



## The relationship between the State and workers' unions and its impacts in the union-based health coverage regime in Argentina: an historical and political analysis

Relaciones entre el Estado y los sindicatos y sus consecuencias en torno al régimen de obras sociales en Argentina: un análisis histórico-político

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**ABSTRACT** This paper aims at developing a political and historical reconstruction of the period spanning from the late nineteenth century to the present. In particular, this work investigates the relationship between the Argentine State and workers' unions and the impacts of that relationship in the establishment, consolidation and potential decline of the health coverage system administrated by unions, in Argentina called *obras sociales*. This work will also support the hypothesis that the financing obtained by union leaders through this health coverage system has been an efficient instrument for sustaining a centralized union model and has in some cases guaranteed the continued governance of both union leaders and different national governments.

**KEY WORDS** Health Services Administration; Labor Unions; State, Right to Health; Argentina.

**RESUMEN** El presente trabajo se propone realizar una reconstrucción histórico-política, cuyo período transita desde fines del siglo XIX hasta la actualidad, que indague sobre la relación entre el Estado argentino y los sindicatos y sus repercusiones en torno a la constitución, consolidación y potencial ocaso del sistema de prestación de atención médica a los trabajadores administrado por los sindicatos, denominado en Argentina como *obras sociales*. Asimismo, sostendrá la hipótesis de que el financiamiento obtenido por parte de las cúpulas sindicales a través de las obras sociales ha sido un instrumento eficaz para sostener un modelo sindical centralizado que garantizó, en ciertos casos, gobernabilidad no solo a las cúpulas sino también a los diferentes gobiernos nacionales.

**PALABRAS CLAVES** Administración de los Servicios de Salud; Sindicatos; Estado; Derecho a la Salud; Argentina.

## INTRODUCTION

Countless scientific and journalistic works have discussed the complex, heterogeneous, fragmentary and non-universal nature of the Argentine health system throughout its history (1-3). A key – although not exclusive (3) – factor to understanding this reality is the analysis of the establishment, consolidation and potential decline of the health coverage subsystem based on mutual associations and *obras sociales* [health coverage administered by unions].

This paper aims at developing a political and historical reconstruction of the subsystem of *obras sociales* in Argentina, taking into consideration the development of trade unionism in the country and its relation with the State and its worker base. This reconstruction is grounded on the following hypothesis: the development of the *obras sociales* has had a relation of *co-implication* with the development of a centralized union model. In this sense, the establishment of a centralized union model was not the only essential factor in the creation of mutual associations and *obras sociales*. On the contrary, the union financing of this health system, obtained through paycheck deductions and worker contributions has, at times, also been vital in supporting this centralized union model, which would guarantee the continued governance of both union leaders and different national governments.

In order to demonstrate the relation of *co-implication* between the system of *obras sociales* and the “union model,” this work will explore the following ideas:

- The development of mutual associations in Argentina from the late nineteenth century to the beginning of the twentieth century, and their gradual reconfiguration according to employment sector (in line with the corresponding reconfiguration of union organization).
- The importance of trade unionism by employment sector in Perón’s rise to power and its influence on the agenda of social health policies during his administration. Because of the laws regulating mutual associations, these policies bolstered funding for the union administration.
- The definitive institutionalization of the system currently referred to as “*obras sociales*” and

its relation with the strategy to strengthen the administrative structure of unions according to employment sector, which under the direction of union leaders, served as a retaining wall for social conflict in the period from Perón’s overthrow in 1955 to the 1976 coup d’état.

- The new pattern of capital accumulation adopted during the last three decades and the subsequent weakening of the figure of the worker, which has put in to crisis both the rationality of the centralized union model and the system of *obras sociales* (that have begun to lose ground to private health companies).
- Our conclusions.

## METHODOLOGICAL ASPECTS

A qualitative methodology is used in this paper, based on the analysis of studies related to the development of the Argentine health system (paying particular attention to those studies that focus on the medical care system provided to workers and administered by unions, referred to as the subsystem of *obras sociales*), as well as those connected with the development of trade unionism in Argentina and its relation with the State and the worker base. The analysis of these texts is complemented with a study of legislative documents relevant to the institutionalization of mutual associations and *obras sociales*. Therefore, this paper analyzes the regulations emerging from the different amendments of the Argentine Constitution and laws passed by the National Congress as well as executive orders.

The analysis has been divided into four periods. The first period refers to the development of mutual associations from their first appearances in the late nineteenth century and early twentieth century to Perón’s arrival to the presidency in 1945. The second period focuses on the consolidation of the system of mutual associations during the first two Perón administrations, between 1945 and 1955, and the tension related to the proposal of a State-centralized health system. The third period covers the period of Argentine institutional instability between 1955 and 1983, characterized by successive military coups d’état and by the

consolidation of what Belmartino refers to as the “corporative pact” between unions and the corporation or body of medical doctors, which was later institutionalized in Act No.18610. The last period starts in 1983 and extends to the present, and has been characterized by a crisis in the logic of the subsystem of *obras sociales* and a change from corporative logic to market logic. Taking into account the distinguishing aspects of each period, both related to the development of the health system and the development of trade unionism, this analytical division is considered to be justified.

