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**SOCIAL SECURITY IN THE HEALTH SECTOR  
. FROM COOPERATION TO COORDINATION**

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## SOCIAL SECURITY IN THE HEALTH SECTOR

## FROM COOPERATION TO COORDINATION

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The purpose set by the American Juridico-Social Commission offers encouraging expectations when opening the debate of a very significant subject, such as the one we will be discussing in this meeting. Its relevance becomes evident when we review the features of "Social Security's Structure and Legal Organization" found in the various countries.

This forum gives us the opportunity to explore the current situation and at the same time, to build a bridge to exchange ideas in order to set the path leading to change and modernization of standards. The American Medico-Legal Commission joins the efforts of this work team, and expresses its appreciation for the invitation to build roads and stress horizons for the Social Security of the Americas.

In this kind of meetings, various approaches to the subject are usually presented. These approaches can be identified as independent variables derived from the participants' experiences, enhancing the guiding component giving rise to this study.

In our case, our statements emerge from the analysis of Mexico's social development, that has responded by enforcing laws, regulations, etc.,

which have served to support social security's harmonious development.

This discussion's major factor is health, which is one of the basic values of individuals and communities and, of course, according to the discipline we practice, our *raison d'être*.

In addition, if another addendum was necessary to warrant our approach, suffice is to recall that, a healthy population is essential to preserve social development.

As a corollary, it may be emphasized that, to date, in most countries the right to health and medical care are far from being a common possession, and therefore, legislative voids are found. The above can be explained in many and varied ways, nonetheless, all these explanations suggest that a universal agreement on the areas of health entrusted to the government has not been reached, therefore, the development of this type of services is closely related to the wording of existing Laws, together with each society's commitment and democratic participation.

In this paper, we would like to provide food for thought relative to the features of social security's legal framework and the resulting operations in the health sector.

## THE INTERNATIONAL LEGAL FRAMEWORK

Please accept our invitation to explore the outstanding factors of social security's international concert, which are the origin or effect of ideas-concepts and actions.

Health and social security are as old as man and their value and regulations stem from common instinct and according to societal features. This does not mean that organization and systematization meeting community needs and expectations have always been present; quite the contrary, it is necessary to go back in time to the 19th, Century to find this thought: "The man whose future is ensured, whose old age rests assured as well as the well-being of his family, is not an anarchist nor does he threaten the life of the Emperor, let us give the poor what they are entitled to, before they grab it by force". The author, Prince Bismarck of Germany. The Laws setting forth what would later become classical compulsory social insurances were gradually passed in this country. This is how the rights relative to work injuries were regulated in 1883. In 1889, disability and old-age insurances were approved and, in 1891, survivors' rights.

Let us now cross the Atlantic Ocean to see our America and its thinkers. During the 1819 Angostura Conference, Bolivar underscored that the most perfect government system was the one providing "The greatest sum of happiness possible,

the greatest sum of social security and the greatest sum of social well-being". During the same decade, in Mexico, Morelos stated in the Chilpancingo Congress, "Human Law should be one that moderates wealth and remedies poverty, increasing the wages of the poor to free them from wants". In Uruguay, Artigas strived so that "the poorest must be the most privileged when estates are distributed". As expressed, the clarity of human rights and social security is evident, however, the decision to make it effective has travelled a long way, because it is not new or unknown that man's health is considered as one of his inalienable rights, however, solutions do not always have the proper magnitude, thus the value of the response has to be consistent.

From the outset, particularly social insurances, set strategies to provide care exclusively to workers. This requirement was appropriate for that time and was highly significant and although it did not have a comprehensive social purpose, it did propose a holistic guideline. It seems that coverage was addressed to the workers and the social purpose of labor was not considered. This social purpose is conceived as man's natural resource to survive and the most suitable means he has available to become part of society. This is reasonable in view of the size and the vision of those men who considered that everybody would have a job and a relationship with an employer, thus, they could easily become subjects of organization. In actuality, this does not occur

simply and plainly; hence, social security has faced the need to seek for choices that will solve these problems.

