Transnational dialogues between specialist and institutional knowledge in occupational accident legislation, first half of the twentieth century*

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Abstract

In the early twentieth century, Argentina began legislating occupational safety. Law no.9.688 legislated accidents in the workplace (1915) and granted legal jurisdiction to work-related problems. The approval of this legislation was in dialogue with proposals being produced in other regions. The links established between local figures and colleagues elsewhere are useful for examining the circulation, reception and legitimation of knowledge on a regional scale. The objective of this article is to examine the transnational references in local discussions about occupational accidents in Peru and Chile during the first half of the twentieth century.

Keywords: occupational accidents; social policies; circulation of knowledge; regional exchanges.

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In the early twentieth century, Argentina began creating occupational safety legislation, which, in turn, echoed concerns voiced in government, intellectual and political groups and demands by workers. Law no.9.688 legislating accidents in the workplace, which was passed in 1915, is an example of this interest and of the intention – at least on a rhetorical level – to grant labor issues their own legal jurisdiction. Thus, concern on the part of the state about problems deriving from workplace accidents led to important legislative activity that extended throughout the first half of the twentieth century and offered legal support to the practice of insuring workers against accidents, which was starting to come into use. The ideological basis for this body of legislation lay in the recognition that salaries did not offer sufficient individual protection against misfortune and that therefore a national insurance scheme, financed by the contributions of the parties involved, would allow the creation of a fund to cope with risks and provide financial coverage for possible accidents. While this legislation represented a definite improvement in terms of workplace conditions, its effect was to minimize employers' responsibility, since in order to protect business owners' profits, it compelled workers to take out occupational accident insurance and consequently led to many areas of debate about labor laws.

The passage of this body of legislation involved a dialogue with proposals produced in other regions. The links established between local leaders on the topic and their colleagues in other countries provides a very rich panorama for examining the circulation, reception and legitimation of knowledge. In this sense, the recommendations of international bodies, scientific conferences, parliamentary references and the "missions" led by civil servants and other professionals attest to a web of relationships between national and international agencies that deserves exploration. Exploring this issue allows us to analyze the interaction between the local and the global in Latin America on a level of observation that, while it illuminates certain aspects, leaves others in the dark; but this overview will attempt to reconstruct the transnational connections underlying the creation of social policies.

Thus, the objective of this article is to review transnational references in local debates about occupational accidents in the first half of the twentieth century. Indeed, a set of classic research studies has focused on the relations between Argentina's social policies and the experiences of Germany, France, the USA and England. In discussing the issue of workplace accidents, reference was commonly made to Switzerland, Belgium, Germany and France and to arguments made abroad in order to justify the need to compensate workers for injuries suffered while working for someone else.[1] The influence of European social codes on the Latin American context has been described as significant and characterized by the "spirit of imitation." For this reason, the social legislation that was passed was considered "exotic" and remote from local realities and problems (for an example of this attitude, see Cano, ene. 1942, p.61). On workplace accidents in particular, doctor Juan Bialet Massé (1985, p.608) argued that foreign laws on the issue were harmful to workers and unjust, leading him to suggest that workplace injuries should continue to be covered by the Civil Code. This Catalan doctor also stated that, in his opinion, there was no need to create specific legislation for occupational accidents.

Clearly, there was a constant flow of ideas, firstly from Europe and later from the USA, Australia and New Zealand. However, in the literature of the period there is also noticeable

debate in the Latin American context. In scholarly studies of the history of social policies, this point has been overlooked, although review of the primary sources shows that references to and circulation of people and ideas with neighboring countries was very frequent. Therefore, I am interested in examining how the experiences of Peru and Chile appear in local discussions about workplace accidents (Poblete Troncoso, 1942, p.11). Although in those countries – seen from the Argentinian perspective as leaders on the topic – arguments and ideas from other parts of the world were also rehashed, it is interesting to examine how at the local level people sought instances of consecration and legitimation from within Latin America and research missions were created in order to investigate the social security systems of neighboring countries. On this issue we should recall the recommendation of Belgian historian Henri Pirenne, who maintained that circumscribing history within national boundaries leads to a narrative that is skewed and biased. Focusing on the references in Argentinian debates to occupational accident legislation in Chile and Peru is an invitation to remove the corset of national narrative and think about the crossover of ideas and people who are linked to political history at more than just the national level. Likewise, visiting other experiences affords a more nuanced perception of national issues, rather than replacing them.

