
Rafael Francisco Albuquerque de Castro
Vice President
Dominican Republic

It is a great honour for me to participate in this International Seminar on "Legislation on the right to social security in national social agendas"; its main theme is one which is extremely important for the future of the region and also particularly dear to my own heart. The first question is why we have chosen to begin this seminar with a meeting on the Welfare State (WS), if the central issue is legal aspects of social security. These are not in fact different and unconnected issues, since the extension of social security systems is closely linked with the concept itself of the WS.

I would like to begin with a short history of the conception, rise and decline of the WS, seen by Latin Americans as an example worth following even though it is, in the words of Amartya Sen, a typically European invention. Far-reaching concepts such as those we are tackling here must be seen in the light of theoretical structures which go beyond the boundaries of time and space. Nevertheless, the historical dimension and geographical boundaries are essential elements for an understanding of the birth, development and transformation of modern WSs.

I shall therefore refer to this concept in its European context, analyzing it to determine whether, strictly speaking, the WS can be considered to exist in Latin America. This search for an explanation of the reasons behind the crisis will facilitate analysis of popular new models and the social rights acquired as a result of the former.

For many historians, the origins of the contemporary WS lie in the promulgation of the New Poor Law in the United Kingdom in 1934, which was designed to create the stable and functional legal framework needed to provide a system of government aid for the most needy among the poor and working populations. The earliest State social insurance programmes were those created in Germany under Bismarck (1883), which laid the foundation for modern contribution-based social security. Workers were seen in terms of their rights and obligations, rather than as a potentially poor population group.

The historical origins of social security clearly show the connection between the need for political stability on the part of governments and social and economic leaders, and the satisfaction of popular demands for social justice and protection. By the end of the 1920s, health insurance programmes had been introduced in 22 European countries.

In the interwar period, the International Labour Organization (ILO) underlined the enormous potential for social legitimation of insurance programmes such as those concerned with health, work disability, unemployment and old age pensions. The Beveridge Report
published in the United Kingdom in 1941 established the principle of universal social security cover for all citizens “from cradle to grave”, to be funded from general State taxes, financed by all contributors. Among other things, these recommendations led to the institution of a free and universal National Health Service.

The Welfare State

A WS is one in which the powers of a centralized authority are used deliberately to modify the play of market forces. Typically, this intervention is of three kinds:

- the WS provides a guaranteed “minimum wage” for its citizens regardless of the market value of their work or capacities;
- it minimizes the effects of insecurity by protecting its citizens against certain social contingencies such as illness, unemployment or old age; and
- it provides a “contractual services package” with equal rights of access for all citizens regardless of their class or status.

A State based on this model, centred on itself as a coordinator, motor and entrepreneur, undertaking multiple activities and providing a range of services, is the fruit of a capitalist mode of development; it created employment and redistributed the risks it generated within its own frontiers. Its subsequent development socialized generations of Europeans in terms of the values of equality and solidarity.

Its functions are also to guarantee macroeconomic stability, to contribute towards maintenance of demand on the domestic market and to stimulate the growth of national economies, based on Keynesian theories. The latter is an aspect which has often been under-estimated, but which was of over-riding importance in maintaining the consensus which facilitated sustained economic growth among western industrial democracies after the Second World War, particularly during the “golden years” of the development of welfare capitalism from 1945-1975. Based on a Keynesian macroeconomic approach, the consolidation of WSs was associated with the introduction of economic policies designed to stimulate demand through the public sector.

Electoral and ideological conflict between Christian democrats, social democrats and liberals, cultural tradition and the prevailing life styles in the various European countries led to the creation of two major welfare models:

- Universal or “Beveridge”; this model, based on the belief that all citizens have certain basic welfare rights, was designed to provide unrestricted access to social programmes and services. The same cash benefits are provided for all beneficiaries, financed from general state taxes. This system of taxation and redistribution leads to the transfer of income among contributors.
- Employment or “Bismarckian” model, based on the contributive principle of social security. Cash benefits, mainly in the form of pensions, are provided based on contributions made but without strict adherence to actuarial criteria of equivalence between contributions and benefits; this leads to income redistribution between various groups of contributing workers and their dependants. The aim is to maintain the level of the pensions accumulated by contributors throughout their working lives.

In an attempt to categorize WSs, Esping-Andersen considered State intervention as an independent variable which determines the production of welfare and defined three types of
system: social democratic, liberal and corporatist or conservative, based on three main criteria:

- the degree of decommodification, or the extent to which citizens are dependent on the market to meet their welfare needs;
- the relationship between the State, the family and the market in meeting welfare needs;
- the effect of State provision of utilities on social stratification.