### THE IMMEDIATE PRECEDENT: MUTUAL ASSOCIATIONS

There is general agreement among historians, sociologists, jurists and political scientists dedicated to this topic in recognizing a first historical period (from the mid-nineteenth century to the 1940s) whose primary characteristic has been the absence of a systematic state policy regarding health (3-8).

As a matter of fact, from the establishment of the Argentine State to the start of the twentieth century, health, as a concept, had a strictly individual connotation. Disease and its treatment were regarded as a subjective issue and its legal framework was expressed as a private contract between the patient and the physician. Although it is acknowledged that health was considered part of the “social question” by hygienists in the nineteenth century (9 p.102), this theoretical-scientific approach did not seek to universalize what we today conceive as the “right to health,” but rather to prevent diseases or outbreaks that could spread throughout the entire social body (without distinction of social class) and halt the development of the country’s modernization. Under this paradigm, considerations on the matter by Sarmiento and Rawson can be found, as well as Emilio Coni’s theoretical proposals regarding public health and the establishment of the National Department of Hygiene in the year 1880 (10 p.194).

In that context, the health of the citizens was not an item on the State’s agenda as a “gendarme” or “watchman” State. All that was of interest was

the care of urban hygiene and prevention of outbreaks (1 p.60). The meager public network of the budding “Argentine health system” was administered by the different provincial and municipal jurisdictions and by the ladies of the Benefit Society [*Sociedad de Beneficiencia*], who, by using resources subsidized by the State itself, ran a number of public hospitals. Nonetheless, free access to the services provided by these publicly funded institutions was only guaranteed to those declared “destitute” (3 p.31) by the commissioner or president of the auxiliary committee of parochial hygiene corresponding to the place of residence of the person affected.

Medical attention was a privately granted service, with the exception of people in conditions of extreme poverty; thus, health care began to be a concern of the working class. In that context of lack of coverage, “mutual aid associations” (or simply “mutuals”) were spontaneously created. They developed from a sort of “*sui generis*” organization (3 p.32) due to the collective nature of the coverage of medical costs, based in voluntary and/or regular contributions. These mutual associations basically originated in the European flows of immigration. This is evidenced by the types of mutual associations that were created: in some cases they were organized according to nationality and, in some others, according to labor identification. The first type founded its inner heterogeneity based on a common national identity, and they succeeded in providing, in the most paradigmatic cases, hospital services for their affiliates (such as the Italian Hospital, the German Hospital, and the Spanish Hospital). The second type founded its inner heterogeneity according to trade (for instance, the mutual association of the train drivers’ union *La Fraternidad*); labor activity performed (the mutual association of the Typography Union); company (the mutual association for railway workers which was supported by employer contributions); area or place of work (generally, in local unions for multiple trades with anarchist tendencies); socialist ideological inclination; or, in contrast, religious affiliation such as the Catholic Worker Circles [*Círculos Católico de Obreros*]. In general, mutual associations that were differentiated according to labor identity were not able to develop their own care centers. Rather, their main function was to cover

and finance the costs of the medical care mostly provided in private institutions (1 p.70).

As documented in the statistics gathered in 1919 by the president of the National Department of Labor, Alejandro Unsain, the number of mutual associations increased exponentially from the last quarter of the 19<sup>th</sup> century to the first quarter of the 20<sup>th</sup> century. According to the census of 1927, there were 1,141 mutual associations in the country, with 552,986 affiliates (1 p.67).

If we consider the weakening of anarchism as the organizing agent of a revolutionary working class movement and the consolidation of the "unionist" tendency (11), which started to organize unions according to labor activity, then we can confirm the hypothesis that mutual associations also largely reconfigured themselves according to labor activity. The cultural tradition of mutualisms mounted on the structure of union development in the country constitutes the immediate precedent and, at the same time, a determining factor for the later development of the subsystem we know today as "*obras sociales*" (3 p.32).

However, the mutual associations' coverage model of voluntary affiliation started to face a crisis as a consequence of the increase in costs caused by technological development that introduced into the field of medicine greater specialization, equipment and drugs (3 p.72). The financing difficulties that mutual associations started to have, especially medium and small-sized associations, led to the strengthening of the relation between these entities and the State.

Furthermore, the impact of the economic crisis of the year 1929 caused an increase in the number of users that, due to the lack of personal resources, resorted to public hospitals (3 p.81). Following these events, doctrinal and institutional debates on the function of the State regarding health issues and its capacity for intervention started to develop (3 p.107). The specialized bibliography recognizes that the regulatory proposals of Peronism in the political system were immersed in a previous doctrinal debate that almost unanimously considered that the centralization of resources and medical services in the hands of the State would be more efficient.

## TRADE UNIONISM AND THE HEALTH SYSTEM DURING THE FORMATION AND CONSOLIDATION OF PERONISM

General consensus exists on the fact that, after the rise of Perón to the national government, there was a failed attempt to centralize the health system in state hands. The creation of the Secretariat of Public Health [*Secretaría de Salud Pública*] (a) in 1946, which depended on the vice-presidential office of Argentina, evidences this assertion. Firstly, establishing this secretariat as autonomous with respect to the Ministry of Home Affairs [*Ministerio del Interior de la Nación*] conferred a "ministerial status" to its bureaucratic decisions. Secondly, the appointment of Ramón Castillo as its senior member implied a prioritization within the state agenda of those measures the State would take regarding the "health question." Taking this into consideration, it is evident that the State was affirming the idea that health was a public issue, a concept that had started taking shape in the country first with the hygienists and then with the financial crisis that affected the mutual associations; however, it acquired international scope especially after the "Beveridge Plan" was published by the British government in 1942. As Arce explains, seeing health as an individual issue had already been widely problematized and the notion of "public health" had taken hold throughout the Western world as a result of the post-war international policy (1 p.106).

