



The occasional contracts of the LOSEP are a form of labor precariousness in the health sector

Los contratos ocasionales de la LOSEP una forma de precarización laboral en sector salud

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Received: July 12, 2023

Approved: September 09, 2023

Cite this:

Miranda, F., Pachano, A. (2023). Los contratos ocasionales de la LOSEP una forma de precarización laboral en sector salud. *Espirales Revista Multidisciplinaria de investigación científica*, 7 (47),

Abstract

In public health, i.e., in hospitals or health centers, occasional contracts are usually issued for new personnel. However, this type of contracting violates several inherent principles of the workers, causing labor and family instability. This form of contracting does not strengthen the stability of the worker; on the contrary, it generates precariousness, since it does not provide the security and opportunities that those professionals with an appointment have. For this reason, the general objective of the following research is to analyze the figure of occasional contracting as a factor affecting job security in the public health sector. The study seeks to know the scope of the occasional contracts of the Organic Law of Public Service (LOSEP) as a form of labor precariousness which will form a kind of inequity and discrimination of professional staff working within this modality compared to the benefits that have the permanent appointment, which is achieved through a qualitative methodological approach with methods such as analytical-synthetic, historical-inductive and logical.

Keywords: contracts, labor, casual, precariousness.

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Resumen

En la salud pública, es decir, en hospitales o centros de salud, habitualmente se expiden contratos ocasionales para su nuevo personal. Sin embargo, este tipo de contratación vulnera varios principios inherentes de los trabajadores ocasionando inestabilidad laboral y familiar. Esta forma de contratación no fortalece la estabilidad del trabajador, al contrario, genera precarización, ya que no brinda la seguridad y oportunidades que poseen aquellos profesionales con nombramiento. Siendo este motivo, el objetivo general de la siguiente investigación que es analizar la figura de contratación ocasional como factor de afectación en la seguridad laboral dentro del sector de la salud pública. El estudio busca conocer el alcance que tienen los contratos ocasionales de la Ley Orgánica de Servicio Público (LOSEP) como una forma de precarización laboral lo que va formar una especie de inequidad y discriminación del personal profesional que labora dentro de esta modalidad en comparación con los beneficios que tienen los de nombramiento definitivo, lo cual se logra a través de un enfoque metodológico cualitativo con métodos tales como el analítico- sintético, el histórico – inductivo y lógico.

Palabras clave: contratos, laboral, ocasionales, precarización.

Introduction

The minimum term of the employment relationship through occasional contracts generates uncertainty at a personal and family level, due to the imminent termination of a worker; being one of the main concerns, the economic support of the household. The research will break down the issues related to the occasional contracts of the LOSEP that fall into a form of labor precariousness in the health sector, to determine the mechanisms by which these denominating entities should strengthen the creation of competitive examinations and merits proposed within the Ministry of Labor at the national level.

In this way, the aim is to reduce the precariousness of labor in which professionals hired in the Ecuadorian health sector find themselves. Thus, the rights of the worker, as well as those of public servants, will be key concepts to understand the content and application of occasional contracts of this type.

The State, through the Ministry of Health, will be in charge of hiring processes, whether occasional or through competitive and merit-based examinations. The first type of hiring is the most used mechanism, representing a quarter within these processes;

which reflects an inefficient system that, in its effect, causes job insecurity and instability, as workers are disengaged from their positions directly and immediately (Salazar, 2019).

Occasional contracts produce two problems: instability among civil servants and a drain on state resources (Abad, 2020). Within this framework, the LOSEP would not be linked to the precepts of the Constitution of Ecuador because it only guarantees the rights of public servants, whose contracts are of long duration or indefinite (Valencia, 2021).

Ecuador is a Constitutional State in which rights and justice are intended to prevail, however, it does not provide labor stability to certain public servants covered by occasional contracts. Despite having the legal obligation, it does not comply with the provisions of Articles 33 and 327 of the Constitution of Ecuador (2008) that refer to work as a right and the prohibition of labor precariousness, respectively.