Before we touch upon the formal establishment of social security, we would like to discuss its international regulatory framework with greater depth. We feel that this framework stems from Roman Natural Law, that was represented by reason, the best of human nature, high morality, practical common sense and general co-existence. Vis-a-vis artificial and arbitrary issues, it is simple and rational. It is global vis-a-vis national or local issues. It is superior to other Laws because it belongs to mankind, as mankind, being the expression of the purpose of deity or man's highest reason. And this is recognized when the spirit of legislation is construed and committing us to continue in the same path.

During the forties, the time of social security's and its appropriate regulations' speedy take-off, amongst other aims the Atlantic Charter stressed the objective of obtaining "better employment levels, economic prosperity and social security" for all. The General Social Security Plan (1942) emphasizes, in the first place, a comprehensive social insurance programs including cash benefits. Secondly, general child allowances systems, both when parents earn money as well as when they do not. Finally, a general comprehensive medical care plan addressed to the population as a whole, includes a comment suggesting that this plan

should cover all the citizens and not only employees, even if it is not applied equally to all.

In the aforementioned plan, six basic principles were underscored: standard subsistence benefit rates, unified management accountability, adequate benefits, scope and classification.

In view of their permanent contemporaneousness and humanism, we shall recall the three factors that can be interpreted as our *raison d'être* in a separate paragraph: the first is that justice instead of force should be implemented as the judge amongst nations.

The second is that instead of unemployment, each individual must have a reasonable opportunity to hold a productive job.

The third is that any individual must rest assured that he will receive an adequate income and thus be protected against poverty in the event he is unable to work.

When reviewing these agreements and recommendations, the dynamic unpostponable need to set forth regulations in order to adjust a universal truth to each nation's own features, becomes evident.

This background information easily leads us to a conclusion that will be presented in the forth-



coming pages, however, we should ask how much more can emerge from laws, based on Article 22 of the United Nations Declaration, "Every individual, as member of a society, is eligible for social security: he must obtain the essential medical, social and cultural rights for his dignity and the free development of his personality, thanks to national endeavors and international cooperation, in the light of each country's organization and resources". This proposal is undebatable and it is clear that we are walking towards that direction and, with great quality.

The journey has not been alien to the social context and, international agencies promote the development of social security with uninterrupted zeal to accomplish the best use of resources possible, through intrasectoral coordination. Hence, we find that Resolution CD28.R34 of the 27th. PAHO/WHO Board of Directors, submitted a study of a coordination process of 16 countries of the Americas during the period 1979-1984. This study showed a progressive trend towards a more precise boundary of the sector's components and identified the funding of services and linkage levels as central elements in the policy-making process.

The 30th Board of Directors considered these studies and in September, 1984, through Resolution CD30.R15, it reiterated the need to strengthen the linkages of Health Ministries and Social

Security Institutions to effectively use the sector's technical and financial resources and extend health care to impoverished population groups, to all Member States.

After making a few comments on the issues that we felt were meaningful for this subject, it is clear that social security emerged as the natural answer of human organization, that its legislation serves to further develop it, however, this development gives rise to a legal dynamism, in which the clear definition of the term idea-action has built an increasingly better future and, of course, in view of its structure and social purpose, it easily enters into the area of sectoral coordination.

## MEXICAN SOCIAL SECURITY IN THE HEALTH SECTOR

In our country as in many other nations, we find that the public health services' structure is closely related to policy statements, and the same holds true for operational feasibility.

Therefore, at present, the idea-action approach of egalitarian care, democratic planning, popular participation, ordered administration of national availabilities, decentralization and equal distribution of resources and benefits, has been attained.

The trend is going towards the functional integration of the services provided by the various agencies endorsed by an administrative, technical and financial process, whose objective is the up-graded use of available resources to cover the entire population. All the above is framed in a National Development Plan.

To reach the above situation, we invite you once again to a journey, in order to find the most significant milestones of public health care and social security.

Health services' institutional development can be divided into three major periods:

The first period began in the 1860's (time of the Reform) and ended in the 1920's. It was featured by marginal federal participation and

a minor interference in medical care services. This situation was based on the 1857 constitutional definition, that established that health did not fall under the jurisdiction of the federal government, but rather, under state governments and, if appropriate, under municipal governments.