Nonetheless, the idea of a comprehensive health policy encountered serious difficulties, owing to factors both internal and external to the government, and which had their roots in Peronism itself. Thus, for diverse reasons, the Secretariat of Public Health was not able to carry out its "strategic plan of centralized administration." The specialized literature on this matter indicates two major reasons for this. On the one hand, the funding priority given to the Eva Perón Foundation [*Fundación Eva Perón*] that, according to Belmartino, followed electoral-political criteria instead of the technical criteria advised by the Secretariat (3 p.116). On the other hand, the way in which the political support of Peronism itself was structured, sustained by the unions that had facilitated Peronism's rise to power. The institutional participation that the

major unions organized by employment sector were starting to have in the Ministry of Labor and Social Welfare, and the growing legitimization that Perón acquired in this way eventually conditioned *a posteriori* state health policies, once Perón took office as president. We will discuss this last point in more detail.

As the previous paragraph suggests, the fate of the health system, at least in terms of the grid related to the functioning of mutual associations, would be significantly affected by the subsequent development of the unions and their relation with the State. In order to analyze this hypothesis, another issue connected with the development of trade unionism in Argentina should be discussed. In this case, we consider appropriate the classic work of Murmis and Portantiero found in *Estudios sobre orígenes del peronismo* (12). There, the authors abandon the idea contained in the analyses of Gino Germani and the historical revisionism which considered that, despite their antagonistic conclusions, Peronism as a national and popular movement had its origin in "a new working class," which had arrived in Buenos Aires as a consequence of migration from the provinces. In contrast, Murmis and Portantiero consider that both the "new" and the "old" workers (those workers who had already lived and organized themselves in unions in Buenos Aires since the nineteenth century and who came from a culture of European immigration) found in Peronism a common "homogenizing" project (b). They conclude that the model of unions by employment sector, whose consolidation had been influenced first by the 9th Congress of the Argentine Regional Worker Federation (FORA) [*Federación Obrera Regional Argentina*] and, later, by the constitution of the General Labor Confederation (CGT) [*Confederación General del Trabajo*] in 1930 ("the old union guard," as Juan Carlos Torre would later name it), had been extremely important for the rise of Peronism to power and had a notable influence on decisions regarding social policies at that time (12). This can be easily verified by analyzing the way health resources were distributed and administered during the period from 1943 to 1955.

In this respect, prior to the creation of the Secretariat of Public Health and its later institutional transformation into the Ministry of Public Health (due to constitutional proclamation in 1949), the

State had already been defining its relation with the unions with greatest negotiating power, which would be impossible to dissolve in order to favor a centralized health system. In fact, following the 1943 coup d'état, the National Office of Public Health and Social Assistance [*Dirección Nacional de Salud Pública y Asistencia Social*] was created in October of that same year, which depended on the Ministry of Home Affairs. Various entities previously dispersed were gathered in this Ministry in an effort to centralize administration (3 p.110). This centralization, however, did not last long, as in August 1944 the functions of social assistance were delegated to the Secretariat of Labor and Social Welfare [*Secretaría de Trabajo y Previsión*], created in 1943 to replace the National Department of Labor [*Departamento Nacional del Trabajo*].

From that moment onwards, the Secretariat began to have increasingly more functions related both to work and social security, workers' health included. Thus, debates and disputes among the involved social actors took place in the Secretariat, which eventually regulated, for example, the medical profession by means of the Executive Order no. 22212/45 (13), still in force, and the constitution and administration of mutual associations (Executive Order no. 24499/45) (14) (c).

When considering the political importance that the Secretariat of Labor and Social Welfare acquired in the configuration of Perón's political image, it seems plausible to assert that the negotiations which took place there characterized the State's subsequent decisions regarding social, and specifically, health matters. Indeed, from then onwards, a heterogeneity in health administration would be deepened by giving legal-institutional recognition and new funding possibilities (compulsory contributions and state subsidies) to mutual associations.

Clearly, in order to obtain those advantages, it was essential for unions not only to adopt position of being open to dialogue with the State (mutual associations that were not recognized by the State were implicitly prohibited, according to Section 98, Executive Order No. 24499/45) (d) but also to have bargaining power. The case of Railway Union [*Unión Ferroviaria*] serves as an example to illustrate this point. The General Office of Assistance and Social Welfare for Railway Workers (DGF) [*Dirección General de Asistencia*

y *Previsión Social para Ferroviarios*], created by Executive Order no. 168/44, was the first legal acknowledgement of a union health fund and it occurred in the context of the Secretariat of Labor and Social Welfare. This regulation established the obligatory nature of worker contributions (15 p.80) and of employer contributions, as well as health coverage for the direct beneficiaries (railway workers) and their immediate relatives (15 p.80). This is a clear example of how the so-called “old union guard” had influence, not only in supporting Perón, but also in his government’s decisions regarding health.

