourth, assessment of completed studies, whether at the secondary or university level; and fifth, one of the most questionable criteria due to its potentially subjective nature, the conduct of interviews<sup>14</sup>. While these criteria exhibit minimal variation across entities, what does differ is the percentage weight each criterion has in calculating the final score; while in most cases the knowledge test carries the greatest weight, nothing prevents other criteria from holding more weight in some instances. This is where entities exercise the greatest autonomy, according to the constitutional principle that seeks to safeguard the contextual conditions particular to each entity.

In this sense, depending on the justification for the needs of the positions to be filled, each entity determines the content to be evaluated in the knowledge test and how this test is structured, as no specific guidelines are provided by law for these purposes<sup>15</sup>. At the same time, specific criteria can be developed to determine which behaviours should be rated as appropriate in the respective test, allowing for the selection of profiles based on the criteria of the entity preparing the call<sup>16</sup>. In addition, points are awarded for professional experience and academic qualifications<sup>17</sup>, which tend to assign a concrete score for each year of experience and for each degree obtained from an institution recognised by the Colombian State. Professional experience is typically

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<sup>12</sup> VELANDIA, César y OSPINA, Juan. Orígenes de la planeación regional en Colombia y sus retos ante el territorio del siglo XXI. **URBE Revista Brasileira de Gestão Urbana**, Río de Janeiro, v. 13, p. 1-19, 2021, p. 6.

<sup>13</sup> VARGAS, Magda. El Principio De Confianza legítima Como Fuente De La Responsabilidad Extracontractual Del Estado: Un análisis Desde Los títulos De imputación. **Revista De La Facultad De Derecho Y Ciencias Políticas**, Bogotá, v. 53, n. 138, p. 01-27, 2023, p. 21.

<sup>14</sup> MORENO, Maritza. Estabilidad laboral de los trabajadores provisionales en entidades gubernamentales de Colombia. **Estudios Socio-jurídicos**, Bogotá, v. 25, n. 1, p. 1-22, 2023, p. 18.

<sup>15</sup> CÁRDENAS, Johanna; DELGADO, Siervo y FUENTES, Héctor. Los municipios de sexta categoría de Colombia (2000-2016): entre la autonomía y la dependencia. **Apuntes del Cenes**, Bogotá, v. 30, n. 69, p. 137-167, 2020, p. 140.

<sup>16</sup> GUERRA, Sandra. Una revisión panorámica al entrenamiento de las habilidades blandas en estudiantes universitarios. **Psicología Escolar e Educativa**, São Paulo, v. 23, p. 1-11, 2019, p. 4.

<sup>17</sup> PACHECO, Yiliber. Materialización de la Constitución política: una propuesta de estrategia pedagógica. **Criterios**, Bogotá, v. 15, n. 1, p. 1-29, 2022, p. 19.



divided into three categories: first, professional experience; second, related professional experience; and third, teaching experience.

Once the various tests have been applied and evaluated according to the criteria explicitly set by the entity, a list of eligible candidates is created, from which the position is filled by the person ranked first. This meritocratic design is highly valued within Colombian society, as it is seen as an objective opportunity for any individual to secure a job based on their own efforts<sup>18</sup>; it is a strategy to oppose clientelist behaviours, under which positions were filled by individuals with recommendations from those with sufficient political and social capital<sup>19</sup>. In most cases, when the position is filled by the individual with the highest score, people accept this appointment without further questioning, continuing to prepare themselves in the hopes of achieving that same outstanding and distinguishing score in future competitions.

In conclusion, the constitutional transformation implemented in Colombia through the current superior norm aims to provide equal opportunities for individuals to fully exercise their rights. To this end, the State has a robust public service, comprised of elected positions, freely appointed positions, and administrative career roles, the latter constituting the largest proportion of public employees. Access to these jobs is via merit-based competition, from which the individual with the highest score is selected, free from clientelist recommendations, based on a combination of different criteria. These criteria prioritise the personal effort of each candidate, including knowledge, behaviour, experience, education, and interview performance. Thus, the social collective values the results achieved, leading individuals to prepare as thoroughly as possible to access public employment. However, this seemingly objective meritocratic design may entail structural obstacles not explicitly evident, preventing younger professionals from participating on equal terms, which will be analysed in the next section.