The crisis of the Welfare State

Regardless of the characterization of social welfare schemes, their growth has clearly gone hand in hand with economic growth. From the sixties onwards, the Keynesian model became less important and the ideological consensus which considered the WS as the most promising and permanently valid response to the social and political problems of advanced capitalism, disappeared.

This decline became more acute with the oil crisis of the seventies, which led to increased inflation and much slower growth. The effects of this crisis highlighted the growing openness and interdependence of the European economies and changed the previous picture of prosperity and full and stable male employment.

During the 1980s and 1990s, the growing impact of the neoliberal ideology cast doubt on the principles and legitimacy which lay behind the development of the WSs. Seen in this light the State could no longer to meet the responsibilities it had taken on or fulfil the expectations it had generated.

Discussion centred on the effects of economic globalization and industrial change on national labour markets.

The end of the “Ford era” and the rise of the “new economy” were a severe blow in terms of the role of the employment market in supporting the WS. The general expectation of full employment throughout working life, often in the same enterprise, was replaced by growing job insecurity, frequent job changes, long periods of unemployment and increased precarity. When social protection depends on employment status, labour market instability means poverty and social exclusion.

The increase in atypical career patterns and the new family structures undermine the capacity of current welfare systems to provide pensions and prevent poverty. With the disappearance of the customary norms governing the relations between salaried workers and their employers and of family support for dependents within traditional social protection systems, the existence of well-designed and effective safety nets became of crucial strategic importance in the fight against poverty and exclusion. In the light of these trends social assistance, the element of the WS best equipped to cope with these risks, became increasingly important.

Alongside this, far-reaching structural changes, high levels of unemployment, a higher proportion of women on the labour markets, the low birth rate and population ageing, combined to exercise considerable pressure on social protection systems. The situation was further aggravated by the constant drop in the number of actively employed workers contributing to the maintenance of the WS and to its social security systems in particular.
short, it was the financial crises and the erosion of the ideological consensus which led to the restructuring of European WSs.

With the introduction of a single currency (the Euro) and the establishment of the Stability Pact, policies to "reduce welfare" have in most cases led to a common focus on containment of public spending.

There is widespread belief among European governments that their constituents are unwilling to pay higher taxes and contributions to finance public welfare spending, and this has put a break on public spending. Although opinion polls provide little evidence of less popular support for interventionist WSs, there is strong support for increased social expenditure on health care and health programmes as well as for pensions' maintenance and the provision of care for the elderly in general. However, such attitudes often coincide with favourable attitudes towards ceilings for taxation of low and medium incomes, which creates a major dilemma for public policy decision-makers.

The inter-related objectives of full employment, progressive taxation and high levels of public expenditure which characterized the period when welfare was at the height of its development, have been abandoned as State policy objectives in more than just a few cases. At the same time, the unrestricted movement of capital has left little room for manoeuvre among nation states in terms of the implementation of “corrective” market policies.

In addition to the need to introduce changes in economic policies, globalization theories are also destined to modify national solidarity.

**The new paradigms**

Under the new economic paradigm, a State using Schumpeter principles to implement active workfare systems, considers free markets a prerequisite for economic success. The aim of such a paradigm is increased competitiveness between national economies, giving priority to the demands of flexibility rather than welfare. Most governments use the Maastricht criteria for the establishment of the European Economic and Monetary Union to justify policy changes and reforms. Changes in the welfare system are thus presented, at least in part, as a move towards European unity.

Today, decisions concerning most macroeconomic policies in the "Old Continent" are taken in a European context while social policies are usually defined on a national basis. At the same time there is a general contradiction inherent in the paradigm in that while economic policies are based on a neoclassical approach and on supply, social policies are still based on a Keynesian approach and on demand.

Both need to be reformulated to find a compromise which will fit the new European social model. It is no accident that each time the European Council issues a declaration on employment and social policies, the text includes ambiguous terms reflecting a compromise between the economic and social approaches. "Flexicurity" has become the key word in terms of employment policies.

The creation of a social Europe is seen as an essential objective. The “welfare mix” or social welfare “basket” has been consolidated as a result of the socioeconomic crises which have affected European countries. Economists, alongside their concerns about its financial viability are eager to set limits as regards the activities of “overloaded” welfare systems; this
has made them take a new look at the role of the market, of voluntary civil associations and of the family as mechanisms for the distribution of resources for social protection and welfare. The tendency of regional and municipal authorities to claim more responsibility for social measures also involves a redistribution of the roles traditionally assumed by a central State authority. However the welfare mix also seems to be connected with a desire for greater involvement in the definition of the principles governing European solidarity.

