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Report from Venezuela

AN ALTERNATIVE TO THE NEOLIBERAL MODEL IN HEALTH: THE CASE OF VENEZUELA

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The authors present a synthesis of the proposals put forth by the health sector of Venezuela during the framing of the new Venezuelan Constitution. They summarize the background to the National Constituent Assembly and the legal framework typical of the health sector at that time, identify the methodological aspects that substantiated the health topics included in the new Constitution, and analyze the articles that shape the current constitutional health framework in Venezuela, summarizing their most important features and comparing them with neoliberal health proposals.

The objective of this study is to present a synthesis of the proposals put forth by the health sector of Venezuela during the framing of the new Venezuelan Constitution. The goal of these proposals was to create a new constitutional framework for the development of a new health system, confronting the neoliberal platform that has characterized most health sector privatization reforms in Latin America. We summarize the background to the National Constituent Assembly (Asamblea Nacional Constituyente, ANC) and the legal framework that was typical of the health sector during that period, and identify the methodological aspects that substantiated the health themes included in the new Constitution. We analyze the articles that shape the current constitutional health framework in Venezuela, highlighting their most important features and comparing them with points of view common to neoliberal health proposals.

THE RECENT VENEZUELAN POLITICAL CRISIS

Venezuela is a Latin American country with 24 million inhabitants, located in the northern part of South America, just south of the Caribbean Sea. It has been in a deep political crisis over the last year. In spite of its traditional democratic
history, in 2002 Venezuela experienced a failed attempt at a coup d’état and a national strike promoted by an alliance of large corporations, the media, and the largest but poorly representative union confederation, the Central de Trabajadores Venezolanos. The only objective of both events was to overthrow the democratically elected president, Hugo Chávez. Chávez is a 46-year-old lieutenant colonel who led a national insurrection in 1992 and was elected president in 1998 by 56 percent of the voters, after a hard confrontation with the political elites that had dominated Venezuela for the past 50 years. His main promise in the campaign for the presidency was to call a National Constituent Assembly to write a new Constitution to rebuild the country (1).

The Venezuelan media have severely criticized the Chávez administration, using propaganda tactics to demonize him and to portray his leadership as typical of an authoritarian populist. The Venezuelan government has often opposed the most important aspects of the Bush administration’s foreign policy for Latin America. Some of the major U.S. proposals overtly fought by Chávez are the Free Trade Area of the Americas (FTAA), Plan Colombia, the Cuban embargo, privatization of oil companies in Venezuela, and the latest war doctrine euphemistically called the “war against terrorism.” For dependent countries such as Venezuela, it is dangerous to disagree with U.S. administration decisions in these times of U.S. hegemony.

For example, during the Summit of the Americas, held in Quebec in 2001, Bush presented the FTAA initiative as a mechanism to integrate markets across the whole continent. Many officials of developing countries in the Americas have significant reservations and fears about the issues discussed, but few dared to express their views publicly at the meeting. Chávez not only refused to sign the final declaration of the summit but also invited Latin American leaders to meet in a smaller Latin American summit to reach a joint agreement before signing the U.S. version of the FTAA agreement.

A similar situation occurred domestically. Many Chávez administration policies have also challenged the usual political and economic rule by business sectors (2). The most important setting for the confrontation between the government and big business has been the Venezuelan oil industry. President Bush, together with powerful sectors of the Venezuelan elite, has supported the privatization of the rich state-owned oil company Petróleos de Venezuela SA. Chávez rapidly blocked their plans, and this led to the recent national strike at the oil company. Thus it is easy to understand why the corporate-dominated U.S. and Venezuelan media targeted President Chávez as an enemy of freedom and demonized him as an enemy of democracy. In summary, then, the main reason for the social, political, and economic conflicts recently faced by Venezuela is the Chávez administration’s clear opposition to neoliberal policies. Within this context, we present the scenario of another area of conflict: the privatization of health services, which was a priority for previous governments but has been blocked by the new Constitution.
BACKGROUND TO THE NEW CONSTITUTION