### 3. CRITICISMS OF THE MERIT-BASED PUBLIC RECRUITMENT SYSTEM FROM THE PERSPECTIVE OF AGE

Thus far, notable advantages of merit-based public recruitment processes aimed at filling administrative career positions have been identified. Indeed, these processes represent a strategy to strengthen objectivity in a context historically marked by clientelism<sup>20</sup>. In this sense, merit is positioned as a possibility that must continue to be realised, requiring reinforcement through analyses that transcend the hermeneutic

<sup>18</sup> BUENDÍA, Katherine. Análisis de la contratación directa en la causal de ciencia, tecnología e innovación bajo los principios de planeación y selección objetiva. **Criterios**, Bogotá, v. 14, n. 1, p. 71–96, 2021, p. 83.

<sup>19</sup> PERILLA, Juan. El clientelismo político como un riesgo para el Estado constitucional de Derecho colombiano. **Krytyka Prawa Niezależne Studia Nad Prawem**, Varsovia, v. 14, n. 4, p. 7–20, 2023, p. 14.

<sup>20</sup> PERILLA, Juan. El clientelismo político como límite a los frenos y contrapesos en los Estados constitucionales de derecho. **Criterios**, Bogotá, v. 15, n. 1, p. 1–18, 2022, p. 11.



parameters of legal formality<sup>21</sup>. Here, formalism is understood as an approach to law that considers legal norms as aspiring to perfection and, consequently, demands mimetic interpretations from legal practitioners that inhibit critical analysis<sup>22</sup>. Therefore, merit-based public recruitment can be interpreted from an anti-formalist perspective, which views law as a legal framework that requires the construction of authentic interpretations<sup>23</sup>. This authenticity is ensured to the extent that the legal norm is contextualised, both from and for the realities that lie behind the literal text of a written legal provision.

One of the greatest opportunities for contextualisation within the legal framework of merit-based public recruitment processes is the existence of structural inequities. These inequities persist despite the norm's literal intent to address them through objectivity<sup>24</sup>. Such is the case with those conditions that require a differential approach in order to be made visible, as the generality of the social body is marked by particular diversities that prevent individuals from competing on a strictly meritocratic basis<sup>25</sup>. It should be acknowledged that there are multiple and highly varied structural inequities<sup>26</sup>. Although diagnoses have been constructed and improvement proposals formulated, there remains a significant opportunity to incorporate these research findings into merit-based public recruitment processes as discussed here. The evaluation criteria used to allocate scores may implicitly favour individuals with greater structural advantages, thereby generating an apparent objectivity that, in reality, impedes equitable development.

Within this hermeneutical framework, age can be understood as an invisibilised structural inequity, one even endorsed by the merit-based recruitment processes of the public sector. It must be considered, however, that no single variable can be regarded as the absolute cause of the inequities in question, as their structural scope requires the interplay of various variables that, in themselves, constitute the suggested obstacles to development<sup>27</sup>. Nonetheless, age will be the criterion through which the system-

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<sup>21</sup> MORANCHEL POCATERRA, Mariana. Administración pública, corrupción y derechos humanos. **Revista Eurolatinoamericana de Derecho Administrativo**, Santa Fe, v. 7, n. 1, p. 113-126, 2020, p. 120.

<sup>22</sup> CELY, Leonardo. El carácter especulativo de la iusteoría periférica. **Prolegómenos**, Bogotá, v. 17, n. 34, p. 33-41, 2014, p. 36.

<sup>23</sup> PERILLA, Juan. El Estado retado desde el constructivismo antiformalista: legitimidad y convicción. **Criterios**, Bogotá, v. 14, n. 1, p. 21-36, 2021, p. 28.

<sup>24</sup> LÓPEZ, Carlos; QUEJADA, Glenda y OBREGÓN, Alexander. Inequidad por la condición étnico-racial en el aseguramiento de salud en Colombia: un estudio de corte transversal. **Rev Panam Salud Pública**, Panamá, v. 45, p. 1-9, 2021, p. 5.

<sup>25</sup> IBARRA, Adelaida; MARTÍNEZ, Gloria y SÁNCHEZ, Robinson. Avances en materia de igualdad desde una perspectiva de género en el derecho constitucional colombiano. **Análisis Político**, Bogotá, v. 34, n. 101, p. 5-22, 2021, p. 11.

