

Post-crisis reconstruction



The changes in the political and institutional system after the crisis of 2001 have caused large sectors of the population to again consider politics as a viable tool for improving the people's material conditions of life. However, the seriousness of the social crisis calls for urgent measures to guarantee the full exercise of economic, social and cultural rights for all Argentines. This means attaining sustained economic growth and a change of approach in the design and implementation of economic and social policies and in the relationship between the Government and the multilateral credit organisations.

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On 25 May 2003 the transition government's mandate headed by President Eduardo Duhalde came to an end when elected President Néstor Kirchner took office. This changeover represented a turning point at the institutional level.

An important step in the gradual restoration of the legitimacy of the political system and of democratic culture was the support shown by society at large when the new Government overhauled the Supreme Court and set up a new participative procedure for the selection of its judges.¹ Good progress has thus been made towards restoring legitimacy to the Supreme Court and to the battered judiciary in general, which had been a good example of the institutional crisis in Argentina.²

Other important measures taken by the Government that contributed to strengthening the country's democratic institutions included reopening lawsuits and criminal proceedings in relation to crimes of terrorism committed by the State, replacing the military leadership (which was seeking agreements to leave impunity untouched), opening to the public the security forces' and intelligence services' files, and the abolishment by parliament of the Due Obedience and *Punto Final* laws.³

However, the main indicators of the social and economic crisis still show values incompatible with the full development of a real democracy.

The Government's stance in treating social protest as a criminal offence was ambiguous. Although the Government has been moving closer to the social organisations most affected by this measure, it has been unable to find a legal solution to the problem of the people who currently stand charged with taking part in

social protests.⁴ In October 2003 the Government resorted to force in a demonstration by *piquetero* organisations,⁵ and took legal action against them. Although it subsequently took steps to reverse this move, its ill-advised reaction has set a dangerous precedent in that it has established the idea that treating social protest as a criminal offence it is still a political option.⁶

Two years after the political and institutional crisis that came to a head in December 2001 it is only possible to analyse the situation if we study the relation between institutional reform, the evolution of socio-economic variables and the State's response to social protest.

Indicators are still alarming

Although macro-economic indicators began to show signs of recovery in the first quarter of 2003, the consequences of the implementation of neoliberal policies during the 1990s are still very much in evidence.

According to official data, in May 2003 the poorest 10% of Argentines received 1.5% of income while the richest 10% received 37%.⁷ Nearly a year after the new Government came to power it had still not formulated a specific policy designed to reverse this trend.

In a survey carried out in the third quarter of 2003 it was found that 16.3% of the economically active population were unemployed, and that 16.6% were under-employed. This translates into at least 3.5 million people who have problems of access to jobs and who are actively seeking employment.⁸

However, these figures for the unemployed and under-employed do not reflect the full extent of this problem in the country as a whole since the study only covered 28 urban areas, containing approximately 64% of the total population, so the real number of people with employment problems is even higher. This indicator is further distorted by the impact of the Unemployed Heads of Household Programme (see below), and if we regard as unemployed all those whose main occupation stems from this programme the real unemployment rate is 21.4%.

According to the latest official information available,⁹ in May 2003 54.7% of the population (just under 20 million people) were below the poverty line,¹⁰ and 26.3% (approximately 9.5 million people) were living in extreme poverty.¹¹

The proportion of children and adolescents who are poor and extremely poor is even higher. In October 2002 75% of children under 18 were living below the poverty line, and 42.7% were extremely poor.¹²

An official report from the same month found that 46.1% of children under two living in urban areas (around 332,000 children in this age group) were at nutritional risk. The high level of nutritional risk among this sector of the population reflects the effects of a prolonged crisis exacerbated by high inflation rates, with the most serious impacts afflicting the most vulnerable sectors. In fact, between May 1998 and October 2002 the number of children who were not assured of a minimum adequate diet and whose physical growth and development were definitely threatened more than doubled. For over half this group (23.3% of the total) the risk is critical.¹³

The latest official figures (from 2002) on deaths among children below the age of one show that there are an alarming 11,702 deaths per year, equivalent to

1 The new procedure for appointing members of the Supreme Court takes account of proposals that a group of civil society organisations formulated during 2002, and which were set out in a series of documents entitled "A Court for Democracy". The full texts can be found at: www.cels.org.ar

2 Centro de Estudios Legales y Sociales (CELS). "The State's Response to the Social Crisis" in *Human Rights in Argentina: Report 2002-2003*. Annual report. Buenos Aires: Siglo XXI Eds, 2003.

