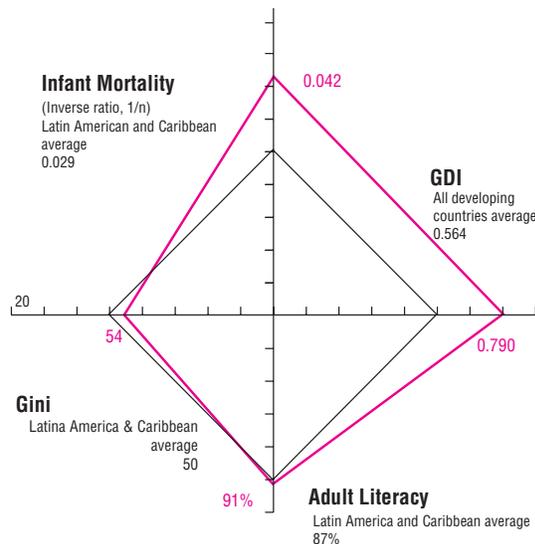


•NORA CASTAÑEDA

## SOCIAL «REFORM»



*The Equity Diamond: National values in terracotta compared to regional ones in blue.*  
 Source: **Infant mortality:** UNICEF, *The State of the World's Children, 1998*; **Adult literacy:** UNICEF, *The State of the World's Children, 1998*; **GDI** (Gender Development index): UNDP, *Human Development Report 1998*; **GINI:** World Bank, *World Development indicators 1998*. (The regional average for this indicator was calculated by *Social Watch*).

*With the adoption of the economic programme «Agenda Venezuela», proposals for social security reform geared more to the market than to solidarity have gained momentum. There was little citizen participation in decisions leading to this shift. This lack of participation is explained in part by the absence in the country of a social*

*security culture and, above all, by civil society's scant disposition towards consultation and real participation.*

In accordance with agreements reached at the World Summit on Social Development, the Venezuelan government led by Rafael Caldera agreed to create an environment for social development, eradicate poverty, generate full and productive employment, and achieve social integration, equality and equity between men and women, and universal and equitable access to education and primary health care.

After 1996, two things happened which together led to reform of the social security system, still underway. The distance between reality and what was constitutionally established on the subject became more and more evident. Furthermore, social security reform was linked to institutional reform of the State, in particular the judiciary branch, the Organic Labour Law, and the system regulating the labour market. This more far-reaching institutional reform was to include reform of the social security system. Thus, social security reform caught the attention of multilateral bodies, the government, business people, workers, retirees and the National Congress, as this institution was ultimately responsible for approving the social security system to be enforced in the country.

**This process, which is fundamental to social development rights, was undertaken with little citizen participation.** This lack of participation is explained in part by the absence in the country of a social security culture and, above all, by civil society's scant disposition towards consultation and real participation. For example, women's organizations were never consulted, even though social security can be conceived of as «a system for legally founded social protection, aimed at guaranteeing that the inhabitants of a country [men and women, we add] have minimum conditions favouring a human and worthy existence.»<sup>1</sup>

<sup>1</sup> MÉNDEZ CEGARRA, Absalón: **Consideraciones generales sobre la seguridad social en Venezuela**, Cuadernos de Postgrado N° 4. Comisión de Estudios de Postgrado, Facultad de Ciencias Económicas y Sociales, Universidad Central de Venezuela, Caracas, 1993, p. 42.

At the beginning of the current constitutional period (1994), in the programme document «My letter of intent to the people of Venezuela», the president himself expressed interest in the subject. After its first two years in office (1994 and 1995), however, the government started moving away from its original statements on social security, among others. **With the adoption of the economic programme «Agenda Venezuela», various proposals concerning social security reforms started gaining momentum**, but these emphasized the elimination of the Venezuelan Institute of Social Security (IVSS) rather than its reform, and **promoted an outlook geared more towards the market than towards social solidarity**.

## THE TRIPARTITE COMMISSION

In January 1996, under the leadership of the then minister of labour, a first attempt was made by a Tripartite Commission (comprising representatives of the Executive, business people and union leaders) to address a framework for reform of the Organic Labour Law—in particular the social benefits system—and social security. This initiative did not flourish and it was only in November 1996 that business people, union leaders and the government started to meet to give shape to the documents setting out the definitive bases for changes regarding labour issues and social security.