This article engages in a dialogue, on the one hand, with sociological studies that offer an overview of the social security systems that grew up in other countries in Latin America. The work of Carmelo Mesa Lago (1993) sees the rise of social security regimes as related to economics, and associated with the increase in productivity, the need to train the workforce and strengthen the internal market. He also incorporates political factors, for example, the pressure exerted by certain groups in order to win concessions from the state. Thus, the cases of Argentina, Uruguay, Brasil and Chile have been named "pioneering" ones, since it was in these countries that legislation on occupational accidents was crafted for the first time in Latin America, during the first half of the twentieth century. These overviews, while they serve to organize and compare the different national realities, make it hard to capture the distance between the passage of these legal frameworks and their implementation. Nor do they provide a sense of the dialogues that existed between those realities and the actors who set up networks of relationships in a transnational context (Mesa Lago, 1993; Fleury, 2000).

On the other hand, I am also engaged in dialogue with social policy historiography, which involves two types of approach. Firstly, works that study how the demands and struggles of the labor movement shaped the agenda of fledgling social policies in the early twentieth century. Secondly, there are research studies that see the rise of social policy as part of social reform theories that advocated trying to regulate the industrial production system as a way of limiting social conflicts and achieving social integration via social welfare and healthcare institutions (Zimmerman, 1995; Palermo, 2004, p.31-52; Suriano, 2004, p.45). Within this approach, a recent work by Mariano Plotkin and Eduardo Zimmermann (2012, p.19-20) argues that Argentinian laws were influenced by foreign models, but that there was a difference between what was "said" in the original idea and what was applied in the Argentinian context. This gap led to hybrid institutional forms, which were never identical to the foreign models, although these did provide legitimacy. This approach explores how the international context – specifically that of Europe – inspired and legitimized ideas sketched out in local legislative and institutional frameworks.

In this article, I am interested in incorporating another variable: how the transnational flow of ideas and people influenced political agendas to introduce mechanisms for insuring against occupational hazards using schemes not subject to free market forces. The international relations variable is normally incorporated into the study of social policies in the second half of the twentieth century. The weight and impact of international organisms and their technocrat elites created a body of expertise and a certain world view of local realities that made it easier to establish professional and political links in order to influence the definition of national policies (Cueto, Brown, Fee, 2011, p.129-156; Plotkin y Zimmermann, p.19-20, 2012). But there are few studies that examine those links in the first half of the twentieth century and manage to identify the political and professional actors who conferred legitimacy on local social policies, by linking their own ideas with ones from other contexts. In this last sense, for the study of hygienist ideas, Ricardo González Leandri (1999) y Diego Armus (2000, p.518) have pointed out the importance of scientific conferences and congresses as forums where Argentinian representatives, between 1852 and 1912, not only discussed new ideas with their foreign peers but also fostered contacts with the international scientific world.

This article will analyze and diagnose the divergences and similarites between local experiences of legislating workplace accidents with those of the two countries chosen (Chile and Peru), in order to trace a web of relationships and influences, in terms of both actors and issues, to serve as a starting point for future research. These Latin American countries were chosen because they appear in local discussions on workplace accidents in the first half of the twentieth century. As Jeremy Adelman (2005, p.153) puts it, I do not aim to offer a vision of the world made up of carefully matched pieces. Far from being clear narratives about the world amalgam and cultural assimilation, global histories can show how interaction creates new divergences just as much as convergences. In that sense, this study seeks to review the convergences and divergences between Argentinian legislation on workplace accidents and legislation passed in Chile and Peru, since there was a plethora of relationships between ideas and among civil servants during the first half of the twentieth century.

