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Far from a rights-centred approach



After the crisis of the 1990s model and the sudden advent of the political, social and economic crisis of late 2001 and early 2002, the phenomenon of social exclusion became radically more pronounced. All the policies implemented since that time, aimed at reducing poverty indicators, have displayed contradictory elements which cast doubt on their validity and viability. The rights of millions of inhabitants to a decent life have become hostage to the inefficiency of these public policies.

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Since 2002 – within the context of the worst socio-economic crisis of the last few decades – a series of social programmes have been implemented which are still in force today. An attempt will be made here to review these programmes from a rights-based perspective, analyzing the strategies they use to overcome poverty and their main characteristics in the light of human rights.

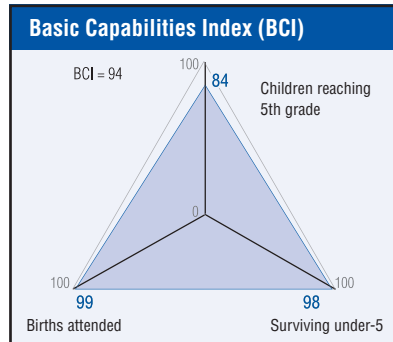
During the 1990s, the policies dictated by international financial institutions were vigorously implemented in the country, to such an extent that after a few years they transformed the way the economy operated and the conception of social policy itself which was divorced from the guiding principles of human rights.

Towards the end of 2001 and early 2002, a severe institutional, political, social and economic crisis broke out which led, among other things, to the fall of the government, the abandonment of the currency convertibility system and a sudden rise in the levels of poverty and extreme poverty, which in October 2002 affected 54.3% and 24.7% of the population, respectively.

Within this context, policies of income transfer were put into effect in the country. The Unemployed Heads of Household Plan (PJJHD) became the first income transfer programme to be widely applied. Subsequently, between 2003 and 2004, the national government created new social programmes, among them the Senior Citizens Programme (PAMM) and the Social Inclusion for Families Programme (PF).

The Unemployed Heads of Household Programme

The PJJHD emerged in April 2002 within the framework of the extremely severe economic and institutional crisis. It consists of a subsidy of ARS

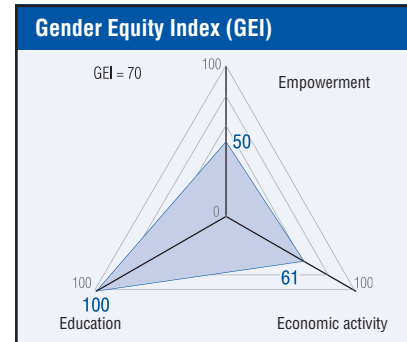


150 (USD 47) to unemployed heads of households with dependent children under the age of 18. In exchange, the head of household receiving the subsidy is required to participate in training or in community or productive activities. According to data from the Ministry of Labour, Employment and Social Security, in June 2003 the number of recipients of the programme amounted to 1,992,497 people. Later, as will be seen below, there was a drop in this number, due to the option which became available of transferring to the Family Programme. It should be noted that registration in the programme closed on 17 May 2002; therefore, it is no longer possible to include new recipients, except by court order.

With regard to the commitment demanded of the head of household, this is not in accordance with the idea of a 'right' established by the government, inasmuch as the consideration of a right should not include *a priori* a demand for 'something in return'.

As regards the amount of the subsidy – ARS 150 (USD 47) – it is evidently insufficient to satisfy the basic food needs of a family and much less does it allow access to the essential services which guarantee an adequate standard of living. The exclusion of members of society from access to goods and social services is not resolved merely by the distribution of economic aid in the form of cash or vouchers; it requires a series of coordinated actions to deal with such a complex problem as a whole.

Likewise, in establishing the same undifferentiated amount for every unemployed head of household, the PJJHD made no allowances for variations in the composition of the family group. Thus, the larger the number of persons in a household, the smaller



the effect of the subsidy in terms of achieving the established objectives, which violates the right to equal treatment under the law.

Furthermore, the programme does not include any procedures for administrative or legal claims in cases where applications are rejected. The executive branch rules only establish the municipality's obligation to inform applicants of the approval or rejection of their request, but do not provide information regarding existing means to appeal a decision. This evidently suggests that the state's intention is to discourage the presentation of claims and keep the plan's allocations under discretionary management. Despite the lack of established claim procedures, during the last few years numerous appeals have been filed in which people who fulfil the conditions required by the regulations demanded to be included in the PJJHD and have challenged the closing of registration (a restriction which was not anticipated by legislation). It is important to emphasize that all the cases brought to court have resulted in a decision favourable to the claimant. However, the government has neither reviewed its policy nor reopened registration in the programme.

It therefore can be seen that, in practice, the programme is not universal and consequently causes arbitrary inequalities among different people who suffer from the same extreme social marginalization. The programme has been limited to one sector of the population – unemployed heads of household with children, who were able to register prior to 17 May 2002 – and it was only broadened to include persons over 70 years of age who live in a certain part of the country almost a full year after it was put into operation. The rest of the population in equally needy situations has been excluded.