**Social rights**

As mentioned above, when social protection depends on employment status and leads to social security systems, the instability of the labour market inherent in the new economic environment leads to poverty and social exclusion. The situation of those excluded in the processes known as "social polarization" in Europe has been the object of much recent concern. This affects those who would previously have been described as living in poverty or in material need, but who were socially integrated through the protection provided by the WS and who now find themselves in situations of increasing economic and social vulnerability.

In these cases, welfare rights acquired under the rules governing employment relations do not apply; many of these people can claim their rights as citizens only through State action. ‘Safety nets’ have acquired enormous social relevance as a result, enabling such rights to be transformed into concrete material support: this is the aim of the minimum earnings or income allowances, which are usually associated with measures for the re-entry of the beneficiary in the labour market.

The recent debate concerning basic pensions, which is attracting increasing interest in Europe among social policy specialists, trade union and employers’ associations and community groups must not be forgotten either; seen as a civic right, it is another benefit which should be allocated regardless of other sources of income or whether beneficiaries work or not. Regardless of what they consist of, both types of public benefit can be considered as an integral part of the social policies appropriate at more advanced stages in the implementation of the citizens’ social rights.

**The Welfare State in Latin America**

Is there or has there ever been in Latin America something which could be defined as a social WS? Although most analyses conclude that it is a European phenomenon, they also share the following hypotheses:

- the WS is a modern phenomenon closely linked with social processes (urbanization, industrialization, demographic changes, class structure, salary scales and the new State institutions which go with them); and
- the WS tends to progress alongside these processes of capitalist modernization, in a way which allows for a wide variety of institutional rhythms and structures.

Using the same approach, certain authors have proposed an intermediate category to analyze the type of State which has emerged in Latin America in the course of the 20th century, that of a Latin American developmental WS based on the ECLAC theory of the developmental State, its crucial role in economic dynamics in industrialization through the substitution of imports and their links with the existing social protection systems.
Without adopting the views of these authors, it is a fact that social policy institutions in Latin America have developed alongside capitalist processes of development and modernization. The significant social imbalances which arose as a result of rural migration to urban areas led to the destruction of local community cultural and family structures, but at the same time stimulated the emergence of new institutional structures that, in the long term, avoided or reduced the anomalies characteristic of modernizing societies. Modern institutions for the provision of social protection have thus represented the most important instrument in terms of compensation or re-equilibrium, since the social security, educational and other social services which they provided facilitated the transition and enabled the social integration of the rural masses into urban life as wage-earners.

The adoption of the development strategy which was seen as a regional response to the crisis of the thirties was based a pre-existent demand for consumer goods because most capital goods were imported; this created an industrial mode of reproduction which was intrinsically dependent on outside factors. Under these conditions, the State is forced to accept the double task of fulfilling the economic functions which modern social actors cannot carry out because they do not exist or are too weak, while at the same time playing an active part in social transformation designed specifically to support them. In this way, states are directly responsible for creating the missing economic infrastructure, encouraging the growth of entrepreneurship through protectionist policies financed from foreign currency generated through the export of raw products, and implementing social policies to accompany the transition from rural workers to urban wage-earners.

The objectives of the social policies introduced in areas such as health, education, accommodation and old age, among others, whether through a popular or reformist pattern - e.g. the Peronist government in Argentina and Christian democrat governments in Chile - were as follows: extension of the home market, providing incentives for employment of the workforce on a salaried basis and redistribution of income towards the lower classes; reduction of class conflict while strengthening social cohesion which the modernization process tended to weaken.

This modernization of the social institutions led to the creation of a fragmented and stratified urban social climate, since the developmental model considered the manufacturing industry as the factor governing social processes. The social insurance and protection systems provided cover only for salaried workers on the formal and urban labour market; the latter acquired their social rights in successive waves, sector by sector, leading to different conditions and benefits depending on the economic activity involved, trade union membership or negotiating power and this means that risks were redistributed in an unequal and biased way.

These particularities affecting the implementation of social rights gave rise to an exaggerated degree of stratification in access, in the cover provided and in the quality of social protection. Rural workers as a whole and workers in the informal sector remained totally excluded not only from economic growth but also in terms of the cover provided by social insurance systems.