According to article 13 of our Constitution of the Republic of Ecuador, it is the obligation of the State to provide the fundamental rights to the people, one of them and the one that has to do with the present topic, is the food support, same that has concordance with our labor code in which it is indicated that the workers have rights that are unrenounceable. For this reason, it is important to indicate that, in the history of labor matters, the objective is to guarantee economic income in a direct manner, with the purpose of adequately satisfying family needs with a decent salary, in exchange for a job.

Despite this, at present, people hired in public institutions who provide occasional services live in a deep, unjustified, illegitimate and unconstitutional labor instability, thus causing them a social, economic and also psychological problem, because at the end of the contract they have to wait with uncertainty whether or not the contract will be renewed (Jara, 2021).

According to our Constitutional Court (2015), through the issuance of occasional contracts for the provision of services, the worker is not offered job stability, let alone an advancement in his or her administrative career within the institution. Similarly, benefits are not perceived, nor the same opportunities as someone who has an appointment. This is also found in a part of Article 58 of the LOSEP (2010) which states:

Public servants subject to this type of contract will not enter the public service career, for the duration of their contract.

For those employees who have signed this type of contract, leaves of absence and service commissions with or without remuneration will not be granted for regular or postgraduate studies within the working day, or to provide services in another institution of the Public Sector.

This type of contract, by its nature, in no way represents employment stability, nor an acquired right for the issuance of a permanent appointment, and may be terminated at any time (...).

The preceding arguments are an account of what was established as the motive of this work. Labor precariousness is a fact when it comes to occasional contracts, since there is no solidity in terms of working conditions; in addition, benefits are lower. This implies a dehumanization of the worker, since he/she is only approached as a disposable element within the public system. In this sense, it is imperative that all human talent units of the entities make plans for social restitution and not only labor restitution.

Materials and methods

The study adopted a qualitative methodological approach, aimed at understanding and analyzing in depth the experiences, perceptions and contexts in which health professionals operated under the figure of occasional contracting. In addition, an exhaustive documentary review focused on the Organic Law of Public Service (LOSEP) and other relevant regulatory frameworks was conducted to identify the legal bases and guidelines governing contracting in the public health sector.

The analysis employed an analytical-synthetic approach, breaking down the information to identify key elements and then synthesizing it into relevant categories and themes. Using the historical-inductive method, the evolution of casual contracting in the public health sector was examined over the years, with the aim of identifying patterns and trends. The logical approach made it possible to establish causal relationships and correlations between casual contracting and its implications for the job security and stability of professionals.

Results

History shows that conflicts of interest are present in the relationship between the employer and the worker, since the former requires occasional labor, while the latter requests a paid and, if possible, secure job. To achieve this objective, the employer makes use of the State, which has power within the country's economy. This makes the worker the weakest link in the chain, especially when it comes to occasional contracts.

It was precisely this dynamic that led to the creation of the LOSEP, a law whose purpose was to regulate the public service, especially the Ministry of Health, in terms of salaries and human resources, due to the lack of clarity and effectiveness in the application and resolution of the legal norm. In order to respond to the highest demands of society, through a transparent, efficient, effective and good quality public service.

An antecedent to the LOSEP is the so-called Organic Law of Civil Service and Administrative Career, enacted in 2005, which will contemplate the areas of human resources and hiring with the purpose of strengthening a technical system of administrative resources with emphasis on the professionalization of public servants, in order to improve the effectiveness and efficiency of state institutions. This law addresses some issues, among the most important of which are the requirements for job placement and, the one that concerns the subject in question, occasional hiring based on the Law of Personal Services by Contract enacted in 1973, issued by supreme decree.