<sup>26</sup> ABRAMO, Laís; CECCHINI, Simone y ULLMAN, Heidi. Enfrentar las desigualdades en América Latina: el rol de la protección social. **Cienc. Saúde coletiva**, Río de Janeiro, v. 25, n. 5, p. 1587-1598, 2020, p. 1588.

<sup>27</sup> PINEDA, Javier. Colombia: el sesgo antilaboral del modelo de desarrollo y las políticas de formalización. **Cuadernos del Cendes**, Caracas, v. 32, n. 89, p. 103-140, 2015, p. 115.



atisation of merit-based recruitment processes is analysed, as it is considered a natural variable for each individual, over which—unlike other variables—there is no external influence or possibility of modification beyond the passage of time<sup>28</sup>. Regarding access to public employment, age is analysed in relation to those individuals who, having reached adulthood, wish to access an administrative career position, acknowledging the three legally recognised age categories in Colombia<sup>29</sup>: young adults (from 18 to 27 years), adults (from 28 to 60 years), and older adults (over 60 years).

When analysing this age classification in relation to merit-based recruitment processes, it must be noted that no structural inequity is present with regard to the five criteria outlined in the first section. This is justified by the consideration that of the five criteria employed by Colombian public entities to evaluate candidates for an administrative career position, two do not inherently represent inequity, one is subject to the ambiguity of its own formulation, and two carry implicit barriers. With regard to the first category, age in itself cannot be considered a structural disadvantage when technical knowledge tests or behavioural performance tests are administered, as it would be prejudicial to assume that people are wiser simply because they have lived longer<sup>30</sup>. This would only be problematic if the content of the questionnaires were designed with the explicit intention of evaluating knowledge that could only be acquired over time<sup>31</sup>, but such cases are exceptional and not systematically structured to allow this conclusion.

Regarding the ambiguous criterion that introduces a contextual dependency to determine whether it constitutes a structural inequity, the interview is a key element. In most cases, there is a lack of clear criteria for such performance assessments, and it will largely depend on the subjectivities of the evaluator<sup>32</sup>. As such, it is possible that the criteria employed by the evaluator might favour young adults, adults, or older adults, according to their personal views<sup>33</sup>. Therefore, this variable may negatively affect or positively benefit young adults, meaning it cannot be categorically regarded as a cause of structural inequity based on age. As a result, this category occupies a middle ground,

<sup>28</sup> PABÓN, Daisys; FLÓREZ, Angie y SANABRIA, Lina. Estereotipos sobre la población adulta mayor en tres grupos etarios de cuidadores de personas mayores dependientes. **Actualidades en Psicología**, Bogotá, v. 33, n. 127, p. 63-80, 2019, p. 72.

<sup>29</sup> RESTREPO, Adrián. Los jóvenes y sus luchas por el reconocimiento. **Nómadas**, Bogotá, v. 32, p. 179-194, 2010, p. 184.

<sup>30</sup> RESTREPO, Diego. La juventud como categoría analítica y condición social en el campo de la salud pública. **CES Psicología**, Medellín, v. 9, n. 2, p. 1-6, 2016, p. 4.

<sup>31</sup> MÁRQUEZ, Antonio. Las pruebas estandarizadas en entredicho. **Perfiles educativos**, Ciudad de México, v. 36, n. 144, p. 3-9, 2014, p. 7.

<sup>32</sup> CONTRERAS, Johana y TORRES, Álex. Las evaluaciones educacionales estandarizadas desde la experiencia de los actores. **Educação e Pesquisa**, São Paulo, v. 49, p. 1-19, 2023, p. 12.

<sup>33</sup> CANOVA, Carlos. Variables que influyen el desempeño de los estudiantes en las pruebas SABER PRO. **Enfermería: Cuidados Humanizados**, Bogotá, v. 12, n. 2, p. 1-12, 2023, p. 5.



inconclusive in determining whether it directly impacts the equity of merit-based recruitment processes from the perspective of age.

Consequently, the two criteria that can indeed generate structural inequity based on age are the valuation of professional experience and the accreditation of degrees awarded by higher education institutions recognised by the Colombian state. Upon analysing the experience requirement, a direct relationship becomes apparent between the passage of time and the opportunity to accumulate higher scores in this criterion, as the older a person is, the more likely they are to possess experience. This reveals an underlying structural inequity, as young adults seeking public employment positions will be unable to do anything to obtain more points for experience, as the natural factor of age already prevents them from competing on equal terms with older adults. Thus, a structural inequity is established, as mandatory written legal norms generate inequalities that cannot be rectified by the individual, regardless of their intent to do so.