The first Sanitary Code, granting the Executive Branch the authority on seaports, borders and migration issues was passed in 1894. The Private Benefits Bill, encompassing the Federal District and federal territories and creating a board to promote and oversee public establishments was enacted in 1899.

The Constitution was amended in 1908 to expand the general jurisdiction and entrust the "nation's general health" to the Branches of the Union. A sanitary provision was included in the Constitution for the first time.

The second period began with the 1917 Constitution. In Article 63, it entrusted the nation's general health to the Branches of the Union and provided for the establishment of two major health agencies: the Department of Health and the General Health Council, characterized for being enforcement agencies at the national level, and therefore, were able to dictate rules of law.

In this legislation, individual rights were placed at the same level of social rights and these were

classified as adjuncts to change the government's nature and aims, thus permitting man's full development.

A unique and relevant aspect in the 1917 Constitution is the one we have already mentioned in Article 123, that set the basis of one of the most meaningful components of a National Health System: Social Security. In a short period of time, this issue was legislated and, in 1929, it was decided to issue the Social Security Act, because it was considered to serve the nation's best interests.

In 1931, the first Federal Labor Law was passed, which governs work injuries and occupational illnesses. As an interesting aspect in this study in 1934, the Sanitary Code set forth the standardization, coordination and cooperation of the country's health services because it served the public's best interests..

In 1943, the Social Security Act, prescribed by regulations of Article 123 of the Constitution, was issued, creating a decentralized public agency, entrusted with the social insurance system that would initially cover only urban workers. Its objective appears in Article 2 of this Act which reads: "The aim of social security is to ensure the human right to health, medical care, protection of subsistence means and social services necessary to attain individual and collective well-being". The content

of this Act and social security's regulations stress a solidararian Mexico, where workers, employers and government participation ensure the nation's social development.

In order to offer supplementary information pertaining to this time and develop a desired overview, the 1947 Ministries and Departments Act should be mentioned, since it grants the Ministry of Health and Welfare the powers to organize, administer, manage and control health, assistance and public welfare.

With the aim of reaffirming social security's significance and sphere, in 1959, an addition was made to item B of Article 123 of the Constitution, containing the primary bases of public servants' health and social security. The appropriate Act was put into effect in 1960.

The 1963 amendment to the Social Security Act contains the universal criteria supporting social solidarity and community cooperation programs favoring impoverished groups. Thus, the important role Mexican social security plays in the country's development was reaffirmed once again.

With the desire to harmonize the nation's health activities, in 1977, the Health Sector was established, based on the Federal Public Administration Organic Act. The Health Sector is understood as the administrative grouping of para-state entities, without modifying their autonomy

and coordinated by the Ministry of Health and Welfare.

The third stage of this evolution began in 1982, when Article 4 of the Constitution was amended, in order to include the right of health coverage. Its content sets forth that the Law shall establish the bases and modalities to have access to health services. By the same token, the Sanitary Code was also amended to make the Ministry of Health and Welfare responsible for the coordination of activities undertaken by various health agencies and entities and thus, achieve a more reasonable use of resources.

In this chapter, one may appreciate the way in which Mexican social security has defined its *raison d'être*, and act, within boundaries that do not restrict coordinated work in society, but rather, its autonomy has facilitated development.

## THE I.M.S.S. EXPERIENCE

Public administration is aware of the advantages offered by the operational integration of organizations with similar activities and goals, to compose sectors that, in our case, due to their life experiences and skills, are able to provide a better solution to the population's health problems.

In this connection, it is necessary to revise the existing regulations and further explore coordination issues, activities and responsibility spheres, leading to commitments, which if fulfilled, will support social change.

We shall outline the coordination and cooperation efforts that Mexican social security conducts with the Ministry of Health and other organizations that make-up the Health Sector, by posing the following questions:

- Does the Social Security Act provide for its sphere of competence, activity level and coordination features?
- Does the Federal Health Act define the nature, sets the mechanisms of the National Health System, in addition to the powers granted to the Ministry of Health?
- Does the operational situation reflect the mechanisms and outcomes of coordination and



cooperation?

The analytical axis leads us to revise the standards, compare them with the current situation and thus, define needs.