¹ The authors are, respectively, director and member of the CELS Economic, Social and Cultural Rights Programme. This report was written on the basis of the following study: *Las políticas para la disminución de la pobreza implementadas en la Argentina 2002-2005. Un análisis de su diseño, implementación y exigibilidad desde la perspectiva de derechos humanos*, by Luis E. Campos, Eleonor Faur and Laura C. Pautassi, which received a UNESCO prize as part of the Small Grants Programme on Poverty Eradication: Building national capacities for research and policy analysis.

Senior Citizens Programme

The PAMM, created in 2003, is intended for persons over 70 years of age, in a state of social vulnerability, who lack the protection of contributory or non-contributory social security. Applicants must show that they possess no assets, income or resources which allow them to subsist, that neither they nor their spouses are sheltered by any social security scheme, retirement fund or non-contributory system whatsoever, and that they have no relatives who are legally obliged to provide them with food, or that if they do, they are unable to do so.

At present, the pensions provided through the programme amount to ARS 211 (USD 67) a month, and are complemented by health coverage through the Federal Health Programme (PROFE). When the PAMM was launched the minister of Social Development stated that this programme would cover a total of 350,000 persons over 70 years of age. However, in late 2004, the old-age pensions system only covered 63,319 persons.

As regards the principle of universality, it is worth mentioning that until the PAMM was put into effect, the allocation of pensions was subject to budgetary restrictions and a new benefit was only granted after an existing beneficiary was removed from the register. As a consequence of the creation of the PAMM, the physical target for the budgetary fulfilment of non-contributory old-age pensions was raised, from 38,253 benefits granted in the fiscal year 2003 to 237,253 in the following period. However, a pronounced under-fulfilment of these physical targets was recorded in 2004, when a total of only 62,820 beneficiaries were covered, and in the budget for 2005 allocations were limited to 111,098 pensions, that is, 53% less than anticipated in the previous year's budget.

Another questionable element from the point of view of rights is the procedure used to incorporate persons to the PAMM. Potential recipients must apply in person at the Personalized Attention Centre corresponding to the applicant's place of residence, but as geographic distribution of these centres is uneven, in many cases the applicant must travel a long way to initiate the procedure, thus incurring the transport expenses that this implies.

Social Inclusion for Families Programme

The PF is a social programme implemented by the Ministry of Social Development since October 2004 with the aim of "promoting the protection and social integration of families in a situation of social vulnerability and/or risk, in the areas of health, education and the development of capabilities, making it possible for them to exercise their basic rights." The only persons who can benefit from this programme are those who, fulfilling all of the requirements, choose to transfer from the PJJHD to the PF, and only in those areas in which the programme is in operation.

Basically, the programme has two components:

- A non-remunerative income which consists of a subsidy to families in a potential situation of poverty, with children under the age of 19, and which, in return, stipulates that the health of pregnant women and children should be attended to and that children should remain within the educational system.
- Family and community support in terms of education, health, employment training and community development.

The official recipient of the subsidy must be the mother and her educational level must be lower than a complete secondary school education. Therefore, if the PJJHD recipient was a man, the right to the subsidy must be transferred to a woman, except in cases in which men are single parents. As regards the non-remunerative income, the amount of the subsidy is related to the composition of the family group. Mothers with one dependent minor receive ARS 155 (USD 50); with two dependent minors, ARS 185 (USD 58); three, ARS 215 (USD 68); four, ARS 245 (USD 78); five, ARS 275 (USD 87) and six, ARS 305 (USD 97).

In October 2004, the national government established a procedure for the Ministries of Labour, Employment and Social Security and of Social Development to classify recipients of the PJJHD according to their 'employability'. It was proposed that persons considered 'unemployable' should be transferred to the PF. From the point of view of equality and non-discrimination, labelling people as 'employable' or 'unemployable' is a cause for concern, since it is discriminatory. As can be concluded from the description of the socio-demographic characteristics of the recipients, this group would include not only persons over the age of 60, but also women with family responsibilities whose inactivity may be associated to difficulties in resolving the tension between remunerated labour and non-remunerated family care, in a context in which there are no specific policies to solve the problem of child care, except to become 'unemployable'. For them, the government suggests the PF.

Moreover, in conditioning income transfers on other demands – related to children's education or health – the programme is based on the premise, though not explicitly, that it is necessary to generate a commitment in poor people with regard to overcoming their poverty, as well as supposing that the poor do not necessarily know what is best for themselves and for their families. Thus, many programmes initially incorporate women as resources rather than as beneficiaries, supposing, by means of this procedure, that a commitment towards 'social participation' will be generated in them. It should be underlined that in terms of the minimum content of the right to an adequate standard of living, the

amount established is insufficient to satisfy the basic food needs of the recipient family group. Likewise, to consider that the transfer is incompatible with receiving any other income in the family group, beyond the amount of a minimum, vital and changeable salary, is questionable, inasmuch as this amount is inferior to the amount of the Total Basic Needs Basket (approximately USD 147 for a family of five, two adults and three children).