In this sense, merit-based public recruitment processes become an obstacle to the transition of young people into the labour market through the criterion of experience. Despite a strong will to work, the written law establishes a normative parameter based on experience that excludes young adults. The same holds true for the required academic degrees, as these are directly related to the passage of time needed to obtain them. On average, and according to recent research data, people in Colombia graduate as professionals at the age of 22<sup>34</sup>. However, merit-based public recruitment processes tend to regard the professional degree as a qualifying requirement and not as a factor contributing to the score, meaning that the differentiating points are awarded for additional postgraduate degrees. These can be specialisations (on average lasting one year), master's degrees (on average lasting two years), and doctorates (on average lasting five years). Therefore, in order for an individual to hold all the academic titles that earn points, they would need to invest approximately eight years after obtaining their initial degree. Although it is not suggested that academic titles are acquired simply by the passage of time, this variable is nonetheless required to complete the academic credits necessary to obtain the titles considered qualifying in merit-based recruitment processes.

To empirically test these structural inequities related to age, recent merit-based recruitment processes for appointing ombudspople in all municipalities and districts across the country can be analysed. Specifically, the merit recruitment process for the Ombudsman position in Bogotá for the 2024-2028 term can be examined. This particular contest is chosen because Bogotá is considered the capital of the country and, therefore, the most important territorial entity in Colombia<sup>35</sup>. In this case, the terms and

<sup>34</sup> ESPITIA, Andrés y RINCÓN, Carlos. Colombia's Higher Education at Risk: Where are the Students?. *Ecos De Economía*, Bogotá, v. 24, n. 51, p. 4-28, 2020, p. 13.

<sup>35</sup> DUQUE, Isabel y RODRÍGUEZ, Clara. Nuevos competidores políticos en elecciones de Concejo Municipal de 2015 en Colombia. Magnitud de circunscripciones y resultados electorales. *Estudios políticos*, Medellín, v. 52, p. 194-218, 2018, p. 202.



conditions set forth in District Council Resolution 063 of 2024, implementing the applicable legal mandates, stipulated that a professional degree and a postgraduate degree were qualifying requirements. Consequently, it was expected that participants would, at a minimum, fall within the middle range of the applicable age segment for young adults. The qualifying requirements were assigned the following percentage values: legal knowledge test (60%), behavioural performance test (10%), professional experience assessment (10%), educational qualifications (10%), and interview (10%). In the case of professional experience evaluation, one percentage point was awarded for each year of experience, immediately making this contest inequitable for young adults by excluding them based on age and privileging older adults. This conclusion is reinforced when analysing the scores assigned for additional academic qualifications beyond the minimum requirements, where each specialisation earned three points, each master's degree six points, and each doctorate nine points. Therefore, to obtain the full score for these criteria, an individual would need to be over forty years old, and indeed, the person ultimately chosen was above that age range.

It has thus been demonstrated that merit-based recruitment processes are a relevant strategy for addressing clientelist phenomena in access to public employment. However, they must be strengthened through anti-formalist approaches that identify gaps arising from structural inequities. One such gap is the age criterion, which classifies adults into young adults (18 to 27 years), adults (28 to 60 years), and older adults (over 60 years), as the established criteria for awarding points in merit-based recruitment processes may negatively affect young adults. Of the five criteria generally adopted by public entities, two do not directly represent a structural inequity (knowledge and competency tests), one is ambiguous and inconclusive (interviews), and two show a negative impact simply due to age (experience and educational qualifications). This becomes evident in various examples, such as the Merit-Based Recruitment Contest for the position of Ombudsman in municipalities or districts, where the terms and conditions effectively exclude young adults from accessing such positions on the basis of merit. Consequently, in the following section, we explore ways to strengthen merit-based recruitment processes to facilitate the transition of young people into public employment.