The Latin American Developmental Welfare States (LADWS) had accepted a model of social insurance and protection which was incomplete in terms of welfare and covered only a small part of the population. Nevertheless, it was a vision of universal protection and equal care for all which inspired both social policies and the creation and implementation of social security systems.
The crisis of Latin American Developmental Welfare States (LADWS)

The crisis of the LADWS began with the decline of the development strategy they had adopted which was viable only in the presence of regular growth based on the generation of foreign currency from the export of traditional raw materials, whose productive structures remained intact, to finance imports.

As in Europe, the effects of the oil crisis created further problems, on top of the fiscal cost of the imbalance between the prices of raw products and those of manufactured goods. Most of the Latin American countries were compelled to abandon this policy in favour of a model based on exports.

The Latin American economies are entering a phase of rapid integration into the global economy. The high social and political cost of the economic changes which have been introduced have had a significant effect on what is known as “the lost decade”. Social deterioration has meant increased inequalities in the distribution of income, worrying levels of extreme poverty, a decline in the urban formal employment sector, an increase in the informal sector and increased job precarity. In this local context the neoliberal ideology, which as in Europe focussed on the effects of economic globalization and the reforms required to integrate the Latin American economies into this new order, came under further attack.

The reforms introduced following the Washington Agreement were based on the idea that the market, through economic growth, would play a fundamental part in social integration. It was accepted as a general rule that efforts should concentrate on creating the macroeconomic conditions required for growth, since poverty was a question of context which could be brought under control once the main objective had been achieved.

In spite of the social deterioration observed in most countries of the region in the eighties, the State institutions were dismantled and privatization increased in all sectors, particularly in social policies. It is perhaps in Chile, for historical reasons, that this process was taken to its greatest extreme. Concern over the financial viability of the social policies implemented by the developmentalist states overemphasized the role of the economy, which was presented as the panacea for all Latin American problems.

From the nineties onwards, structural reforms in social security systems affected all or part of the protection schemes for invalidity, old age and survivors as well as health care. These reforms were inspired by a theoretical model known as the New Orthodoxy in Insurance (NOI) and comprises three pillars:

- a first pillar, based on redistribution and designed to alleviate poverty, which may take the form of a minimum or non-contributory pension and which should be State run;
- a second pillar designed to smooth out individual consumption and which should preferably be organized partly or completely through private accounts based on individual capitalization, and
- a third pillar, designed to encourage voluntary savings for old age which at a later date will provide tax incentives to encourage recourse to voluntary private pension plans.

The popular opinion was that the function of the State in social issues should be limited to fixing coherent and stable rules to ensure that appropriate conditions existed for the free
action of private agents, divesting the State of its monopoly as the sole agent responsible for welfare.

**New paradigms**

Recent evidence shows that although in Latin America we have introduced economic and social structural reforms of the neoliberal type, the market has been inefficient in allocating the resources and that economic growth has been accompanied with low rates of creation of stable and decent employment.

In mid-1995, four Chilean presidential candidates agreed on the need for far-reaching reform of the insurance system; this surprised many Latin Americans who had been seeing reports on the success of this system for a quarter of a century, with more than a few countries in the region reforming their own systems based on the same pattern.

In 2006, a million secondary school students demanded that the Chile Government take over the privatized educational system, which was handing over its profits to the financial markets and private investors and involved high taxation. At the same time most of the population including large numbers of emerging middle class salaried workers, remained without cover and was obliged to pay large sums to the flourishing private social services industry, at the same time as indiscriminate national integration of globalization made both the employment market and the general environment increasingly insecure.

Is Chile an isolated case? Taking a more long term perspective, both examples seem to be the result of a “hiccup” in the social model and in general development strategy, in a context which transcends the regional level.

A macroeconomic survey of the region reveals that it is more robust than in the past, even though poverty levels have not been sufficiently reduced and inequality in the distribution of income has shown a tendency to become more rigid, thus making us the most unequal region in the world. What is certain is that even though growth is the necessary prerequisite for overcoming poverty, creating increased opportunities and guaranteeing universal social rights, rates of growth have not brought matched growth in employment.

The ILO considers that progress in the generation of employment has not been sufficient in terms of the quality of employment, as indicated by the high rates of employment in the informal sector and the low employability of young people and women. The recovery rate of industrial net salaries has been less than the estimated increase in productivity. Although growth in minimum net salaries varies in the different countries, in certain cases net salary levels remain lower than in 1990 or even in 1980. The prospects of achieving the first Millennium objective, that of halving the number of those living in extreme poverty in Latin America and the Caribbean by the year 2015, are not encouraging.