In 1984 the Presidential Commission for State Reform was created to identify the ways in which the state apparatus should change and respond to the growing loss of legitimacy by the political system. This initiative was designed to promote a constitutional reform, but owing to the lack of capability of the political leadership to renew itself and the country, it never moved forward. For many years, all attempts to change the structures of the state and the Constitution itself did not move beyond Congress. This weak capability for analysis and self-criticism had grave consequences. On February 27, 1989, less than two months after the inauguration of President Carlos Andrés Pérez to his second term as president of the Republic, Venezuela went through a profound political and social upheaval, which started as a spontaneous and uncontrolled popular revolt known as the Caracazo. This popular insurrection was a clear demonstration of the high levels of frustration and discontent in the country and was also a spontaneous response by the poor to the impossibility of achieving better living standards. Furthermore, the revolt has been interpreted as a popular response to macro-economic adjustment policies that had led to the deterioration of material living conditions. Terris (3) witnessed the rebellion in Caracas and reported afterwards on its fundamental characteristics.

This collective frustration brought about, as one of its most important political consequences, the military insurgencies of 1992 led by Lieutenant Col. Hugo Chávez, and opened the possibility for new and deeper social changes. Chávez, once freed from a two-year political sentence, founded the MVR (Fifth Republic Movement) Party with the political goal of framing a new Constitution to reconstruct and reestablish the nation. This political process reached an important climax when President Pérez was overthrown and general elections were announced to elect a new president in 1993. Innovative proposals and strong pro-reform candidates played a fundamental role in the campaign, but progressive candidates did not get enough votes to win. In the end, Rafael Caldera, the senior leader of the Christian Democratic Party, was elected. Then in the following presidential elections in 1998, Hugo Chávez was elected, reflecting the collapse of the old political system and a strong popular rejection of traditional party politics.

The first political act of President Chávez was the announcement of a public referendum so that the people could decide whether or not to call a National Constituent Assembly, mainly to write a new Constitution and lay out the bases for a new regime. On February 2, 1999, the president decreed the date for this referendum. The decree included the following as the justification for his request (4):

The Venezuelan political system is in crisis and the institutions have undergone a fast process of de-legitimization. Despite this reality, those benefited by the regime, characterized by exclusion of the large majorities,
have blocked, permanently, the changes demanded by the people. Because of this behavior the popular forces have been unleashed, and would only have their democratic aspirations met through the call for the Constituent Founding Power. In addition, the consolidation of the “Estado de Derecho” [a state that respects citizen rights and democracy] demands a judicial base that allows for the practice of a Social and Participatory Democracy.

The consultative referendum took place on April 25, 1999, and 81.9 percent approved the call for an ANC aimed at transforming the state and creating a new judicial order to allow for the effective implementation of social and participatory democracy.

THE CONSTITUTIONAL PROCESS

Four countries in Latin America have implemented constitutional reforms in recent years: Brazil (1988), Colombia (1989), Ecuador (1994), and Venezuela (1999). The Constituent Assembly is part of a political project that proposes the framing of a new Constitution as a mechanism to change the legal and institutional structure of a country, and proceeds to its refoundation by redefining the bases for the functioning of the nation and the shape of the relationship between the state, the government, and society. Here our focus is on development of the health articles in the new Venezuelan Constitution.

Health Background

It is important to note briefly the fundamental characteristics of the current Venezuelan health system. In the Constitution of 1961, in the chapter dedicated to social rights, article 76 stated, “All [citizens] have the right to health protection. The authorities will be responsible for public health preservation and will provide the means for prevention and health care to those who lack them” (5, emphasis added). This limited view of the role of the state in health matters mandates the state to be responsible for providing health care only to those sectors of the population that cannot afford to take care of their own needs. The article focuses the state’s action on the poor and indigent. The bottom line is that, as clearly expressed today in neoliberal ideas, people must be responsible for satisfying their own needs in the market. The state should intervene only when individuals cannot fend for themselves.