The design and implementation of the PF can also be analyzed in the light of the principle of *universality*. As regards the geographical extension of the programme, it should be noted that up to May 2005, its application was limited to 17 provinces in the country (out of 23), and did not cover the total population of the provinces, but was limited to 74 municipalities. There were no reasons to justify the exclusion of persons who, although they fulfilled the requirements established by the regulations, could not be included in the programme, merely because they lived in one of the provinces or municipalities which had not been selected.

Finally, like the PJJHD, the PF does not provide procedures for administrative or legal claims for the recipients; they can only make 'enquiries and complaints' in different ways. In addition, in order to effect the transfer from the PJJHD to the PF, people are obliged to sign a letter of commitment which, among other things, states that if the commitments undertaken are not fulfilled, the recipient may be struck off the PF, which could also happen once the PF's period of implementation and development is at an end, and that furthermore, if for any reason the beneficiary stops receiving the benefit, no claim is allowed. The fact that this 'letter of commitment' must be signed makes it clear that the person receiving the subsidy cannot be considered as a bearer of rights.

Final thoughts

Despite the significant size and scope of the social programmes put into effect, the reduction of poverty between 2002 and 2006 can hardly be attributed to these programmes, whose only contribution may be described more as 'relief' than as a strategy to 'overcome' poverty.

The programmes analyzed do not adequately respect the standards of human rights in general. Specifically, they display certain weaknesses in terms of 'minimum content' of acceptable standards of social rights and in particular with regard to the right to equality, non-discrimination, universality and access to justice. Therefore, their design and implementation are conceived from a perspective of benefits and not rights.

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We believe that the problems affecting social integration are problems related to rights – social and political – which are linked to the construction and reproduction of citizenship. In consequence, social insertion strategies must, on the one hand, adopt a format for the transfer of economic, social, political and cultural resources tending to strengthen the social networks of those who are currently excluded, in order to ensure their development and socioeconomic and political autonomy; and, on the other hand, ensure political and institutional characteristics in the government and in state actions which are accessible and open to social preferences and control. Essentially, it is a matter of creating conditions for a citizenship which is based on respect and the strengthening of individual and social rights. ■

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In the context of pan-European objectives and values, the foundation has been laid for achieving a more direct connection between strategy and policies in the pensions sphere and in National Employment Action Plans, with a view to raising the employment rate, restricting the inflow to early retirement schemes, increasing incentives for pro-longing active employment and setting pension systems on a stable financial footing.

The analysis of the Bulgarian experience so far provides grounds for the conclusion that there is room for a certain regulatory modification, particularly in light of the commitments ensuing for the country from European instruments in the area of pensions and social involvement. Above all, in order to guarantee a dignified life for the elderly, pensions (both today and in the future) should not be a generator of poverty, and they should match the new individual needs created by changing. Finally, and perhaps most important of all, pension systems must be financially healthy, autonomous, and sustainable in the long term. ■

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In addition, the SPDC relocates villagers not to use the confiscated land itself, but to undermine the support base of armed opposition groups by severing their connections to recruits, information, supplies and finances. Known as the 'four cuts' policy, this military-based strategy has been implemented by forcibly relocating villagers from contested areas to SPDC-controlled areas, thereby isolating villagers from resistance forces and placing them more firmly under military control (Global IDP Project, 2005).

Recommendations

Burma is a multiethnic society with diverse cultures, religions and traditions. Ultimately, peaceful co-existence and the guarantee of social security for all persons can be ensured only if the people's right to self-determination is respected through an accountable, transparent and decentralized system of governance. Within the framework of federalism in which civil society exists in every constituent unit of the union, the country must embrace a structure of governance whereby people's rights and needs can be expressed and protected through institutionalized inputs to the decision-making processes at all levels of the administrative system. In essence, the notion of 'self-rule and shared rule' must be respected.

Essentially, the state must take primary responsibility for the social security of people depending on

available natural resources, gross national income, and state budgets, while promoting the economic, social and cultural rights of people on one hand and fostering the economic welfare of people on the other, through a 'people-centred' approach as opposed to 'state-centric' development programmes. The state is also obliged to respect and promote the genuine principles of the rule of law with the existence of an independent judiciary, under which corrupt practices and abuses of power by administrative officials can be brought to justice and a transparent society can be established.

The emergence of civil society organizations and institutions will help secure the right to social security for all. As such, all oppressive laws and other restrictions imposed on the formation and independent functioning of civil society organizations must be abrogated, and their communications with the outside world and among the organizations themselves to seek assistance and cooperation on social security matters must be institutionalized and legalized.

Social security can also be protected when people live in dignity with a secure livelihood. To this end, last but not least, the state must guarantee people's access to the resources required, in addition to the cancellation of legal and administrative barriers which hinder equal rights to employment, equal pay for equal work, and the independent formation and operation of trade unions, commencing with the right not to be forced to work.

Eventually, the right to social security will become a reality when the inner dynamics, interconnectedness and interaction between the state, civil society organizations and capable individuals better reflect the dire need of the Burmese people. ■

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