State benefits for occupational accidents

The history of the passing and implementation of the Occupational Accidents Law (Ley de Accidentes de Trabajo) in Argentina (1915) allows us to look at the changes and/or continuities introduced into professional discussions about workplace safety. Thus, medical publications and reports drafted by physicians and lawyers who were part of the National Hygiene Department (1871) and the National Department of Work (1907) – both part of the Ministry of the Interior until the arrival of Peronism (1946) – offer an unbiased source for this study. These meticulous official records described the social and health status of workers, and were designed to help create the conditions for the state to intervene in labor relations so as to mitigate the social and political consequences of social conflict. Simultaneously, these expert voices, with their detailed suggestions and descriptions, sought to maintain, reinforce and legitimize their professional interventions regarding the allotment of state resources (Ramacciotti, 2011, 2014).

This research also reveals the impact of transnational discussions on local legislation. In the first half of the twentieth century, there were references to occupational accident legislation in Peru (1911) and Chile (1916). For this reason, I shall now review the aspects that generated the most points of exchange between the countries mentioned earlier: how to define workplace accidents and decide which ones would not receive compensation, what form medical attention would take, and how compensation would be set up.

Occupational accidents

In Argentina and Peru there was consensus about the criteria for determining occupational hazard in legislative frameworks and on how, based on that hazard, the employer should make amends for the injury suffered. In other words, the worker no longer had to demonstrate that the employer was at fault, but rather the employer had to prove grave negligence or fault on the part of the worker to avoid providing compensation.

Argentinian legislation on workplace accidents bore some similarities to law no.4.055 on Occupational Accidents (Ley de Accidentes de Trabajo) passed in Chile (1916), in that both were designed to offer a definition of workplace accidents, and both defined them as health damage suffered, either by chance or *force majeure*, in the performance of one's work duties (Unsain, 1917, p.25-77).

In Chile, while there was an advance in terms of defining a workplace accident, the idea that the worker had to demonstrate fault on the part of the employer prevailed, which meant that in practice few cases received compensation (Grez Toso, 2001, 2002; Hutchison, 2001; Yañez, 2008; Ortúzar, 17 oct. 2013). This differed from the legislation passed in Peru (law no.1.378), which did not attempt to define an occupational accident. It referred indirectly to the employer's responsibility for accidents that happened to laborers and employees in the workplace (Unsain, 1917, p.26). The question of how to define a workplace accident was not a minor one, since, on the basis of that assumption, workers had more tools to request compensation and employers had less loopholes to avoid their obligations. Clarifying the definition meant legally recognizing that the act of working for another person involved risks and that it was the employer who was obliged to protect the workers.

After some years, specifically in 1924, with the reform of the [Chilean] occupational accidents law championed by doctor González Cortez, the need to define "occupational illnesses," meaning those caused by the effects of working with toxic or damaging substances, was added to the definition of "workplace accident." Certain toxins, vapors, and materials which workers dealt with on a daily basis over a long period of time could negatively affect their bodies and render them – either temporarily or permanently – unable to continue performing their jobs (Las enfermedades…, jul.-ago. 1943, p.43). In general terms, apart from the difficulty of medically specifying the legal difference between "occupational illness" and "accident," there was an attempt to label as illness conditions that developed silently over time due to an external stimulus to which the person was exposed; while an accident was considered the effect of a sudden, violent action. The theory proposed that the employer be held liable for risks stemming from work that depended on him, regardless of who was responsible. This aimed to end the problems arising from the demonstration of fault in civil legislation and center judicial processes instead on compensation for the victims. This meant

that accidents and illnesses related to the workplace were grouped under the same category of occupational hazards and, in the case of illnesses, the problem of demonstrating in what task and under what employer they had been contracted was overcome.