Thus, this norm would be the initial step for the establishment of countless general offices of social assistance and welfare according to employment sector. From that moment onwards, the State would expressly participate (e) in the regulation of the health system, but as we saw, it would no longer insist solely on a centralized model. Legislation on mutual associations established the obligatory nature of contributions, conferred the right to subsidies and set up auditing obligations (3 p.123), which resembles much more the present concept of “*obras sociales*.” This development would cause three major consequences. First, it deepened the heterogeneity of the administration and distribution of health resources (independent of the work of Carrillo’s administration). Second, the obligatory nature of contributions strengthened an extremely important funding source for the bureaucratic-administrative growth of the most influential unions organized by employment sector (in some cases, they created their own hospitals). Lastly, it consolidated the institutionalization of a health system based on the figure of the worker and on worker contributions (this was to such an extent that the Argentine Constitution enacted in 1949 and Section 14 bis of the 1957 Constitution included the right to health as part of labor rights).

### **THE PRECURSOR TO THE OBRAS SOCIALES ACT**

The deposition of the Peronist government would cause political and institutional instabilities that would develop without interruption until the democratic consolidation of 1983. According to

O’Donnell, during this period the State’s role as center of decision-making weakened and private and corporate interests gained ground (16). With regards to the health system in particular, the specialized literature acknowledges that the period from 1955 to 1970 was characterized by a progressive disassembling of any traces of the centrality established by Carrillo’s administration and by the influential impact of Peronist unionism and the corporation of doctors.

After Perón was overthrown, the brief *de facto* governments of Lonardi and Aramburu had a common aim: public spending reduction and administrative decentralization. In this sense, it was considered that, on the one hand, it was necessary to rationalize the budgetary deficit of the State and that, on the other hand, it was necessary to “de-Peronize” government administration (that is, to revert administrative centrality concentrated in national public entities since it was identified with fascist tendencies) (8 p.549). This reality converged with an equally important variable: Peronist union resistance during the period referred to as the Liberating Revolution [*Revolución Libertadora*] (17). Regardless of the proscription measures against Peronism – regarding political parties and unions and symbolically in general – the resistance process, more or less homogeneous (until that moment, at least) among Peronist union leaders and their worker bases, not only implied the subsistence of Peronism as a political tendency (represented in worker corporations), but also the persistence of trade unionism as an important actor in the political system. In fact, during Perón’s exile, trade unionism acted as an opposing force against government measures and as a decisive influence for both the electoral victory of a candidate (as in Frondizi’s rise to office) and the overturning of a government (as in the strategy of unity between unions and military officers to depose Illia) (17).

Considering this context, we can understand the reason for the progressive weakening of the public subsystem and the simultaneous expansion of *obras sociales* up to the 1970s. For the governments of the Liberating Revolution, continuing with the public health centralization policies would imply the continuation of high public spending at a national scale, which would be difficult to sustain and would mean being exposed

to increasing distrust on the part of conservative and anti-Peronist sectors. On the other hand, preventing the development of the system based on *obras sociales* would imply further accentuating the differences with Peronist unionism and, as a consequence, abandoning all expectation of integrating Peronist unionism into their political objectives. From the union leaders' point of view, losing mutual association funding would mean the loss of their main source of funds and, on the other hand, in the context of public health services reductions, such lack of funding would worsen the growing difficulties union leaders faced in controlling their worker bases (the root of what was called "Peronist resistance") (17). This implied that, from the mid-50s onwards, the *obras sociales* expanded more and more. However, this growth no longer meant the building of each union's own health facilities, as the largest unions did during Perón's administrations, but to become a financial pool for funding services provided by private entities (which had also expanded greatly during that period) (3 p.130).

This relation between the State and the unions, which was mainly based on conflict and resistance, would change with Frondizi's arrival to office (due to the electoral support of Peronism provided by the unions). Frondizi honored his pact to pass the new Professional Worker Associations Act No. 14455 (18) that restored Peronist regulations regarding unions, given that Executive Order No. 23852/45 had been abrogated by Aramburu. This new regulation once again centralized the union movement and gave significant powers to union leaders. If, as James argues, we also consider the failures of the strikes of 1959 and 1960 (against the implementation of the production rationalization plan proposed by the developmentalist government and companies) that demobilized the worker bases as a cause of their increasing lack of motivation (17 p.208), it is easy to understand the progressive process of bureaucratization of the union leadership during those years - an example of this is the emergence of "Vandorism" [a political movement associated with Augusto Timoteo Vandor, which proposed the idea of a "Peronism without Perón"]. From that point onwards, the legitimacy of the union leaders would be based on the concessions and services (17 p.229) granted to the affiliates they represented, since they would

no longer have active participation in the heart of union activity. In order to fund all those services, the new Professional Worker Associations Act established the obligatory nature of employer withholdings for union dues and of "collective contributions" (f). However, also of great importance were the withholdings and contributions for *obras sociales*. It is estimated that, by 1964, 60% of the total amount of funds administered by unions came from worker contributions; within this category, 33% of the total came from payments towards the *obras sociales*. The remaining 40% came from employer contributions (17 p.228). In other words, the funds obtained for health coverage programs in those years were greater than those obtained from affiliate dues.