The Tripartite Commission established two working commissions—a political commission and a technical one. Representation of the Executive and of Fedecámaras (the main business organization in the country) largely coincided on these commissions, so much so that, regarding the specific subject of social security, experts participating in the Technical Commission voiced criticism of the business people and government's insistence on eliminating the Venezuelan Institute of Social Security and imposing private pension funds. The representative of the Single Central Workers' Union of Venezuela resigned because of disagreement over this type of proposal, and later participated in preparation of a bill supported by the Central University of Venezuela.

Finally, in March 1997, following months of discussions, the Tripartite Commission signed a document setting out the general agreements reached on social security. It was agreed that the new social security system «is to be based on the principles of univer-

sality and solidarity, [and] be obligatory and contributive, under the direction and supervision of a tripartite body. The system will include workers hired by employers and special systems will be established for independent workers, workers in the informal economy, and rural workers. The public and private sector will participate in its financial organization and administration.»<sup>2</sup>

With regard to present retirees, the Tripartite Commission agreed to «recapitalize the IVSS Pension Fund through the establishment of a trust set up within the Venezuela Investment Fund with an initial contribution by the Ministry of Finance.»<sup>3</sup>

Concerning health, the Commission agreed to «separate the insurance function presently being fulfilled by the IVSS from medical care», proposing the establishment of complementary health funds and opening the way for the private sector to provide and manage services in this sector. The agreement did not contain any important element on the possible decentralization of health care, or on the role to be played by regional governments and municipalities in this respect.

On the subject of layoffs, it was agreed to «capitalize the present fund and financially and administratively separate it from IVSS. An executive process for notice is set out, enabling the worker to obtain the benefit if it is not paid to him or her within 30 days after ending the labour relationship. The National Employment Service of the Ministry of Labour is to be strengthened, linking it to layoff situations. The Ministry of Labour and the National Institute for Educational Cooperation will establish plans for training unemployed workers in order to reinsert them in the labour market and it has been decided to modify the Regulations for Layoff.»<sup>4</sup>

PROVEA sees this agreement as a step forward that will benefit its recipients. Its links with the National Employment Service are positive, as are the plans for worker training, in view of the fact that unemployed workers' reinsertion into the labour market should be achieved as soon as possible.

## THE SOCIAL SECURITY FRAMEWORK LAW<sup>5</sup>

To provide continuity to the Tripartite Commission's proposals, in May 1997 the Executive Branch submitted a Social Security Framework Bill to Congress for consideration. This was later sent to the Special Commission for Reform of the Organic Labour Law and of Social Security, comprising members of the different polit-

<sup>2</sup> CORDIPLAN: *Minuta de reunión de la Comisión Tripartita*. Mimeo. Caracas, marzo 1997.

<sup>3</sup> *Idem*.

<sup>4</sup> *Idem*.

<sup>5</sup> In a recent statement after the elections of December 6, elected president Hugo Chávez said it was necessary to review the Social Security Framework Law, in particular, the approved health subsystem, by means of a Presidential Decree. He clearly stated that the State was responsible for the health of the Venezuelan people.

ical factions. «Before the Executive submitted the bill on social security, the Central University of Venezuela, jointly with the Professors' Association of the Central University of Venezuela, submitted a proposal to Congress that was scarcely considered. In this proposal, the system for social protection was state administered and comprised three subsystems: one for social security, one for health and one for social assistance. The first subsystem was to include all the population having a contributive capacity, and the third would include the population lacking contributive capacity, to enable them to receive the same benefits as the former.» (Hora Universitaria, No. 125. UCV. Caracas).

The framework law mentioned above was approved on December 30th 1997, and is known as the Organic Law for Comprehensive Social Security. Article 1 defines the aim of comprehensive social security, the various contingencies to be covered and, in a first paragraph, leaves open the possibility of private sector participation. Article 2 sets forth the State's responsibility in guaranteeing the right to social security, and making it universally applicable by establishing that it «is the State's responsibility to guarantee to the inhabitants of the Republic [we add: men and women] the constitutional right to social security.» Article 3 ratifies supervision by the National Executive in the terms established by the law and its obligatory and contributive nature for each worker.