In this same reform the idea of culpability in Chile was changed to one of occupational hazard. Thus, in the 1920s, the three countries established by law that accidents were a natural consequence of work, whatever their cause, and that therefore the question of demonstrating culpability was no longer a central one and that the employer should provide compensation for accidents, regardless of what the workers could prove. We can assume that this increased the number of workers who received compensation, since the employer was responsible for creating the job and therefore also for the conditions under which accidents and/or illnesses might occur.

Ten years after this development in Chile, in 1935, Peruvian legislation (law no.7.975) included claims for occupational illnesses, but in order for them to be recognized as such a suit had to be filed with the presiding magistrate and, if in the space of ten days a relationship between the injury and the work performed was proven, compensation was awarded (Rosales Puente, 1943, p.61). In 1936, Argentinian legislation also incorporated this modification: it included pathological disorders caused by the effects of radium and other radioactive substances, and epitheliomas caused by handling or using tar, pitch, shoe polish, paraffin, mineral oils and their derivatives. Executive decrees (decretos reglamentarios) were also passed aimed at fleshing out the applicability criteria, and telegraph workers' cramp and leptospirosis were also included. In the province of Buenos Aires, aniline poisoning, caisson disease (decompression sickness),[2] pulmonary emphysema, lumbago and tuberculosis were also included. After this reform, tuberculosis was included in the list of occupational illnesses, but there had to be a demonstrated relationship between the work environment and the beginning of the disease.

Tuberculosis, a disease with a high incidence among the working-class population and one which led to the greatest number of "invalids" among the young population, was one of the disorders not dealt with either by legislation or executive decrees. The reasons for this absence lie in the use of the legal argument described earlier. Since it was very difficult to determine whether it was a pre-existing illness prior to starting a job, employees whose health was worsening had to stop work for prolonged periods or leave their jobs altogether, leaving them without any financial or medical coverage. This modification attempted to solve the problem, but only, as explained earlier, for cases in which a direct relationship between the workplace and the illness could be demonstrated – usually workplaces full of dust in suspension in the air. Then, although in the 1930s there were rulings declaring that tuberculosis was not an occupational illness, in the 1940s jurisprudence conceded that there was a proven link between tuberculosis and occupational illness if it could be shown that it was due to trauma, a sudden, violent event or being in an unhealthy environment (Armus, 2007, p.188).

A ruling by an Argentine judge on July 28, 1941 took the same approach. A maté worker lost four fingers while operating a milling machine, suffered severe blood loss, and was unable to work for eight months; when he returned to his job, his tuberculosis (present before the accident) got worse. The plaintiff associated his suffering from tuberculosis with debilitation

caused by his injury, and even though his employers' counsel tried to demonstrate that the prior injury had nothing to do with the tuberculosis, the judge set a precedent by directly associating the exacerbation of the illness with the amputation of his fingers and the blood loss suffered in consequence (Jurisprudencia…, mayo-jun. 1942, p.31). In other words, this case proved that an injury in the work environment could lead to resurgence of a tubercular lesion, even though they were separated in time.

In Chile we find extensive specialist justification seeking to disavow any link between tuberculosis and workplace accidents. According to the trans-Andean physician Teodoro Gebauer, tuberculosis was not likely to arise as a result of an occupational accident. According to him, it was very unlikely that an injury could cause TB. On the basis of animal experiments, records from the Great War and rulings by German labor law courts, Gebauer insisted on the need for extreme caution and many medical and temporal precautions before declaring an associated accident as having caused tuberculosis (Unsain, 1917, p.25-26).