Another relevant issue was that, following the fall of Perón, the corporation of doctors was reunified; up to then it had been divided into those who supported the idea of "public health" based on state administration (Carrillo's legacy), and those who saw state centralization as a limit to the freedom of contract as professionals. The abandonment of the idea of "state centralism" after Carrillo's attempt and the gradual consolidation of the system based on *obras sociales* implied the reunification of health professionals according to their exclusive interest as a body. From that point onwards, the influence of the corporation of doctors as a consolidated social actor would be crucial in affecting the State agenda. In the interaction among the corporations of workers and doctors in the State sphere, the *Obras Sociales* Act No. 18610 (19) would start to take shape, which Belmartino identifies as the product of a "corporate pact" (3).

### THE CONSOLIDATION OF THE *OBRAS SOCIALES*: THE SANCTION OF ACT NO. 18610

Once Illia was removed from presidential office by the Commander-in-Chief of the Army Juan Carlos Onganía (g), who acted in complicity with Peronist unions, the union leaders sought to once again institutionalize their privileged position as representatives of the working class before the State (Onganía fulfilled his part of the agreement by

abrogating Executive Order No. 969/66 signed by Illia, which liberalized and decentralized unions). However, the trust union leaders placed in their future relation with the *de facto* government at the time would enter into crisis after the new administration's first economic measures were taken. The program of the new Minister of Economy, Adalberto Krieger Vasena, consisted of strict limits on wage raises through the suspension of collective bargaining negotiations. On March 1, 1967, the first strike initiated by the CGT took place. The government responded with repression, the removal of the legal personality of certain unions and the reimplementation of the Executive Order No. 969/66 (17 p.921).

This situation would put Peronist unionism in a predicament, navigating between State suppression, on the one hand, and losing legitimacy before its worker bases, on the other (17 p.292). The dilemma affected the institutionality of the CGT itself: in March 1968, the CGT split in two: "CGT of the Argentines" and "CGT Azopardo." The first was headed by Raimundo Ongaro and took a position of direct opposition to the new government. The second, which included the Vandorist wing, had a more cautious position open to dialogue with the government.

The persistent government measures that implied the loss of workers' rights had begun to fuel social unrest. Indeed, a series of demonstrations occurred in 1968 and 1969, the greatest expression of which was the "*Cordobazo*" [a civil uprising that originated out of a general strike in the city of Córdoba in 1969]. The new grassroots activists protested not only against corporations and the State, but also against union leaders. It is considered that these conflicts were motivated by two factors: on the one hand, by the geographical characteristics of certain industrial neighborhoods in the provinces (where association among people was facilitated by their close vicinity) and, on the other hand, by the actions of the new multinational companies that, starting in the 1950s, requested in exchange for their settling into the country that state entities confer union personality to new unions at the company level (or by trade) with which they would be able to negotiate directly (this was reinforced by legislation that sought to decentralize the workers' movement, such as the already mentioned Executive Order

No. 969/66). The presence in the industrial plants of relatively small unions with little institutional activity made it so that union leaders failed to restrain internal opposition from among the workers (17 p.301). In this respect, these unions were not able to prevent the emergence of workplace delegates and the development of combative demonstrations. Class unionism started to develop in this context, with Agustín Tosco as its most recognized representative.

With its initial strategy interrupted, the State found in the traditional union leaders the answer for curbing the increasing social conflict. Thus, one year after the *Cordobazo*, and with Onganía on his way out, the *Obras Sociales* Act No. 18610 (19) and the Executive Order No. 2477/70 (20) were passed, which restored the old union model established by Perón. The objective was to re-centralize the workers' movement and provide funding in order to placate worker activism.

The strategy can be confirmed merely by observing the development of the new *Obras Sociales* Act within the State structure. The draft legislation had its origins in the Ministry of Social Welfare [*Ministerio de Bienestar Social*], a ministry which contained little internal homogeneity (at least in terms of the planning of public policies). On the one hand, an initiative to strengthen the public health system began to be promoted by Ezequiel Holmberg in the Secretariat of Public Health. Holmberg's intention was to adapt the national health system to the requirements of the Pan-American Health Organization (PAHO) and the World Health Organization (WHO). On the other hand was the Secretariat of Promotion and Attention to the Community (SPAC) [*Secretaría de Promoción y Asistencia a la Comunidad*] under the direction of Santiago de Estrada. It is generally recognized that De Estrada supported the ideals of the "social doctrine of the Catholic Church," which rejects technocratic ideas and gives the State a subsidiary role in defining interests. According to some authors, this fact motivated his position of being "open to dialogue" with the corporations of workers and doctors (1). However, from our point of view, this tendency within the Ministry of Social Welfare was a consequence of the socioeconomic situation of the time described previously. Indeed, it was the draft legislation introduced by the SPAC that prevailed, and to do so, it had the support and approval (g) of



the Minister of Social Welfare at that time, Carlos Consigli, who had been appointed after the ministerial crisis that followed the *Cordobazo* (3 p.167).

If we take into consideration the objections that Holmberg's draft received from union leaders and the corporation of doctors (which considered any "nationalization" attempt as contrary to their right to contract), it is reasonable to think that the new Act No. 18610 (19) was a product of the pressure exerted by these groups. In short, as Belmertino argues, the State found itself to be incapable of imposing general rules; therefore, in order to sustain governability, it was forced to carry out "corporative pacts" (3 p.164). In this social context, it would have been a serious mistake to remove the care services that union organizations provided to their affiliates. The ideologists of the "Argentine Revolution" understood too late what Frondizi had astutely perceived: social manifestations carried out as a response to unpopular government measures had to be controlled through a pact with the Peronist union leaders, which meant strengthening the union leaders' administrations (by granting them legal powers and a large financial capacity). The new Peronist administration also understood this fact and, in 1973, passed Act No. 20615 (22), which exacerbated the power of the leaders of union federations, in a context of manifestations of the extreme Peronist left.