The main characteristic of the Venezuelan health system at the time of the ANC was its fragmentation into three coexisting subsystems: the first, a public system, free and open to all the population, under the Ministry of Health and Social Welfare; the second, a subsystem of social security, accessible only to workers who are part of the formal labor market and contribute to social security; the third, a private subsystem, which is fed by numerous insurance contracts with the public sector and generates cross-subsidies between the public and the private sectors.
Methodological Aspects in Writing the Health Articles

On June 16, 1999, rallies were held to elect the 131 Constituent Representatives who would write the new Constitution as an instrument for transforming the state and creating a new legal order. The ANC created a Subcommittee for Health to write the articles that would communicate the view of the majority of representatives on health issues for Venezuela. As a general framework, the subcommittee emphasized that the writing of the new Constitution derived from two basic concepts about the role of the state, the citizenry, and society, which support the Constitution:

1. The progressivism and interdependence of human and social rights, reaffirming the role of the state in the construction of collective well-being and fighting the pro-privatization groups that would convert those rights into market commodities.
2. The co-responsibility of the triad state-individuals-society in social participation, which enables citizens and communities to become the main actors in the new society. To achieve this goal, the subcommittee developed the notion of a participatory, federal, and decentralized state, in which decentralization is a basic tool to redistribute power, devolving it to the community.

The Health Articles

Three theoretically informed methodological steps were proposed for writing the language of the Constitution. The first was a situational analysis of the health sector that located its main problems in the functioning of the system and established the need to build alternative proposals. The second step was a literature and document review focused on the health content of the Constitutions of other countries. A synoptic table was developed that included the health subjects of the Constitutions of all the Latin American countries and some countries of Europe and North America that have health systems of well-known quality. This systematic organization of information was an important input for the writing of the Venezuelan Constitution, because it allowed for the collection and synthesis of the experiences of other countries. The third step was a participatory process of public sessions and town meetings to enable key social and political actors to voice their opinions about what themes should be included in the Constitution. Sixteen open and public sessions were held and 80 proposals received and processed, with more than 100 “right to speech” presentations by representatives of several organizations, community representatives, and health experts.
By the end of these three steps, the health aspects with enough relevance to be included in the Constitution were identified: (a) the definition of health and the role of the state, (b) the type of health system, and (c) the financing of the system.

**Definition of Health and Role of the State.** The ANC entertained a debate of great importance (and of worldwide relevance) on the following issue: is health a social right or a market good? There are two clearly antagonistic positions about this question. Globalization and the dominance of the neoliberal market model have reinforced the trend toward restricting social rights, decreasing the role of the state as guarantor of these rights, converting rights into individual responsibilities, and placing them in the world of the market. A strong public health current has thus been born that posits health as basically an individual good to be acquired within the realm of relationships between the individual, the family, and private health sector providers. In this thinking, the state must intervene only to help those sectors of the population that fail in helping themselves to achieve good health.

This health view has been articulated more clearly in the recent past by the active presence of multilateral financial organizations, such as the World Bank and the Inter-American Development Bank, in the health sector. It promotes health as a market commodity to be bought and sold in the free market, allowing for the free play of supply and demand market forces (6). It is of course understood that countries accepting this neoliberal view end up with privatized health service organizations, with a clear predominance of insurance and financial capital. It is interesting to note that this view is rarely spelled out as visibly as was done in Chile at the beginning of the reforms implemented by the Pinochet regime. More often this model is proposed subtly, without an open recognition of the privatizing consequences of the policies, which are disguised in many different ways.

The Health Subcommittee’s view and the ideas that emerged from the popular hearing process of the ANC are radically different. Within the framework of a broad current of progressive thought in Latin America, we think that the living and working conditions of a society determine the people’s health (7). Thus improvement of health is closely related to improvements in quality of life. Health cannot be dissociated from the human condition and life; it is consubstantial with human life and therefore a fundamental social and human right, to be guaranteed and protected by the state. Furthermore, health is a vital space for community participation and the construction of social organization and citizenship.