All in all, the association between tuberculosis and the workplace was an area of political controversy and struggles over power spaces between the parties involved, which meant that workers who contracted the illness or those who already had it and were getting worse were left in a sort of legal limbo. To obtain compensation, the legal system was the route used to get tuberculosis recognized as an occupational illness. Hernias and cardiovascular pathologies were also involved in this type of discussion, as was another group of illnesses that, according to technical criteria, were sometimes covered and sometimes not.

As regards non-compensatable accidents caused by grave negligence, in Argentina the idea that predominated in practice was Alejandro Unsain's concept of "professional negligence" (imprudencia laboral). From 1915-1927, employers sought to avoid paying financial compensation for accidents by accusing the workers of imbibing excessive amounts of alcohol, breaking workplace regulations, abandoning the workplace, and failing to comply with safety instructions, or by denying any link between performance of the job and the injury by arguing that there were pre-existing conditions present (Mordeglia, Francone, 1950, p.14-15). After 1928, some of these arguments were abandoned in favor of the notion of "professional negligence." Unsain, using arguments from Italian and French legislation, pointed out that continuity in the same job could lead to habits that could end up being harmful to employees and endangering their safety. Thus, sustaining an activity for several hours could mean that dangerous practices started to become part of daily routine and that ongoing dangerous situations became naturalized. While in the early days a worker might pay a lot of attention to his tasks, as time went on attention waned and so-called "professional negligence" could arise, namely, a careless slip caused by the work routine. With this concept, many of the actions that were previously seen as the responsibility of the factory workers became part of employer liability. In other words, workers could violate workplace regulations or practices; however, this could not be taken into account as an element that exonerated the employer in case of accident. If a laborer is careless when setting up a scaffold, this cannot be considered grave negligence, since that would require proving that he had failed to carry out precise instructions from the employer or builder. Negligence had to be seen as part of occupational hazard. In the same example, the employer should have taken the trouble to double-check the braces and thus verified the safety of the equipment (Crónica…, feb. 1928, p.2312).

This issue was polemical, since some sectors favored promoting the idea of grave negligence; that is, if the worker had an injury that was proved to be due to a failure to follow factory regulations or inappropriate use of work tools, compensation was denied, thus minimizing the employer's responsibility. In Chile, if accidents happened that bore no relation to the job, reparation was not covered, but the burden of proof lay with the employer and it was the judge who had the role of determining who was responsible. In Peruvian law, if culpability was related to the worker's negligent act, compensation was reduced; in contrast to the Chilean case, there was no need for a judge; this was a relationship between the worker and the employer. This relationship between the affected parties left the workers in a more vulnerable situation (Unsain, 1917, p.77).

Medical care

The obligation to provide medical care for accident victims was common to all accident laws. In Argentina, the law required the employer to pay for medical care and medications or pharmaceutical benefits. In this situation three types of scenario could occur. Workers with insurance also had access to clinics and doctors who did home visits to provide care. Compliance with this obligation was motivated by two things: oversight by the National Labor Department and the insurance company's interest in making sure the injured person recovered rapidly so as to be fit to return to work and thus reduce the amount of compensation and the cost of treatment and/or hospitalization.

One group of workers was made up of people who were uninsured and had to go to public hospitals. According to data recorded for the period 1916-1921, it was common for employers to avoid medical expenses by using the social services provided by hospitals. A municipal ordinance put an end to this practice; hospitals could provide services to injured workers, but their professional fees were then billed to the company. Another group of workers had professional medical services on staff within their own company facilities. Railway workers, meat packing plants and tram workers are examples of this modality (Unsain, 1917).