Onganía's Executive Order No. 2477/70 (20) established once again the legality of larger unions and federations organized by employment sector and, at the same time, by means of the new *Obras Sociales* Act No. 18610 (19), the financing to strengthen them would increase. In effect, this new legislation established that, for those unions with "union personality," the creation of *obras sociales* for their members was compulsory, as were the contributions of all workers in that employment sector.

The "corporative logic" of the new *Obras Sociales* Act, with the idea of creating a larger margin of governability, would become glaringly apparent after the creation of the National Institute of *Obras Sociales* (INOS) [*Instituto Nacional de Obras Sociales*] as the center of corporative negotiation (indeed, in 1971, the INOS was transferred to the jurisdiction of the Ministry of Labor). The creation of a National Joint Commission [*Comisión Paritaria Nacional*] would further evidence that

"logic" through the sanction of the *Obras Sociales* and Social Services Act No. 19710 [*Ley 19710 de Obras y Servicios Sociales*] (23), which created a body where agreements on costs would take place between medical and worker organizations (24 p.3360). That "corporative logic" would be reflected from then onwards as the manifestation of the correlation of forces, through the obstruction of any other different regulatory attempt. Examples of this are the resistance to the so-called "Liotta Draft" [*Proyecto Liotta*] (h), in 1973, and to the State's overhaul of the *obras sociales* by the military dictatorship through Acts no. 22269 in 1980 (26) (i).

### **OBRAS SOCIALES ACT NO. 23660 OF 1989 AND ITS SUBSEQUENT AMENDMENTS: FROM "CORPORATIVE LOGIC" TO "MARKET LOGIC"**

In the year 1983, a candidate of the Radical Civic Union Party for the first time won the elections without Peronism being proscribed. Despite the slight electoral advantage over Peronism, Ricardo Alfonsín's administration was strongly motivated to introduce certain substantial reforms (28 p.289). Those reforms would have two primary aims: to end the violent relationship between the State and civil society, on the one hand, and to strengthen democratic-representative institutions over relations among corporative groups, on the other hand (28 p.287). For this reason, the Radical party made two fruitless attempts to modify the union situation and the autonomy of the *obras sociales* through new legislation.

This intention was reflected in the so-called "Mucci law," which was introduced by the Executive Branch in 1983 and intended to guarantee a greater internal democratization of unions, and in the "Neri draft," introduced by the Executive Branch in 1984, which sought to unify the financing of the health system in the hands of the State (without detriment to the persisting decentralized administrations) and establish more controls over the administration of the union's *obras sociales*. Both attempts at regulation failed, and the opposition of union leaders is acknowledged as the primary cause for this fact. From then

onwards, once the weakness of the government in this respect was demonstrated, Alfonsín's administration had to adopt a conciliatory attitude towards Peronist unions. Furthermore, the fall in real wages after the implementation of the "Austral Plan" [*Plan Austral*] in the year 1986 increased the number of general strikes and ended in the electoral defeat of 1987, in the hands of a Peronism tenaciously supported by trade unionism.

This new situation and the restoration of certain government positions to Peronism (j) led health system legislation to follow the course of the "corporative pact," institutionally established in the year 1970. Thus, in 1988, after the Union Associations Act No. 23551 (29) (still in effect today) was officially passed, which restructured the old centralized union model, the Radical party had to support the sanction of the *Obras Sociales* Act no. 23660 (30) (also still in effect) the following year, which essentially reestablished the health system prevailing in Act No. 18610 of 1970 (3 p.175). The success of trade unionism reflected the progressive decline of Alfonsín's administration, whose anticipated fall came in 1989 with the rise of a new Peronist candidate to government. However, this new administration would not necessarily imply that trade unionism would maintain its historic integration with the political system as a determining factor in government decisions (despite its identification with the party), but, as it will be later discussed, would have a much more subordinated integration.

What is usually referred to as the "crisis of trade unionism" – in general associated to the end of the 1980s and the whole of the 1990s – was precipitated in Argentina by two fundamental reasons: the legacy of the extermination of grass-roots union activists during the last military dictatorship (31) and the change in the pattern of capital accumulation, based on financial activity and a sharp decrease in levels of employment. On the one hand, this evolved into a greater autonomy of the union leaders in relation to the worker bases and, on the other hand, into a weakening of their influence as a corporative actor in the political system. In addition, after the rise of Carlos Menem to power, Peronist unionism had to face another dilemma: the crisis of its party identification given a Peronist government that did not base its policies in social improvement. In this

context, according to Murillo, the lack of industrial resources (produced by a limited capability to mobilize its worker base) and of political resources (produced by this new Peronism) meant a turning point in the strategies of unions that, from then on, were focused on "organizational survival" based on obtaining financial resources (32 p.433). The defeat in the field of labor regulation during those years is understood as the compensation for the increase of resources that leaders would obtain to finance their social services. In this sense, a number of unions started to participate as shareholders in the privatizations of state companies, or as shareholders in Retirement and Pension Funds Administrators (AFJP) [*Administradoras de Fondos de Jubilaciones y Pensiones*], among other benefits that made this new union strategy come be called "entrepreneur unionism."