3 Parliament's decision included repealing the decree prohibiting the extradition of military personnel accused of crimes against humanity, and granting constitutional status to the UN Convention on the Non-Applicability of Statutory Limitation to War Crimes and Crimes Against Humanity.

4 According to estimates from the Argentine Workers' Head Office, more than 4,000 people are facing court proceedings for taking part in demonstrations.

5 One of the most visible consequences of the social crisis of the 1990s was the emergence of many grassroots organisations whose main protest tactic was to block inter-city highways. These were called *piquetes* (cf. English *pickets*), hence the name "*piquetero* organisations".

6 The Government acted in a similar way when it proposed setting up a special police group (this was later dropped) which would not bear firearms, to negotiate with the leaders of social protest demonstrations. This proposal meant giving the police a central role in the resolution of social conflicts thus reducing the demonstrators' original grievance to a fight for public space, and it ignored the fact that the basic duty of the State is to protect demonstrators, not neutralise them.

7 National Statistics and Census Institute (INDEC). *Permanent Survey of Households (EPH), Income in all urban areas*. May 2003.

8 INDEC. *The Labour Market: main indicators (3rd quarter 2003), according to the new Permanent Survey of Households*. December 2003.

9 INDEC. *EPH*. May 2003.

10 According to INDEC, the "poverty line" method consists in deciding if household income is sufficient to pay for goods and services needed to meet essential food and non-food needs.

11 INDEC's "extreme poverty line" consists in deciding if households have sufficient income to cover a basket of foodstuffs that satisfy minimum energy and protein needs.

12 In seven provinces poverty among people under 18 was above 80% and in five the rate of extreme poverty exceeded 50%. INDEC. *EPH*. October 2002.

13 System of Information, Evaluation and Monitoring of Social Programmes (SIEMPRO). *Nutritional risk in children under two years old*. July 2003.

an infant mortality rate of 16.8 per thousand, of which 6,898 deaths are considered avoidable.¹⁴ Three things are worth signalling: this is the first time since 1995 that there has been a percentage increase in this indicator in Argentina; it is the largest annual increase since 1986; and it is taking place in an international context in which rates for this indicator are falling.¹⁵

The Government's response

The Government's main and almost exclusive response to the social and economic crisis is still the Unemployed Heads of Households Programme, initiated at the beginning of 2002. It established a payment of ARS 150 (about USD 40, a little under half the amount needed to satisfy the basic food requirements of a typical family) for all unemployed heads of household with children under 18. As time passed it became clear that it was not a serious strategy to combat poverty through a more equitable distribution of income, but rather a palliative measure designed to defuse the unprecedented levels of social conflict which were threatening the very survival of the institutional political system. In practice the programme fell far short of its pretensions to be granting people their due rights. The fact that the benefits were temporary, not universal, and subject to an application deadline meant that the programme continued the welfarist - rather than rights-based - logic underpinning the social policies implemented in the 1990s.¹⁶

The Government did not make significant changes to the design of the programme, so the problems outlined here still exist. On the contrary, it decided to strengthen and give priority to social programmes lacking objective criteria for accepting or rejecting applications for benefits from people who are in an identical situation in terms of the vulnerability of their rights.

The struggle over public service charges

In the 1990s the logic of economic and social policies was determined by the relationship between the Government and the international financial institutions (IFIs), giving rise to the biggest social and institutional crisis in the country's history. The unprecedented increases in the levels of poverty and extreme poverty, and the increasing impossibility for ever-larger sectors of the population to effectively exercise their economic, social and cultural rights, paralleled the implementation of policies promoted by the IFIs.

Over the past two years, a central issue in talks between the Government and the IMF has been the latter's insistence that charges for privatised public services be increased. Since the re-opening of negotiations in January 2002, IMF officials have been

emphasising the losses suffered by privatised companies as a result of devaluation, and insisting that the charges for these services be raised despite the fact that the policy of imposing more and more increases on the people who are least able to pay has already been shown to be untenable.

In the present situation, imposing a generalised increase in charges for public services would condemn the majority of the population to subsistence in conditions that are even worse than they are now, by impeding or reducing their access to essential services such as water, electricity and gas.