On the other hand, due to the pandemic of the COVID-19 virus, the National Assembly enacted the Organic Law of Humanitarian Support which in its Article 25 talks about the so-called stability of the workers of our health entities:

As an exception, and for this occasion, health workers and professionals who have worked during the coronavirus health emergency (COVID-19) with an occasional contract or provisional appointment in any position in any health care center of the Integral Public Health Network (RIPS) and its respective complementary networks, after the merit and opposition contest, will be declared winners of the respective public contest, and consequently will proceed with the immediate granting of the definitive appointment (2020).

This article explains it as follows: the merits will have a score of 50% corresponding to the degree that must be duly recognized by the so-called Secretariat of Higher Education, Science, Technology and Innovation (SENESCYT), only for the duly verified profiles that apply and within the prerequisites for hiring. While, the part of the opposition will also have a score of 50% that will be assigned with the due presentation of the occasional contract or a provisional appointment duly notarized that is registered in the Integral Health Network.

In spite of this, sentence No. 18-21CN/21 declared Article 25 of the Humanitarian Law unconstitutional because it did not have the necessary technical or economic support for its application (Constitutional Court, 2021).

Occasional contracts have their own characteristics, one of which is the duration. That is to say, if the duration of the contract exceeds the limit of twelve months established in art.58 of the so-called LOSEP law (2010), it means that this public service entity has made the worker's right precarious, through the abuse of this type of contractual modality, which is detrimental to the worker's realization as a human being.

As a consequence, the characteristic of the State foreseen in Art. 1 of the norm that is the Constitution (2008), which refers to the State as guarantor of rights and justice, is disrupted. This is due to the lack of application of the constitutional principles found in Art. 11 (2008) of the Constitution, which states that "all persons are equal and shall enjoy the same rights, duties and opportunities" and is represented as a tool for the optimization of human rights.

What is meant is that the right to equality implies the creation of a modern society that will respect in all its dimensions the dignity of individuals and also of collectivities, where justice and equity, as well as freedom, peace, independence, solidarity, territorial integrity and good living must prevail. Thus, it will ensure the right to life, culture, work, social justice and education.

Under the content of the LOSEP (2010), and the nature of the so-called occasional contracts and the institutional needs that public entities must have, they have the power to hire under the modality, as well as to terminate the existing employment relationship

unilaterally, when there are sufficient reasons that are provided for in the law and regulations. If this time is extended, a precariousness of the right to work arises.

In other words, the celebration of several occasional contracts breaks the rule stipulated by the LOSEP. For this reason, the Constitutional Court of Ecuador in its decision 296-15-SEP-CC established that the authorities of the Ministry of Health misused the occasional contracts by exceeding their duration, creating situations of labor precariousness.

The Ministry of Health, through its officials, repeatedly enters into occasional contracts and does not pay attention to their consequences. Thus, the right to work becomes precarious and contraventions are generated with respect to public order regulations, as opposed to the so-called human rights. Although the entity does not have the authority to misapply the law, this will affect its image and consolidation, since the certain labor expectations of its workers are not satisfied because they do not have the opportunity to compete and get a secure job.

These facts always represent an abuse of authority that will violate the legal security provided in Art. 82 of the Constitution (2008) which states that members of society must use the Ecuadorian State for the application of internal and supreme regulations. That is, human beings from birth enjoy prerogatives that are in human nature such as innocence, freedom, dignity, and life, among them we find legal certainty which is one of the most precious goods of the State and must be guaranteed to citizens. In this sense, the Constitution demands respect for and compliance with legal certainty.

The Constitution (2008) enacts, "work is a right and a social duty, and an economic right, source of personal fulfillment and basis of the economy" in its (art. 33). The legal system in Ecuador will recognize and also guarantee the right to work with dignity in all its forms with all that it implies, that is, rights and obligations of the parties, to provide a decent life for citizens. This article is complemented by the so-called Andean Charter (2002) which defines professional work as "an opportunity to enjoy a dignified life and satisfy personal and family interests such as clothing, food and housing" (art. 24).