It may be interpreted, firstly, that Menemism understood that transforming the State and the market without the support of union leaders would be impossible (notwithstanding their party identification), and secondly, that union leaders accepted their decline as an influential actor in the political system but assumed that they could avoid losing legitimacy as a result of the labor reforms through greater funding for social services for their affiliates. This would imply that the government not take part in the regulation of union associations and play a less decisive role in reforms for the *obras sociales*. It also implied that unions would accept the reforms of labor flexibilization but recurrently oppose the "reorganizing" of the system of *obras sociales*.

In fact, the CGT organized its only general strike during this period in 1992, when the government attempted to liberalize the competition between *obras sociales* and prepaid health care companies (32 p.430) (which culminated in the Executive Order No. 9/93 that established competition only among the *obras sociales*). Additionally, in the year 1994 the CGT threatened to call another general strike when the government arranged to enforce a reduction in employer's contributions to *obras sociales* (32 p.431).

However, despite the unions' defense of the system of *obras sociales*, it was possible to modify their legal norms due to a structural problem: the crisis in the contributory systems of social security given the change in the pattern of capital

accumulation adopted following the 1976 coup d'état. The increase in unemployment, new forms of labor contracting, and unregistered employment added to the increase in medical care costs caused by the hyperinflation process, produced massive debts for the *obras sociales*. This situation limited their capacity to resist, which resulted in a loan granted by the World Bank to the *obras sociales*, in exchange for their acceptance of the process of reorganization of the system – particularly, it was required that they support the resolutions of the Health Services Superintendency) [*Superintendencia de Servicios de Salud*] (3 p.209).

Thus, despite the resistance of trade unionists to the enforcement of Executive Order No. 9/93 (33), after the sanction of Resolution No. 633/96 by the Superintendency (34), the so-called “freedom of choice” among *obras sociales* began to be implemented. In the ceaseless effort to obtain sources of funding, a number of union leaders attempted to adapt to the new context by understanding that the income growth due to *obras sociales* should be materialized in market competition with other *obras sociales*. Paradoxically, the primary strategy to draw new affiliates focused on arranging agreements with prepaid health care companies to offer “superior plans” (k). Therefore the transfer of affiliates mostly occurred in the sectors of greater purchasing power in search of services provided by a specific prepaid health care company veiled by a union's *obra social* (l). Thus, due to the transfer of affiliates from the contributory subsystem based on employment sector to the private subsystem of prepaid coverage, the lack of funding for the *obras sociales* increased and their (intra-class) solidarity function diminished as they assumed that of mere intermediaries between the affiliate and the prepaid health care company. The struggle for the competitive gaining of resources, on the part of the union *obras sociales*, is currently visible in the accusations of lack of proper procedure and fraud in the distribution of funds by the Administration of Special Programs (APE) [*Administración de Programas Especiales*]. Evidently, given the financing crisis, obtaining greater portions of funds from the APE would be of vital importance in order to preserve the administration of the totality of union services.

In this sense, according to Belmartino, the 1990s seems to have broken the traditional “corporative pact” expressed in Act No.18610, going

progressively from a health system originated according to the logic of political-corporative bargaining to a health system originated in market logic (3). The new Prepaid Health Care Act No. 26682 (35) [*Ley 26682 de Medicina Prepaga*] of 2011 seems to be the institutional acknowledgment of a health system that breaks with the function of (intra-class) solidarity and individualizes legal relations in health (4).

## CONCLUSIONS

At this point it is difficult to draw general conclusions, as the historical process described is highly volatile and complex. However, we would like to suggest some considerations and possible lines for future research related to the formulated hypotheses.

Firstly, we believe that the system of *obras sociales* has a strong cultural enclave that is even prior to the establishment of the Peronist movement. However, it is acknowledged that the configuration of trade unionism according to employment sector, which later supported Perón in his rise to power and which subsisted regardless of the absence of this leader, has been a highly important social actor for the creation of what is named by Belmartino as the “corporative pact.”

Secondly, we believe that strong reasons exist to consider that the different governments which achieved stability and governability had to develop close ties with union leaders to control social conflict. For this purpose, not only has the centralized regulation of union organization been crucial, but so has been the preservation of the system of *obras sociales*. Thus, union leaders would receive large amounts of money that facilitated granting concessions to those they represented and financing their electoral campaigns for union office. The governments that were able to draft their strategies in conjunction with union leaders found relative levels of success in the implementation of their policies. However, the governments that confronted unions not only faced the opposition of union leaders but also greater levels of conflict carried out by the worker bases. If the first and the second conclusions are accepted, it can be understood why we have decided to call the relation between unions and *obras sociales* one of co-implication. In this

sense, each institution has mutually participated in strengthening the other.

Thirdly, the *obras sociales* system has created an essentially contributory health system based on the figure of the worker, which is currently in crisis. This can be noted in the progressive lack of funding for the *obras sociales* and the weak opposition that unionism was able to initiate against the market attack from the 1990s to the present.

Lastly, the emergence of "market logic" in replacement of "corporative logic" has not mitigated

the levels of fragmentation but, on the contrary, has exacerbated them. Not only have the bonds of intra-class solidarity been broken, but the health system has been restored to its original conceptualizations based on the individual. The citizenship rights that during the "corporative pact" seemed to have been based on the identity of worker are today transferred to the identity of consumer (36), which further erodes the right to health understood in egalitarian terms.