It is therefore relevant, in principle, to discuss the context of the social and historical period of time in which modern governments confront a critical juncture in view of the fact that the country's social development has led community actions towards democratization, whose clearest definition is evidenced in community-shared decision-making. In addition, one may observe that the growing need for inputs is not always associated to the quantity and quality of the existing ones. And, without attempting to be too thorough, technical and scientific skills to face domestic and foreign competition have not developed at the same pace as that of the population's requirements. All the above is translated into different effects impacting the communities' health and well-being.

The Social Security Act, issued in 1943 and its subsequent amendments to take the proper characteristics to each of the periods the Mexican society undergoes, contains in its clauses, the components which, in principle, set the general objective governing the performance of the Institution in its own sphere.

It clearly sets forth benefits, rights and duties for workers, employers and the government,

establishing an openness to generate progressive and regulated universal coverage of the population.

Through its autarchic government, it consolidates its autonomy, it creates administrative-operational decentralization, facilitates actions and fosters internal and external coordination.

Consequently, when granting health benefits and inducing its population's involvement in health care, it is socially and individually fully supported by standards.

Now in Mexico, the Federal Health Act specifies the National Health System's features, makes the powers and responsibilities of the sector's components clear, and to this end, it abides by the provisions of the National Health Plan, making it specific in a guiding tool for the Health Sector, who designs short, medium and long term programs reaching specificity, with objectives and goals, in each organization, thus leading to horizontal and vertical integration.

In addition, as a subsequent idea, it fosters decentralization and facilitates local health systems' infrastructure within a National Health System.

As may be observed, legal consistency is present, in which the government and the representatives of the people have reconciliated interests for

the benefit of the nation.

Three great stages with several characteristics are identified for the Institution in its almost 50 years of existence, however, for the purposes of this paper, we will make very brief comments associated with this subject.

The first stage shows the Mexican Social Security Institute as an institution embodied in the country's historic and social circumstances, in a change from an economic and social system to become a modern and industrial nation.

In this stage, IMSS' legal regulations provided for an ideological openness that would facilitate intra and extrasectoral coordination in the future.

We must also add that although at the onset, only medical care was provided and thus only served the insured population, in a short period of time, social benefits marked the coordination and cooperation point of all Mexican social spheres, where IMSS facilities were present.

Preventive medicine identifies the second stage. Since in principle, preventive medicine is provided to the entire population and not only to insured persons, and since it refers to public health, it has the advantage of fostering joint activities of an unregulated sector in addition to making the entire population feel the universal importance and significance of social security.

It is unnecessary, but appropriate, to leave proof that cooperation and the first steps towards coordination emerged in this second stage that includes the 50's and the 60's.

The third stage is the consolidation of social security in Mexico and, as the two prior stages, it represents the institution's development, marking a milestone with an extraordinary projection, because firstly, it meets one of social security's essential purposes, to continue extending coverage, not in a paternalistic fashion which might injure human dignity, nor is it temporary due to economic distortions or political mainstreams, quite the contrary, by devising social solidarity mechanisms, that enable the IMSS to act in the capacity of redistributor of material and spiritual wealth.

The period we are discussing reinforced the institution's legal and social status, at the same time that it set the guidelines armonizing cooperation followed by participation that reached the communities and set the basis for increasingly sounder coordination.

This stage reached its peak in 1985, with an institutional strategy called "Health Promotion Strategy", triggering a social process that cannot lag behind, because it provides the proper dimension to the shared responsibility of health care to society, the institution and the government, and it also encourages the communities'

management skills, therefore, intra and extra-sectoral coordination becomes an operational reality, through negotiations offering choices to solve a social problem.

What is left to be done? According to our experience, and in view of its regulatory features, social security offers a better option to solve social health problems and thrust the population's concomitant development. The need to revise social security laws and regulations in the various countries of the Americas has to be addressed in order to:

- Define its autarchic existence, as a means of internal development, which will ensure the development of a modern nation.
- Enforce the necessary regulations to gradually reach universal coverage, with patterns that will ensure social security's existence.
- Typify the features of linkages and coordination in the Health Sector at the various performance levels, in its legislation.
- Envisage the legal components that will enable it to establish organizations within social security that must operate for the open population, in order to foster in the communities, the government and social security institutions, up-graded cooperation, participation and coordination among all the sectors.