Chilean law required the employer to pay for medical care and pharmacy costs for victims until they were fit to return to work. The employer could designate a physician to evaluate the worker's condition, and if the injured person refused to see the doctor, the judge could suspend payment of compensation. Along these lines, Teodoro Gebauer Weisner (jun.-jul. 1938, p.258-259), director of the Orthopedic Hospital (Hospital Tramatológico), argued that if it was determined that a condition could be improved via an operation, the injured person could not refuse surgery merely on "personal whim," since otherwise "society would be paying for his upkeep." This declaration endorsed the presence of occupational medicine specialists and in particular professionals linked to the area of orthopedics and traumatology, who became more important in the rise of occupational medicine. The ideal was to avoid relying on general practitioners, who could not determine the specific nature of the injury nor the details of rehabilitation treatment. Thus, over the course of the twentieth century, the importance of rehabilitation increasingly featured in medico-social debates. It was acknowledged that greater accuracy, the ability to order complementary tests and keeping written records of observations would provide greater certainty and detail to diagnoses and

would therefore limit the threshold of doubt that usually surrounded short-term, repeated orders. In the words of the Chilean traumatologist, if the

> doctor takes the patient's side, out of a spirit of empathy, he commits an injustice, by disposing of monies that are not his and, since the employer has to pay, the secondary consequence is that the industry passes on the price rise to society as a whole. If the doctor takes the employer's side against the patient, he commits an even greater injustice (Gebauer Weisner, jun.-jul. 1938, p.258-259).

In Chile, as in Argentina, if the worker was treated in hospital, the employer had to pay for services as established by hospital regulations (Unsain, 1917).

Similarly to the cases mentioned above, in Peru immediate medical care was also required in the case of any accident. The business-owner was required to designate the doctor and pay for pharmacy costs. Designation of the doctor by the employer could lead to certain inequalities, since physicians could treat patients with remedies and treatments that were inexpensive and clearly inefficient, so as to avoid raising employer costs. Unlike the cases of Chile and Argentina, if the employer paid a sum that complied with the established rate, employer responsibility ended there. This instance led to two types of situation. One was that the worker might use the money for other personal or family emergencies and give up treatment, thus endangering his ability to return to work in the future due to a worsening of his condition. The other was that he might undergo treatment at the time but if another consequence related to the same injury emerged later, the employer was not obliged to cover treatment for long-term consequences (Unsain, 1917, p.129).

In all three countries, rising employer costs due to lengthy rehabilitation treatments were a major concern. If rehabilitation was paid for by employers, it would influence business costs and this, employers argued, would have an impact on society, since they would have to raise prices. If the employer was free of financial liability, society would still have to pay the cost, since injured or "incapacitated" workers would have to be supported either by public aid or welfare. Here, economic liberalism showed its contradictions once again, since for occupational accidents in the private sphere it sought to attribute responsibility to the victims as being at fault for their own accidents; and to the rest of society, via a price rise or increased expenditure for the health and welfare system. Although legislation tended to improve certain conditions in factory environments and diversified the range of social benefits, it undoubtedly sought to preserve business earnings, by inducing people to take out insurance or by creating public hospital services or ones with tripartite funding, which would ultimately reduce both business owners' costs and their liability.

Compensation

As with the previous issue, when dealing with compensation payment after an accident, the fear voiced in medical and legal discussions was whether injured workers would know how to use the money rationally. The set rate for compensation was proportional to the disability suffered and the salary received. Accusations of bad habits, laziness, alcoholism and many "incorrect" uses of the money were a recurring argument for altering the way compensation was delivered. The ideal, described by Córdoba's Director of Work and

Welfare (Director de Trabajo y Previsión), Manuel Ossorio y Florit, was that families could use the money received to set up a business or purchase a home to safeguard their future. Obviously, this vision was a far cry from the difficult living conditions endured by families in which one member was unable to work, either temporarily or permanently. Ossorio y Florit's (mayo 1945, p.92) proposal was a long way from reflecting the ideal of what was feasible and possible for families of injured workers and reflected instead an aspiration for middle and upper class sectors of society. In any case, business owners' interest lay in how to make the "burden" of rehabilitation fall on society and not on their own shoulders.