Similarly, the Constitution of Ecuador guarantees non-discrimination and integration in relation to labor rights. This implies that Ecuador is a country that, at a legal level, offers its citizens a decent life based on "the opportunity to earn a living through a freely chosen or accepted job" (Maldonado, 2022). However, there is still a lot of work to be done, because although the regulations indicate certain rights for workers, there are public institutions that do not apply them and violate the worker.

The disadvantage that the worker has with respect to the employer is still notorious. According to Rangel (2022), labor law is of a protectionist nature since, within the labor relationship, the worker does not have the same aptitudes to be able to compete with the employer. In this way, and from any kind of conflict, the party that is harmed will be the worker, and for this reason the State has the obligation to protect the labor welfare of the weakest.

Additionally, Salazar (2019) indicates that the right to work in its fair conceptualization is an efficient mechanism for overcoming poverty, because to the extent that there is more employment or decent work, families will have better income and access to goods and services that can exclude them from the condition of poverty.

Meanwhile, labor law is a branch of law that regulates the relations of human beings within the scope of their work, i.e. the function as such that they perform in a relationship of dependence, with individual and collective consequences for the general progress of the people (Balbín, 2022).

Thus, we can say that the right to work, characterized by being inherent to the human being, is a priori duty of the State as the main guarantor of rights and that, in addition to guaranteeing its access, it must pursue sufficient means to make it a channel for the satisfaction of needs, so that, in this way, the dignified life, well-being and security of the human being are strengthened.

At present, public sector entities do not stabilize the professional and this affects the institution due to the high turnover of personnel, in this sense the resources of the State are worn out, since the personnel, occasionally hired, who have already adapted to their functions are separated from the institution when their contract is not renewed, "with which the State enters a circle of constant renewal and waste of resources" (Abad, 2020).

In Ecuador, there is evidence of late progress with respect to labor rights. Although the Constitution will guarantee the right to work and the protection of public sector employees, there is little or no control or agreement in practice. Because each process of job creation is carried out according to the government of the day. In this way, a centralism is favored in which the priority is given to the supporters of the government in power, which is the reason for the creation of secretariats and ministries that, at most, will provide a job position for a period of twelve months or a maximum of twenty-four months under the modality of occasional contract. This transforms the labor environment into a field of uncertainty for stability. This process contradicts Article 326 paragraph 5 of the Constitution of the Republic of Ecuador (2008), which relates to the generation of a decent work environment.

The situation worsens when the National Assembly during the year 2010 enters into force the Organic Law of Public Service (LOSEP) that comes to try to improve the right to stability of public servants, but as indicated, leaves in the hands of the always efficient public administration the responsibility of hiring occasionally, applied in a discretionary manner according to the will of the politicians in office, which in the LOSSCA an already repealed law did not contemplate this type of contract.

According to Article 227 of the Constitution, public administration is a service provided to the community and is governed by principles of quality, hierarchy, efficiency, deconcentration, coordination, planning, decentralization and evaluation.

According to Article 229, paragraph 2 of the Constitution of Ecuador, the law must define the body that will be responsible for human resources and remunerations that

govern the entire public service sector, which, in turn, regulates promotions, incentives, discipline, stability and termination of functions.

Article 3 of the Organic Law of Public Service states that the provisions of this law apply to remuneration and human resources in the public administration, including the Ministry of Public Health (MSP), and are subject to the provisions of the Ministry of Labor Relations.

Article 51 paragraph a) of the LOSEP will indicate that within the competencies of the Ministry of Labor Relations is to exercise the leadership in remunerations of the so-called public sector and also to issue the technical norms for human resources in accordance with the law.

Article 56 of the LOSEP determines that the so-called Human Talent units are the ones that will elaborate the annual planning of human talent according to their respective programs and plans. These processes will be executed for the coming year to be approved 30 days prior to the budget proforma.

According to Article 57 of the LOSEP, its objective is to regulate the creation of posts in the institutions it governs.