Article 6 defines the scope of application by stating that the «inhabitants of the Republic complying with the requirements for membership will be protected by the system.» The new law is a step backwards from the present Social Security Law, which establishes that membership of an insured person implies coverage of beneficiaries (spouse, concubine, children and even parents). Individual membership of relatives will be possible, but will make costs higher and generate discrimination and deterioration as compared with the present system. Additionally, **all those people lacking resources will be outside the scope of social security: although granting of assistance pensions to non-contributors is foreseen, these may not be financed with funds created by this law, and the establishment of a social assistance subsystem for this group has not been foreseen.**

Title III of the Bill defines the subsystems comprised in the Comprehensive Social Security System (article 14): Pensions, Health, Layoff and Vocational Training, Housing and Recreation. Each will be governed by special laws. In PROVEA's opinion, the absence of provisions for a subsystem for those who do not have resources (it was included in the bill submitted by the Professors' Association of the Central University of Venezuela) contradicts the supposed comprehensiveness of the social security system examined here.

In Article 27, Chapter II of Title III, the pension subsystem is described in detail. This is one of the most controversial provisions as it establishes (like in other countries of the region) a system for individual capitalization (accompanied by a solidarity system). This system for individual capitalization is detrimental to working women regarding maternity, so the solution found by the

Tripartite Commission was to increase the retirement age (from 55 to 60, equivalent to men's retirement age), in the understanding that women would have five more years to capitalize. Clearly the Tripartite Commission considered maternity as women's and not society's responsibility.

Article 28 establishes that «all the affiliated contributors will have the right to a uniform, lifetime minimum pension [...] guaranteed by the State if necessary, charged to public funds, by means of the Inter-generation Solidarity System.» In the opinion of PROVEA, such a pension is none other than the one currently guaranteed by the Pension Homologation Law that establishes that the minimum pension must be equal to the minimum wage.

«In the pension subsystem, priority is given to individual capitalization since it is considered that this should become the basis and support of the subsystem. The inter-generation solidarity fund will therefore be used to complete the minimum lifetime pension if the affiliated person does not achieve this through individual capitalization.» **By considering the individual capitalization fund as the principal element and the inter-generation solidarity fund as secondary, this provision goes against what the Law itself affirms regarding the solidarity principle on which it claims to be based.**

Articles 29 and 30 cover the creation of individual capitalization funds that will provide members with pensions the size of which depends on the amount they have accumulated over their economically productive years. The administration of these funds will be the responsibility of institutions set up exclusively for this purpose, of a public, private or joint nature. In this way, an opening is provided for the private sector to participate actively in this area, which thus far has been reserved to public management. Pension fund administrations that may be set up in the future will be responsible for investing important sums of money accumulated from worker and employer contributions. Defenders of this system claim that it will be very attractive for private capital, both domestic and foreign, while critics claim that inflation and low salaries are an obstacle to its implementation and development.

Chapter III develops the contents of the health subsystem. According to Article 37, this subsystem will comprise obligatory traditional or solidarity membership that guarantees provision of basic components only, and a voluntary complementary affiliation. According to Article 38 of the bill, «the beneficiary will have the right to freely choose fund administrators and health-care providers, which may be public, private or joint.» However it is easy to see that this choice will be conditioned by the contribution capacity of the person insured. Article 39 separates the insurance function from that of provision of services, through the opening offered to the private sector to participate as administrator and provider of health services.