According to this perspective, the first political decision of the subcommittee was that in order to confront this disagreement about health as social right versus market good and to create a process of refoundation and reconstruction of the country, it would be essential to reestablish the value of solidarity and human dignity, and reaffirm the notion that health is a social right to be secured by the state. In addition, all attempts to privatize this right had to be prevented through the build-up of a Public National Health System that ensured the health of all citizens without any kind of discrimination. The first conclusion of the subcommittee,
then, was that the first component of the Constitution had to be political, conceptual, addressing the political concept of health as a social right, a duty of all, and a responsibility of the state.

Type of Health System. A second theme in the debate was the mechanisms for executing constitutional mandates. There was a clear understanding that making social rights sacred was not enough. It was also indispensable to lay out the principles and mechanisms that would allow for the implementation of these rights. The subcommittee called them “mechanisms to enforce constitutional mandates.” The subcommittee also reached a consensus that the mechanisms to enforce these rights must be included in the Constitution. Within this general perspective, many different ways and possibilities for organizing countrywide health care services and systems were analyzed in detail.

Three significant organizing models, with multiple variations, became evident. The first, typical of countries in Europe, is marked by the concepts of the welfare state that prevailed after World War II. This is typical of old national health or social security systems, such as those in England, Germany, France, Canada, and Spain, where the state is the essential guarantor. The second type is the private system, typical of the United States, which has no national health system and people have to find their own health insurance mechanism (8); this system has a clear dominance of market interests and private insurers. The third type is a fragmented system such as that in Venezuela, that provides health care to people according to their affiliation. This organizing structure has been reframed and “organized” by Frenk and colleagues under the notion of “structured pluralism” (9). The subcommittee considered this the worst organizing structure. Laurell (10) has demonstrated its high cost and inefficiency in several scenarios.

The Constituent Representatives decided that the new Constitution had to ensure a unified health system that was universal, integral, participatory, decentralized, and allowed for increased access to care and quality of care. To achieve these goals the system must (a) incorporate the concept of a national public health system as a mechanism to enforce constitutional mandates and (b) be directed by the principles of universality, integrality, solidarity, equity, no charge at point of delivery, and participation.

Financing. A detailed analysis focused on three large problems that affect health sector financing: fragmentation, de-financing, and inefficiency. The plan of the previous government followed a financing model partially based on direct payments by users of the services and by contributions. Additionally, it surrendered the administration of the funds to the private sector (privatization plan). The subcommittee proposed to integrate the financing in a single fund, with resources originating basically from the fiscal budget and the possibility of special allocations and contributions, to be progressively integrated into the single fund.
The health articles of the Constitution were written based on the inputs produced in the three steps mentioned above. The approved constitutional text is as follows (11):

Article 83
Health is a fundamental social right, duty of the state, which will guarantee it as part of the right to life. The State will promote and develop policies oriented towards the increase in life expectancy, the collective well being, and access to services. All individuals have the right to health protection, and the duty to actively participate in its promotion and defense, and to follow the health and sanitation measures that the law establishes, according to the International Treaties and Agreements signed and ratified by the Republic.

Article 84
To guarantee the right to health, the State will create, lead, and manage a public, national health system, intersectoral in nature, decentralized and participatory, integrated with the social security system, directed by the principles of gratuity (free access), universality, integrality, equity, social integration, and solidarity. The public system will give priority to the promotion of health and the prevention of diseases, ensuring prompt care and quality rehabilitation. The public services and goods are propriety of the State and cannot be privatized. The organized community has the right and duty to participate in decision-making about planning, execution, and control of specific policies in the public health institutions.