## ENDNOTES

a. The Secretariat replaced the previously mentioned National Hygiene Department.

b. According to these authors (12), this is a consequence of the great industrialization process that began in the 1930s, the increase in levels of exploitation, and little openness in political channels.

c. Regarding this point, the Executive Order no. 24499, passed on October 6, 1945, created the Mutual Associations Office [*Dirección de Mutualidades*], which would depend on the Secretariat of Labor and Social Welfare. In the aforementioned executive order, the State acknowledged the historical importance of mutual associations and proposed to "encourage their social activity, coordinating their actions so that the benefits reach in the same manner all territories and each inhabitant of the nation" (14 p.605). To this purpose, the Mutual Associations Office was given the capacity to confer or remove legal personality to mutual associations, to keep a record and to audit them, among other things.

d. "Section 38. – It is strictly prohibited to use expressions such as 'Mutual Aid,' 'Mutuality,' 'Mutual Protection,' 'Social Welfare' or any other similar expression in the name of the organizations or companies which were not constituted in accordance with the provisions herein. The violation of this prohibition shall be penalized with fines up to ten thousand pesos of the national currency and closure of any office that may infringe this provision (14 p.610).

e. Formerly, drafts had been created that aimed at the regulation of the activities of mutual associations, but these were isolated attempts and were

largely disregarded. All were introduced by socialist legislators, such as Bunge in 1919.

f. "Collective contributions" are conventional clauses fixed by unions with union personality in order to establish a compulsory contribution from all workers in an employment sector, as payment for the improvements obtained during the negotiations with the employers.

g. In 1966, a coup d'état known as the "Argentine Revolution" took place, headed by Juan Carlos Onganía, which removed from office the then democratically elected president Arturo Illia, member of the Radical Civil Union Party.

h. The legislative draft was signed by Consigli and Estrada (21 p.182).

i. This is an example of the first opposition on the part of the corporations of workers and doctors/health professionals. It was introduced in December 1973, when the Executive Branch, headed by Cámpora, filed before the National Congress the so-called "Liotta draft," named for its ideologist, Domingo Liotta, the secretary of Public Health at that time. This draft had, according to Veronelli and Veronelli, the State-centered and universalist character suggested by the principlism of the already mentioned "Beveridge plan." This proposal interfered with the interests of unions, on the one hand, as it would eliminate one major income source, and the interests of private medical companies, the pharmaceutical industry and medical professionals, on the other hand, whose freedom to access the benefits of the health market would be put in danger. Thus, the original draft was modified in the National Congress itself. The wording regarding the obligatory adherence of the provinces and *obras sociales* to the public system

was removed, making such adherence instead optional. Therefore, the law lacked operational effectiveness. It seems reasonable, as Belmartino and Bioch (25) argue, that during the next two years drafts of this type acquired no public significance, given the importance that union leaders would regain during the new administration of Perón.

j. The second opposition was initiated in 1980, when the military regime started to lose strength. After an initial policy of persecution and prohibition of union activity (collective bargaining agreements was abrogated, union negotiations were eliminated, strikes were prohibited and numerous unions were overhauled) and, above all, extermination of the worker bases, the military dictatorship begins to conclude its strategy – once the possibility of “union accountability” to the worker bases was eliminated – through a new union re-centralization. This was evidenced in the sanction, in 1979, of Act No. 22105 (27), which restored the Peronist union model, and in the reappearance of union leaders such as Lorenzo Miguel, who after being imprisoned in 1976, was reappointed as general secretary of the UOM [an Argentinean trade union for the metallurgical industry workers] in January 1983. Once the bases of the new pattern of capital accumulation were established, the traditional, conciliatory Peronist unionism could be perfectly compatible with the “liberalization of the economy” (this was confirmed afterwards, in the 1990s). However, the amendment of the *Obras Sociales* Act seems, in this respect, a contradiction. On July 30, 1980, Act No. 22269 (26) was passed, which created the “Entities of *Obras Sociales*” and implied the transference of union *obras sociales*

to the hands of state mediators appointed by the INOS. Furthermore, it established the possibility of leaving such entities by demonstrating inscription in a prepaid health care company, which was the first legal precedent of the kind. This act, although pronounced, was never made effective. We consider that, although this amendment fitted the aspirations of the military dictatorship regarding the state and the economy, its application was not possible due to the weakening of the government and the regrouping of unionism as a major actor in the political system.

k. Precisely, Antonio Mucci had to cede the position to Juan Manuel Casella and Carlos Alderete, who adopted the new conciliatory strategy. Aldo Neri, in turn, had to leave his position as Minister of Health in April 1986, once the new attempt of financial unification of the health system had failed.

l. The only exceptions have been the *Obra Social* for Workers of Commerce and Civil Activities [*Obra Social de los Empleados de Comercio y Actividades Civiles*] (OSECAC), which did make any agreement, and the *Obra social* for the Union of Civil Personnel of the Nation [*Obra Social de la Unión Personal Civil de la Nación*] (UP), which funded its own prepaid health care company using union funds (5 p.103).

m. The *obras sociales* that have obtained the greater number of transfers in their favor have been those that have agreements with the most recognized private health care companies (5 p.103).

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