#### 4. PROPOSALS FOR STRENGTHENING MERIT-BASED PUBLIC RECRUITMENT PROCESSES FOR YOUTH TRANSITION INTO THE LABOUR CONTEXT

The structural inequities based on age, regarding merit-based public recruitment processes for access to public sector employment, suggest a strengthening of the strategy rather than a replacement of meritocracy. This is explained by the need to provide



real opportunities for individuals to exercise their rights, without limits imposed by external factors that cannot be remedied by candidates applying for a specific position<sup>36</sup>. If young adults cannot alter the natural condition of age that places them at a disadvantage, adjustments should be made through differential approaches to overcome the issue. In this regard, the following strengthening proposals are formulated: first, for the criteria that do not pose an evident risk, guidelines should be established to avoid privileging knowledge or competencies acquired solely due to age; second, substantially modify ambiguous criteria that do not provide certainty about their objective application, without ruling out the possibility of eliminating them from the evaluations; and third, develop segmentation strategies to assess candidates for public positions equitably, meaning applying a meritocratic approach contextualised according to the age categories of participants in merit-based public recruitment processes.

The first strengthening proposal directly addresses technical knowledge tests and behavioural competency evaluations, as these are among the least inequitable criteria for young adults. However, this apparent objectivity must be ensured not only in its formal formulation but also in the selection of the instruments used for evaluation and the specific content included in the items that are graded<sup>37</sup>. For example, the tests should use formats that cannot be learned simply through the passage of time, but that are inclusive of all age groups. It would be inadmissible to assess, for example, using a form specific to an entity that can only be understood after having worked for several years as a professional in that particular context. Similarly, the content included in the format should reflect knowledge that pertains to general competencies, developed across multiple contexts, and not solely with the passage of time within a specific profession. Therefore, technical knowledge should be prioritised, knowledge that can be acquired both in academic and practical settings, ensuring its utility without dependence on prior professional experience.

The aforementioned recommendations can be understood as action guidelines, although it must be noted that it is difficult to definitively assert that these two criteria inherently generate structural inequities based on age. A different scenario arises in the case of interviews, where the ambiguity of their content can be considered a latent risk that hinders young adults from securing a transition into public sector employment. Regarding this, and maintaining coherence with the previous section, the first potential strengthening measure would be to retain interviews as a scoring criterion in merit-based recruitment processes but assign the most objective possible criteria for their

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<sup>36</sup> CRUZ, Roberto. Los muchos caminos hacia la transparencia: Una tipología de temas y variedades en la literatura sobre transparencia. **Revista Española De La Transparencia**, Madrid, v. 18, p. 293-329, 2023, p. 299.

<sup>37</sup> ESCOBAR, Johan; HERNÁNDEZ, Erwin y JAIMES, Claudia. Pruebas de Estado de Educación Superior y Educación Médica en Colombia. **Revista Cubana de Medicina General Integral**, La Habana, v. 39, n. 1, p. 1-14, 2023, p. 8.



implementation<sup>38</sup>. In these cases, the criteria should be formulated by individuals other than those who will conduct the evaluations, to ensure a comprehensive and equitable formulation, where the evaluator's biases are controlled through a reliable relationship resulting from validation<sup>39</sup>. However, this option may still harbour risks, specifically in the interpretation of performance during an interview, as notable subjectivities remain when interpreting not only what is said but also the manner in which the message is conveyed and the personal conditions of the interviewee. Therefore, to mitigate this latent risk that could eventually affect the youth transition into public employment, it is suggested to eliminate interviews from merit-based public recruitment processes.

Regarding the evaluation of experience and academic qualifications, the two criteria that clearly create inequities for young adults seeking to access public employment via merit-based recruitment processes, segmented merit is proposed. Segmentation represents a differential approach strategy, whereby equality is complemented hermeneutically by equity. The idea that all individuals should be treated equally is complemented by the notion that all individuals in the same conditions should be treated the same way. This represents a disruptive transformation of classical civil rights, contextualising the normative formulation that aims to appear objective. What is needed, therefore, is the establishment of segmentation categories that would be used, where, in the case of young adults, the age range between 18 and 27 years would be considered. In this way, it is proposed that public sector positions be divided equally between age segments, with some reserved for young adult candidates, others for adults, and others for older adults who have not yet retired. It is even possible that the adult category may also have additional sub-segmentations, where equity complements a formally objective equality that, until now, has shown a structural flaw for young people seeking access to public employment.