Article 115 of the Organic Planning and Public Finance Code establishes that no entity of the sector may enter into commitments or contracts without a budgetary certification of finances issued by this public entity.

Article 143 of the LOSEP states that the payroll entity may enter into occasional contracts with a favorable report from the Human Talent Administration Unit (UATH), which must justify the need for the occasional work with a certification of the requirements fulfilled according to the LOSEP and its regulations. This certification will allow to know if there are due economic resources with the corresponding item that would be linked to the budget, but it must also be observed that this hiring does not increase the wage bill. UATH will be responsible from the very beginning for the new personnel to be hired, including the induction process.

The so-called public servants are those who are assigned a position to meet the priority needs of the population; always with the objective of safeguarding the collective interests in an appropriate manner. Muñoz (2020) defines them as "a natural person who provides personal services to a State entity for the purpose of receiving remuneration" (p.6).

The Ecuadorian Constitution (2008) establishes the following with respect to the so-called public servants: "all persons who in any way or in any capacity work, provide services or exercise a position, function or dignity within the public sector shall be public servants" (art. 229).

Public servants acquire obligations and rights, as well as personal commitments when they are hired by the State. These workers offer their personal, lawful services under the concept of a retribution with the same rights as appointed employees, but without having stability. Therefore, a relationship of dependence and subordination is created,

which means that the State entity will be in charge of arranging working hours, as well as defining the administrative activities of each employee (Jara, 2021).

In our country, the State is the largest generator of jobs in the so-called health system through the Ministry of Health and the Ecuadorian Institute of Social Security. Figures indicate that, by October 2021, the number of people hired in the health sector is 130,537 compared to 95,031 in the private sector. Of the number of workers in the health sector, the majority have an occasional contract (PAHO and Ministry of Public Health, 2021). This number is alarming because it reflects the precariousness of the sector.

Therefore, the fundamental rights of workers in the health sector are not in accordance with the provisions of the Constitution of Ecuador (2008) regarding a dignified life, much less with the provisions of the Organic Law of Public Service regarding the so-called occasional contracts.

Organizational psychology would show that a major cause for concern is the context faced by public servants subjugated by criteria of effectiveness and efficiency, this scenario results in a perception of insecurity regarding the persistence in employment, and the possibilities in the future to keep it and their own permanence, this is influenced by the time required of them and the commitment to the organization (Valencia, 2021).

Labor stability is one of the primordial principles that erect the laws regarding labor and disaggregate other rights in the practices of flexibility with social ranges and broad valuation of workers' rights (Muñoz, 2020).

Maldonado (2022) makes clear the position of the World Health Organization regarding stress at work as one of the causes that affect the emotional stability of workers and this seriously damages the proper performance of their activities in the workplace. Stress is generally reflected when working conditions are not adequate.

In several postulates every person should have the right to a job, as a way to reach the conquest of certain elementary rights that are fundamental to have a life with minimum dignity. This emphasizes as an opportunity through a job that is freely chosen to give the security of a dignified life. In the progress of this right according to (Muñoz, 2020), the authorities are obliged to guarantee a correct orientation that can give way to take the appropriate measures to create a suitable environment where fruitful employment opportunities are created, where they must ensure that there is no discrimination with all aspects of work that can be generated.

The right to equitable and satisfactory working conditions and the rights related to contracts are closely related to the right to a favorable working environment without violating their rights (Muñoz, 2020). Governments have the obligation to guarantee salaries in accordance with professional training, which must be evaluated in harmony with the existing economic values within this labor regime, fair remuneration and equal opportunities. Workers must be guaranteed a minimum wage that allows a decent life for them and their families through laws that predispose the employer to a fair treatment

that guarantees the aforementioned (Gavilánez, 2021). The conditions that should be in a job should be safe, healthy and not degrade the dignity of the human being. Employees should be offered reasonable working hours, adequate rest and leisure time, as well as periodic vacations (Valencia, 2021).