Initially the IMF's constant demands that charges should be raised seemed to be a move to protect business interests. In fact, the IMF authorities represent a number of countries that have a direct economic interest in the performance of these privatised companies. This affects the IMF's impartiality and leads one to suppose that they are acting to defend the interests of these countries rather than to promote the interests of an international body that should not favour any one country over others.

These pressures are what lay behind the repeated attempts by former President Duhalde to raise the charges for public services outside the procedures established for the re-negotiation of the privatised companies' contracts. This approach, besides being morally questionable in the light of the seriousness of the social situation, turned out to contravene both national legislation¹⁷ and the founding charter of the IMF itself.¹⁸ Consequently the proposed increases were blocked by legal means, and up to the present have not been implemented.

However, the demand that charges be increased is still being reiterated today. It is now backed by an argument expressed by the director of the Western Hemisphere Department of the Fund, Anoop Singh, on his last visit to Argentina to the effect that one of the reasons the Heads of Household Programme was implemented was that people with very limited resources would thus be able to pay for services, and that therefore the increase in charges is viable.¹⁹

After President Kirchner took office, this accommodating attitude on the part of the Government seems to have changed since, unlike the transition government, the new administration has respected the prevailing legal norms governing the re-negotiation of contracts for public services, and has not attempted to increase charges outside this process.

The Presidency has however pushed through a new law modifying the Economic Emergency Law that regulates the procedure for raising these charges. While that law had made any kind of increase subject to overall re-negotiation of each contract, thus guaranteeing that no measures could be adopted that afterwards might turn out to be erroneous, the new law allows the Presidency to authorise increases in public service charges before the process of contract re-negotiation has ended. That is to say, while the Government has not attempted to increase service charges, it could do so at any time because it now has the necessary legal tools.²⁰ If this happens, large sectors of the population will be denied access to essential services, jeopardising still further the full exercise of their economic, social and cultural rights.

Conclusion

The changes made to the political and institutional system after the crisis of December 2001 allowed the focus of public debate to shift back to the definition of aspects of the reconstruction of democracy in the country.

The first measures implemented by the Government included changes to the composition of the Supreme Court and steps to remove impunity for violations of human rights committed under the military dictatorship that began in 1976. This has contributed to making large sectors of the population again consider politics as an effective tool for improving people's material conditions of life.

However, the seriousness of the social crisis requires that the Government adopt urgent measures to guarantee the full exercise of the economic, social and cultural rights of the whole population, this being the only way to rebuild a real democracy. This involves attaining sustained economic growth, as well as changing the logic of the design and implementation of economic and social policies that will allow a fair distribution of the wealth generated by the country. On this point it is vitally important that the relationship between Argentina and the multilateral credit organisations should respect these criteria rather than continue to stand in the way of the country's social development.

The incipient economic recovery initiated in early 2003 poses a great challenge to the Government. It is essential that it should face up to discussing the distribution of wealth in the country, and avoid replicating the process followed in the 1990s - when considerable growth in economic activity was taking place simultaneously with a social crisis on a scale unprecedented in Argentina's history - as well as effectively guaranteeing the strengthening of democratic institutions. ■

14 Ministry of Health and Social Action. *Vital statistics, basic information for 2002*. December 2003. See also DeCideS (Democracy, Citizenship and the Right to Health). *Other Victims of the Market Coup Appear*. Buenos Aires, February 2004.

15 INDEC, *Rates of infant mortality by political-territorial division of mother's residence*, at www.indec.gov.ar

16 For an analysis of the programme, see "Argentina: In the hands of the oligopoly of foreign capital", in *Social Watch Report 2003: The poor and the market*. Montevideo, 2003.

17 After the 2002 devaluation, Congress passed the Economic Emergency Law authorising the Government to re-negotiate its contracts with privatised companies so that they could adapt to the new economic scenario. This law laid down that tariff increases could only be made in the framework of a re-negotiation in which all contracts would be analysed and all interested parties (including consumers) would participate.

18 Article XII, section 4 of the IMF Charter.

19 IMF pressure to raise public service charges contrary to both Argentine legislation and the Fund's own charter were denounced to the Independent Evaluation Office of the Fund by users' and consumers' organisations and by the CELS. For more information on this subject see www.cels.org.ar/Site_cels/noticias/boletin/FMI_tarifas.pdf.

20 Besides this, the legislative reform has restricted participation by congress in the revision of the texts of the new contracts (once these are re-negotiated) that are submitted to it.