In all three countries the investment system was the main one used. Argentina set up a system of individual, not corporate, responsibility, according to which business owners could pass compensation charges along to insurance companies. This situation led to large firms hiring private insurance companies. Although this practice existed before the laws were passed, passage of this body of legislation legitimized and encouraged this initiative for mandatory compensation. Thus, workers and inspectors reported insurance companies who did not comply with their obligations to injured workers. The usual strategies for avoiding issuing compensation included pointing out spelling errors in surnames, failure to keep salary and income records on the part of the employer, lack of an employer's signature on the accident report, out-of-court settlements by insurance companies and trying to prove that the victim was at fault for the accident, due to negligence or a prior injury. After 1925 a book was set up in the National Labor Department for workers to report complaints about noncompliance by companies. A number of dubious situations could lead the Executive Branch to rescind insurance companies' license to operate in the area of occupational accidents. Also, the involvement of multiple insurance companies further complicated the scene in terms of complaints and compensation for occupational injuries, since they become one more player, given that their objective was to obtain insurance clients without paying anything, or to pay the least amount of money possible for injuries.

How did the investment system work? In Argentina, employers or insurance companies deposited compensation in a special section: the National Fund for Retirement and Civil Pensions (Caja Nacional de Jubilaciones y Pensiones Civiles), which was administered by the Ministry for the Interior. Insurance was optional and insurance companies would be overseen by the state. In cases where an employer did not hire an insurance company and declared bankruptcy, the Guarantee Fund (Caja de Garantías) would pay compensation. Therefore, the state agency reported irregularities committed by employers or by insurance companies (Crónica…, abr. 1930, p.3133). If insurance companies did not follow the rules, they deprived the fund of resources. This institution invested in national bonds and made monthly payments to those entitled. The monthly payment was intended to protect the recipients, since it was believed that if the injured workers or their families were given a lump sum, they would not be able to manage it properly and would fall into poverty, thus becoming a heavy "burden to society and the state." In other words, their supposedly irrational use of money and their benefits was used to protect the resources of the National Fund for Retirement and Civil Pensions.

This system was subject to criticism, since the monthly payments by the fund were not enough for recipients to live on. Another unresolved issue was the payment of trial costs,

which were not payable in instalments, so that even if workers won their cases, they often did not have the money to pay their legal fees. This type of payment also discouraged bringing a lawsuit because, in the case of death, for example, the payment issued by the fund did not replace lost salary and was not adjusted for inflation, so it tended to decline in value. To attempt to remedy these problems, at Unsain's initiative, another executive decree was issued on July 25, 1918, stating that compensation would be issued in 120 monthly payments, in other words, over the course of ten years.

For doctor Manuel Ossorio y Florit, insurance only really worked when it was seen in social and not market terms; in other words, when it was set up not as a way to cover the loss suffered by the employer because of having to pay compensation, but as a guarantee of fair compensation for the injured worker. The particular nature of occupational accident insurance, unlike others, lay in the fact that the presumed beneficiary was not a party to the contract and that his satisfaction was not in the interests of the contract holders. The employer was content if the insurance company guaranteed that, if an accident happened, he would not be inconvenienced nor would he pay a single cent more than he had for the insurance policy; and what mattered to the insurance company was keeping business owners, who were clearly their clientele, happy, whereas they were indifferent to the situation of the injured workers. Thus many workers received deficient medical care and suffered from constant machinations against them (Ossorio y Florit, mayo 1945, p.93).

In Peru there was a mandatory lifelong payment as compensation in cases of death or total and permanent disability. As with medical costs, the law authorized exoneration of liability on the part of the employers if they deposited a one-time, predetermined sum in the fund. Chilean law provided for a lifelong payment for all disabilities. For partial disabilities, the amount was stipulated in a special table. For total disabilities, a lifelong payment or pension would be provided. Total disability meant the loss or loss of use of both legs, both hands, one leg and one hand and complete blindness in both eyes. Chilean physician Gebauer Weisner (jun.-jul. 1938, p.258-259) argued that this system should be modified if, after regular medical examinations, it was felt that the functional disability had changed. This proposal put medical knowledge in a privileged position in the social welfare system, since it was doctors and not judges who possessed the expertise to arbitrate in this area of labor law.