In spite of having adopted different models of development in recent decades, the region has not succeeded in significantly reducing the rate of extreme poverty, frustrating the aspirations of millions of individuals who were hoping for more decent living conditions.

This State of affairs is raising an increasing number of questions in Latin American democracies concerning their inability to solve the basic problems facing the population, which is seen as irritating in terms of social justice, it also compromises growth by excluding large sectors of the population.
The inability of economic growth alone and of the labour markets to provide an answer to these problems has led throughout the region to State intervention in social protection networks through the introduction of the transfer model based on resources, which today affect approximately 75 million Latin Americans.

These conditional transfer programmes closely resemble the European minimum income programmes in that they focus attention on the household rather than the individual; their principal characteristic is that they are intended to enhance human capital, based on the idea that the low employability of the poor is connected with low rates of human capital development.

The promises of a better world without State intervention proffered by neoliberals in Latin America have in fact led to more poverty and exclusion because of the need to ensure “inclusive” economic growth. Today, this is implemented through social policies introduced by a “strong” State, which enable flaws in the market to be corrected and provide more social, economic and political opportunities for those excluded.

This implies a move away from the privatized vision characteristic of the nineties towards increased State intervention in the social sector, because the market has aggravated social problems in Latin America instead of resolving them; nevertheless local governments, the civil population and non-governmental organizations (NGOs) have not been totally excluded from joint participation in social policies. Obviously, there is a contradiction in those States which base their economic policy on the rules of the free market while using State intervention to resolve social issues.

Social rights

One interesting aspect is that of the universality of the right to social security following the reforms. As indicated by Mesa Lago the private system was designed for a strong formal urban labour force, with stable employment, medium to high salary levels and a high contribution density, while most of the region’s labour force is informal and/or agricultural, with unstable employment, low salaries and reduced contribution density particularly among women, which makes it very difficult to extend social security cover. According to information provided by the International Association of Agencies for the Monitoring of Funds (Asociación Internacional de Organismos de Supervisión de Fondos) in December 2001, with the exception of Colombia, 62.7 of the EAP were members of the Funds, while only 27.7 per cent of the EAP were contributors, which indicates that a high percentage of the members of the pension funds do not generate work-based credits for pension purposes or if they do generate credits, are entitled to only the minimum pension.

Both figures show that the right to social security is far from universal. In fact the States are implementing conditional transfer programmes which, although not in line with the social security model (work-social security contributions-benefits) and not considered as social rights, provide access to health and education facilities.

Increasingly, countries are trying to ensure that these social protection networks are seen as a right and not a gift on the part of the State; in the case of Brazil, these programmes are moving towards the concept of an unconditional basic pension for all citizens. National residents have the right to a monthly pension which is the same for everybody, regardless or whether or not the beneficiary is working, or how much he/she may be earning from some other activity, since the pension is considered a universal right. This means that the incentive
to work remains, since everything that individuals earn through their own strength, talent, creativity and work of all kinds, comes on top of the basic pension.

In a report to the Mixed Commission of the National Congress on poverty (Comisión Mixta del Congreso Nacional sobre la pobreza) submitted in 2000, the Brazilian economist Celso Furtado proposed that the concept of pension and work be modified to indicate that all individuals who were born into a society had the right to a pension and to positive social integration and deserved the support of all its members. In this way, the new paradigm attempts to separate social protection from work, taking into account the difficulties experienced by a large part of the population in integrating the formal labour market in a productive manner.

**By way of a conclusion**

Well into the 21st century, in the midst of debate on the benefits and limitations of the neoliberal model, social inequality is still not a central theme on the agenda for development policies in Latin America. Since social paradigms are influenced by the political, economic and social conditions of a society, the possible solutions for getting round the limitations of this model seem to lie in different directions in Europe and Latin America.

While the European experience is marked by strong WSs, the welfare mix appears to be a concession to other social entities which share in the search for social welfare and limit the role of the State. In Latin America, which has only recently emerged from a socially largely unsuccessful experience of privatization, countries which are closer to a welfare mix exist alongside those which are moving towards State responsibility for welfare.

To conclude, both Europe and Latin America are involved in a search for social cohesion and integration. The effects of globalization on national economies and labour markets will force countries to resort to mixture of social protection systems, some employment-based and others based on universal rights. It is our responsibility to adapt the legal frameworks to this new reality.

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*Rafael Francisco Albuquerque de Castro*