Article 85
The financing of the public health system is an obligation of the State, which will integrate fiscal resources, mandatory social security contributions, and any other source of financing mandated by law. The State will guarantee a health budget that enables it to implement health policy objectives. In coordination with the universities and research centers, a national human resource development policy to educate professionals and technicians, and a national industry to produce health inputs will be developed. The State will regulate the public and private health institutions.

In these articles health is conceived as a fundamental social right that must be guaranteed by the state, without discrimination of any kind, and as part of the right to life, expressing the link between health, quality of life, and collective well-being. Furthermore, the articles define three mechanisms for enforcing constitutional mandates that will allow translation of this right into reality: first, creation of the Public National Health System; second, fundamental principles that direct this system; third, funding of the system by taxes, which is a responsibility of the state that integrates fiscal resources, mandatory social security contributions, and any other sources established by law. On December 15, 1999, in a referendum for Venezuelans to give their opinion about the new Constitution,
71.37 percent voted in favor of the social right to health, and the mechanisms to ensure it were consecrated in the Constitution of the Bolivarian Republic of Venezuela.

**DISCUSSION**

After establishing health as a fundamental social right and drawing up the mechanisms of constitutional mandates for its development, there is still work to do on building the legislation and institutional capability for making this legal dream a reality. This requires the design of health policies that:

1. Strengthen the role of the state as manager of the health system and as responsible for the design of intersectoral policies to intervene in the diverse factors that determine the health of the population.
2. Build the Public National Health System, integrating the many existing state agencies, particularly the Ministry of Health and Social Development and the Venezuelan Institute of Social Security, and reinforcing their characteristics of universality, unity, decentralization, and participation.
3. Encourage strong state investments in health to offset the lack of resources, integrate the various sources available today, introduce budgetary mechanisms that include performance measurements, and stimulate the search for higher levels of efficiency in the delivery of services and management of resources.
4. Promote the development of a health care model that reestablishes the integrality of health, emphasizing the need for coherence and harmonization between the biological and the social, the individual and the collective.
5. Allow and promote the real participation of the organized community in the design of health policies and control of services.

**CONCLUSION**

As Feo (12) notes, a comparative analysis of the Venezuelan Constitutions of 1961 and 1999 shows remarkable progress. First, the 1999 Constitution explicitly endorses the right to health, which was not established in the 1961 Constitution. The most important implications of this are universality and the role of the state as guarantor. Second, the new Constitution establishes individual duties to participate in health promotion. Although the 1961 Constitution established certain individual responsibilities, these were oriented toward compliance with health laws and standards. Third, the new Constitution establishes principles that will govern the health system (as outlined above). Fourth, it establishes mechanisms for the state to enforce the social right to health. Concepts such as decentralization and participation are also incorporated, thus creating a Constitution adapted to the functions that a modern health system must fulfill.
The 1961 Constitution did not include those mechanisms or characterize the health system as public, decentralized, participatory, and intersectoral.

Fifth, the new Constitution incorporates the notions of health promotion and disease prevention as priorities of the health system, which were not established in the 1961 Constitution. The new Constitution is less medicalized and less oriented toward curative care, instead focusing on primary care, health promotion, and disease prevention. Sixth, the new Constitution establishes the fiscal nature of financing of the public health system, which has to be administered and governed by the state. Resources originating in the national budget are integrated with social security contributions from workers and businesses. These aspects were not present in the 1961 Constitution. Seventh, inclusion of community and individual participation in health promotion and decision-making on planning, execution, and control of specific institutional health policies represents great progress, in agreement with the organization and functioning of modern health systems. Last, the new Constitution sees health as part of social security. We interpret this to mean that despite being integrated with social security, the health system must be unified and managed by the Ministry of Health and Social Development, the highest authority on health issues.

The new Venezuelan Constitution adopted popular and democratic principles that moved the legal health framework of Venezuela many steps further in the direction of the best health system policies of the 20th century. It is a promising start for the new millennium. Both the procedures by which the new health system has been designed and the principles it embodies belie the slanders about President Chávez.

REFERENCES


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