Various unions in the health sector have made statements on this subject. Fernando Bianco, president of the Venezuelan Medical Federation, claims that «**the health of the people has not been taken into account [...]. The project foresees that each Venezuelan covers the cost of health [...]. It is considered that those**

**who have most will receive better services and those lacking money will suffer the rigours of poverty.»<sup>6</sup>** In the same line, Alfonso Arias, Financial Secretary of the same union, considers that «with the Framework Law, a new supplier–customer relationship will be established, displacing the doctor–patient relationship [...]. The bill warrants being qualified as commercial because it foresees that everyone can have access to health care as long as they pay for it.»<sup>7</sup>

Article 40 provides for creation of a «Solidarity Health Fund in order to guarantee the provision of comprehensive medical care and its funding to members [...].» The Venezuelan Medical Federation submitted a document to the Special Commission that discussed the Law at the bill stage, establishing its position in this regard: «This Bill divides medical attention into two systems, the first obligatory, where there is an abundance of exclusions and only very basic benefits are offered, and the second voluntary with additional payment to cover exclusions and where costs to the worker or coverage of same are not detailed, leaving a dangerous gap and generating discrimination between those who can and those who cannot pay extra.»<sup>8</sup>

In a single paragraph, Article 41 provides for the creation of a special fund to cover costly diseases, risks and long lasting illnesses, within the limits established by special law of the subsystem, to be funded by a percentage of the obligatory contributions paid by members and employers and inputs by the National Executive. In the opinion of PROVEA, this is a positive initiative because it will generate funds that are hard to cover with the membership dues.

Chapter V develops the Layoff and Vocational Training subsystem, where Article 48 defines that «its objective is the temporary protection of the member due to involuntary loss of a job, through monetary benefits, vocational training, labour mediation and maintenance in the health care subsystem.» Membership will be obligatory, the fund will have financial autonomy and resources may not be used for other purposes than those foreseen. The objective and terms of the subsystem are very similar to those presently in force in the Layoff Regulations, the novelty being the establishment of an executive procedure for notice of a summary nature, enabling the unemployed worker to obtain payment of the benefit within the 30 days following the end of the labour relationship (Article 52). In PROVEA's opinion, this is a significant input, given present experience that workers end up being paid years later, thus infringing the principle of efficiency and sense of timeliness in coming to the assistance of workers in the event of dismissal.

Finally, Article 60 defines the nature of the Recreation Sub-

system. Its objective is to «promote and foster development of recreational programmes, use of leisure, rest and social tourism for members and beneficiaries [...].»

According to Absalón Méndez, postgraduate coordinator in Social Security at the Central University of Venezuela, «**in no case will the new pension scheme enable a worker to reach a pension higher than the minimum salary that was used as a reference for his contribution [...]. The reasons are due to [...] the nonexistence of high wages for the economically active population [it is estimated that presently 80% of workers earn the minimum salary of 100 thousand bolivares—USD175 at 15 October 1998 rates], the lack of job stability [...], the stagnation or distortion of the internal productive apparatus [...] and, lastly, the existence of a high rate of inflation consuming workers' wages and pensions.**» (Hora Universitaria No. 125. UCV. May 1998. Caracas). Oscar Feo, president of Corposalud of the State of Aragua, states that: «there is marked private sector interest in managing social security funds, because of the magnitude of their resources. We are talking about [...] 10% of the nation's budget.» (*Idem*)

Finally the following statistical notes will provide information on the 1995–1998 period:

1. according to sources at the Central Statistics and Computer Science Centre, at the end of 1997 there were almost 3 million households living in poverty, of which over 1.6 million were in extreme poverty;
2. in 1993, the percentage of households in poverty was 41% and in 1997 it was 65%;
3. the unemployment rate was 6% in 1993, and rose to 12% in the second half of 1997;
4. the percentage of the population that was unemployed or worked in the informal sector was 58% in 1994 and rose to 60% in 1997;
5. according to Asdrúbal Baptista, cited by Héctor Silva Michelena, «the Gini coefficient, measuring the degree of inequality (0 = absolute equality, 1 = absolute inequality), rose from 0.590 to 0.624 between 1995 and 1996»;
6. over the same period, the Gini wage rose from 0.429 to 0.461;
7. real salaries fell 32.8%.

- PROVEA (Venezuelan Programme for Education/Action on Human Rights), Coordination of Non–Governmental Women's Organizations and Centre for Women's Studies at the Central University of Venezuela.

6 *Diario 2001*, 26.08.97, p. 9.

7 *El Universal*, 09.09.97, pp. 1–17.

8 *Idem*.