All professionals should have the right to free association in order to improve the conditions of their work and increase the standards of living and quality of life. These workers should access and have the right to form or join an association of their choice (Salazar, 2019). Employees as free people have the right in a peaceful manner to claim their labor rights as long as it is done in accordance and attached to the laws that govern us. Collective labor rights cannot be subject to restrictions by States (Gavilánez, 2021).

The LOSEP (2010), states that: the execution of the so-called occasional contracts must be issued exceptionally by the appointing authority, and within this scheme meet the needs of the institution that are not permanent, with a prior but motivated report from Human Resources, with a technical report verifying that there is always a budget item and also the availability of financial resources (art. 58).

It will be deduced that the jurisdiction is the one that gives the formality for the appointments of the servants, in this case in the Ecuadorian State who performs this function is always (Ministry of Labor Relations). In turn, there should be budgets to carry out the hiring and thus give the benefits allowed by law to which all so-called public servants are subject, so the State must have mechanisms that can perform this efficiently and timely.

This type of contract cannot grant leaves of absence and therefore temporary appointments, for which they are not allowed to study according to Article 58 of the LOSEP, which leaves an abyss between their rights and their needs to be able to advance their professional growth. - 58 of the LOSEP which leaves an abyss between their rights and their needs to be able to advance in their professional growth to be able to pursue a master's degree or a doctorate.

According to LOSEP (2010):

If an institution, in this case the MSP, does not have enough professionals, it may rehire once only for up to one year; the authority, within its competence, may not dismiss pregnant women. In this case, the validity of the contract shall last until the end of the breastfeeding period (art. 58).

It is important to emphasize that, according to Abad (2020), the occasional service contract does not generate employment stability, since its duration cannot exceed twelve months and the hiring of personnel under this modality cannot exceed 20% in the institutions, since if this time is exceeded, it is an obligation on the part of the organization that the personnel may access the merit and competitive examination.

The economic benefits enjoyed by employees with occasional contracts under this type of service will be established in the same regulation (LOSEP) in the third paragraph:

Public servants in the health sector who are under this modality will have a dependency relationship and will be entitled to all the economic benefits contemplated for appointed personnel, with the exception of indemnities for elimination of position or departure or incentives for retirement (Salazar, 2019).

The rights of health workers governed by the occasional contract are the same as those of appointed personnel, except for severance pay, whether for elimination of items or incentives for retirement; this is quite right because this type of contract is of a specific duration (twelve months) (Gavilánez, 2021).

The fourth paragraph of Article 58 of the Public Service Law (2010) makes it impossible for employees to remain in their position, i.e.: "Public servants subject to this type of contract shall not enter the public service career, for the duration of their contract".

Although the personnel of the health institution governed under this modality will not be able to enter the public service career, also during the duration of their contract nothing will prevent them from taking part in a public merit-based competitive examination (Muñoz, 2020).

The right of the casual worker in the health area in Ecuador.

The right to work with an occasional contract in the health area of Ecuador occupies a subordinate place in public law, this is found in our legal system in articles 22, 23 and 24 of the duties, rights and prohibitions of the LOSEP which are the duties, rights and prohibitions that are regulated in public institutions as the main axis in what our constitution says, as well as in the rules of lower hierarchy (Jara, 2021).

For the termination of the labor relationship that exists between both parties of the contracts made in the public sector we will find it in the respective Regulation that has the so-called Organic Law of the Public Service (2010) in its Article. - 146, determines the following grounds:

Fulfillment of the term. - Workers will terminate their contract in this modality with the fulfillment of the established term, which is one year, and may be renewed for an additional year; the worker will be entitled to an indemnity whose amount will be in accordance with the values pending to be received, which will be established in the sectorial regulations.

Mutual agreement between the two parties. - This service contract can be terminated by the will of the parties, the LOSEP (2010) determines that the employee by means of a letter of resignation addressed to the Manager or director of a certain health institution makes known his desire not to continue in the job, and that the resignation submitted in writing is approved.