In this context, segmented merit can provide a transformative approach to merit-based public recruitment processes, as equality is guaranteed through differential principles of equity. For the time being, it is a formal proposal, which, if materialised in concrete realities, can measure its positive and adverse effects to generate further strengthening. Although it must be regarded as a provisional proposal that still requires validation, it serves as an alert to identify that, under current conditions, there are structural inequities that negatively affect the youth transition into public sector employment. Thus, up to this point, an implicit problem has been diagnosed, one that has been invisibilised and accepted over time, as young people face obstacles to accessing public employment, and their only option is to wait for time to pass while working

<sup>38</sup> CARRERO, Ricardo. El principio de reciprocidad y sus limitaciones en la contratación pública en Colombia. *Criterios*, Bogotá, v. 14, n. 1, p. 125-182, 2021, p. 141.

<sup>39</sup> PUENTES, Germán. Fricciones entre las ramas del poder público a propósito de la función pública en Colombia. *Estudios Socio-Jurídicos*, Bogotá, v. 19, n. 1, p. 79-123, 2017, p. 83.



and/or studying. The public sector employment context does not offer differential treatment to young people; rather, it encourages them to apply for positions once they cease to be young adults and enter the adult age range. It is precisely at this point that concrete actions are needed to strengthen merit-based public recruitment processes, as an objective but real option for the full realisation of rights.

## 5. CONCLUSIONS

The Colombian Political Constitution of 1991, currently in force, adheres to a Social State of Law, aiming to provide full opportunities for all individuals to exercise their rights within context. One such opportunity has been understood as access to public employment within the career civil service, for which merit-based recruitment processes with seemingly objective criteria have been implemented for all participants. These criteria are established by each territorial entity, according to service needs and the contextual characteristics in which they are embedded. In administrative practice, recruitment processes have stages that adopt a certain level of uniformity, incorporating the following assessable criteria: knowledge exams, competency tests, experience evaluation, academic qualifications scoring, and interviews. Each of these is assigned specific percentage values, allowing the selection of the top candidate for a public position. Thus, merit-based recruitment processes are valued as a key strategy to limit clientelistic practices that were once prevalent in these cases.

These strengths of merit-based recruitment processes can be complemented through an anti-formalist interpretation, which allows for the identification of areas for improvement beyond the formal view of the written norm. In this way, the need to avoid structural inequities in these processes becomes evident, as such inequities sometimes stem from invisible dynamics that have even been accepted by the broader society. The variables for understanding these inequities are manifold, and one of them pertains to the age characteristics of the participants, since in Colombia, adults are divided into three categories: young adults, adults, and older adults. In the case of merit-based recruitment processes, it is concluded that at least two of the five criteria used to fill career civil service positions lead to structural inequities related to age, which create obstacles for young adults in transitioning to public sector employment. Specifically, these are the evaluation of experience and the scoring of academic qualifications, as they are directly linked to the natural variable of the passage of time.

Therefore, based on the analysis of specific cases, it is proposed that a differential approach be applied to merit-based recruitment processes in terms of age categories. To this end, it must be ensured that all evaluation instruments and contents avoid focusing on aspects that can only be learned through time spent working within a specific entity. Additionally, rigorous criteria must be formulated to ensure that ambiguous



criteria provide full objectivity, avoiding subjectivity on the part of the person applying the assessable tests; this does not exclude the possibility of removing notably subjective tests, such as interviews, from merit-based recruitment processes. Finally, segmented merit strategies should be applied so that the equality inherent in merit-based recruitment is complemented by equity, treating individuals in similar or analogous conditions equally. In the case of young people, this could involve ensuring that public sector positions are divided equitably across age ranges, with some positions being exclusively, though not exclusively, reserved for young adults. These are preliminary proposals that must continue to be validated, given the urgency to address the structural inequities identified.

In this sense, the research process allowed for the answer to the research question and the achievement of the general objective set forth in this article. As a result, the hypothesis that merit-based recruitment processes in Colombia do indeed hinder youth transitions to the labour market through natural criteria, such as age, in the context of access to public sector employment, is accepted. This was made possible by addressing each of the three specific objectives in separate sections of the article, using a socio-critical hermeneutic approach based on qualitative research methods, with documentary review as the main information-gathering source. In this context, the systematisation of how merit-based recruitment processes function to fill career civil service positions in Colombia, and the respective questioning from the perspective of young adults' age conditions, led to the proposal of strengthening strategies. These strategies constitute a formal starting point to transform the inequitable dynamics present in youth transitions into the Colombian state labour context, both from and for concrete practices. This represents a challenge that, through subsequent research processes, can continue to be disruptively materialised.

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