Voluntary resignation submitted. - For a voluntary resignation to exist, it must be expressed in writing, and ratified with a printed signature at the end of the document, which must be sent to the highest authority of the public institution and a copy to the Human Resources department (Jara, 2021).

Inability of the contracted person to provide services. - This refers to the fact that the person who has a contract on occasion, that due to illness or accident at work or not, the service rendered will be unilaterally terminated; he/she will not be able to support him/herself in order to receive remuneration or assistance, as it does not happen in the case of workers with an appointment, as they can benefit from a retirement due to illness (Muñoz, 2020).

Loss of citizenship rights declared by law. - In order to comply with this literal, it must be necessary that there is a motivated judicial sentence that deprives the freedom of the employee for committing a crime, only then the loss of citizenship rights is given, here insolvency does not apply.

Unilateral termination of the contract by the competent authority. - It states that the highest authority of the public institution has the power to request that the contract be terminated at any time, without giving explanations or justifying its reason, such request must be notified to the employee with the unilateral termination of the contract (Maldonado, 2022).

Insufficient qualification established through the performance evaluation process: It is the power of public institutions to conduct annual performance evaluations of their employees, and those who have a score below 70%, have the right to appeal to the commission formed by the institution, after the appeal and if in the new evaluation did not meet the established percentage, their occasional service contracts may be terminated (LOSEP, 2010).

Dismissal. - Dismissal refers to the act of removing a person from the position he/she occupies, due to a negative performance of the space where he/she is performing a certain task, generally because of negligent or corrupt actions, and an administrative summary must be carried out by the competent authority, thus unilaterally terminating the contract (Muñoz, 2020).

Death. - With the death of the employee, it is understood that the employment relationship is terminated (LOSEP, 2010).

For causes that are legally written in the contract. - Since the main characteristic of the occasional service contract is that it can be terminated unilaterally, this must be stipulated in the contract signed by the employer and the employee in order for it to be legal (Maldonado, 2022).

Permanent and total incapacity for work. - The incapacity, whether permanent or total, that does not allow the work activity to be carried out in a normal manner will be understood as the termination of the contract (Gavilánez, 2021).

Fortuitous event. - That happens or makes the work impossible, such as a fire, an earthquake, a storm, an explosion, plagues in the countryside, outbreak of war and in general, any other adversity or event that is extraordinary and could not be avoided by the contracting parties. (Muñoz, 2020).

Conclusions

The competitions must be for professionals with a good preparation and be highly qualified for its execution and due compliance in health as established within section II Public Administration of art. 228 of the Constitution of Ecuador.

Occasional contracts do not always guarantee the faithful fulfillment of the right to work, to a dignified life, to a good living, to due economic stability, in the public administration as established by the Ecuadorian Constitution and the law.

The present study focuses on the public hiring of personnel with occasional contracts in the health sector. The data show that after twelve months, professionals working under this type of contract are separated from the workplace and that there is little likelihood of renewing these contracts due to a lack of budgetary allocations. Therefore, labor precariousness is more than evident and, consequently, the deterioration of personal and family economic conditions.

The strategies created by the State are not efficient and do not ensure the right to have a job in the health sector, therefore, they do not respond to the needs of the population. As a result, the improvement of the needs of the institutions is not promoted, since no budget allocations are created, nor is there a call for competitive examinations and merits, in order to recover the health sector.

According to this analysis, occasional contracts violate the norm since Ecuador is called a State guarantor of rights. The violation is represented through the destabilization of public institutions due to the constant rotation of personnel.

The analysis of these occasional contracts according to their modality goes against constitutional rights, when the worker is maintained with this type of contract for a long time, the objective for which this modality was dictated would not be fulfilled, which basically was to temporarily satisfy an institutional contractual need. Therefore, the rights of the workers would be jeopardized because they would not have the opportunity to have access to an appointment within the institution.

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The occasional contracts of the LOSEP are a form of labor precariousness in the health sector.