In Chile, when occupational accident legislation was reformed in 1924, the Fund for Worker Insurance (Caja de Seguro Obrero) was created to provide sickness, disability or old age benefits (decree-law no.4.054), funded by contributions from insured members, employers and the state. In 1925, this regulation was extended, employees in the private sector were included and the Fund for Public Employees and Journalists (Caja de Empleados Públicos y Periodistas) was created. In 1927 the National Savings Fund (Caja Nacional de Ahorros) was created, which in mid-1942 became the Occupational Accidents Fund (Caja de Accidentes del Trabajo), whose functions included injury prevention, cure and compensation for insured workers.

In 1938 the Preventive Medicine Law was passed (law no.6.174), designed to extend coverage to the general population and not just to those belonging to a particular occupational group or linked to a welfare fund for a particular sector. Benefits involved curative and preventive medical care, disability and old age pensions, tax writeoffs

and death payments. Resources were made up of workers' contributions of 2% of their salaries, 4% by employers and 1% by the state (Parada, Balbi Robecco, 1949, p.88-94). The hope was that work insurance would be separated from commercial profits and that a mandatory health examination would be established that would include a medical examination, X-rays, and a Kahn or Wasserman test. As Julio Bustos (1936, p.34), head of the Department of Social Welfare (Departmanto de Previsión Social) for the Ministry of Health, Welfare and Social Assistance (Ministerio de Salubridad, Previsión y Asistencia Social) in Chile, put it,

> Public health should, by virtue of its overarching collective interest, be beyond commerce. Consequently, insurance companies cannot simply limit themselves to issuing insurance policies; they should perform other functions of more interest to society, namely those of prevention and rehabilitation, as well as financial reparation for injuries via compensations in the form of subsidies and pensions.

When an illness was detected, an evaluation of the person's work environment was carried out so as to start treatment and, if necessary, "preventive rest," which could be total or partial, as dictated by the Commission for Preventive Medicine. The financial benefit would consist of a monetary payment issued by the fund to the person. This subsidy would be a set percentage of the average of the last three paychecks; also, the person's job had to be maintained as long as the rest period lasted. The fund would also provide other benefits, such as medications and nursing home stays. While the intent and extent of this law were admired in neighboring countries, as in the case of Argentina, in 1943 there were voices pointing out that the achievements were largely potential ones. The attorney for the Universidad de Chile, Walter Siebel Jensen (sept. 1943, p.14), argued that benefits should be extended over time to a greater number of illnesses and that it should be possible to cover families.

The difference between the cases of Chile and Argentina is that the Chilean state acted as an insurance agent for accident risks, not as a monopoly, but in competition with insurance companies. Occupational hazards could be insured in the Occupational Accidents Section of the National Savings Fund (Caja Nacional de Ahorros). In Argentina after the turn of the century, the space was increasingly occupied by private insurance companies that, although they were under state control – since the state could withdraw their operating licenses – grew increasingly powerful and became one more actor in terms of limiting a universal social security system. On this issue, the Argentinian doctor Germinal Rodríguez (1952, p.400)[3] was very critical, arguing that

> accident insurance has been treated as a commercial concept and industrialists unload on a private insurance company the responsibilities of the law, which means that the companies try to weasel out of providing benefits whenever possible, while for their part, accident victims have created a real industry out of their misfortune, aided and abetted by attorneys who coach them in the subtleties of the law.

In Chile, with the funds garnered, the Occupational Accidents Section of the National Fund organized medical care in Santiago through the Orthopedic Hospital, which opened at the end of 1937 with Gebauer Weisner as director. This hospital, considered a state-of-the art facility equipped with the most advanced technology of the era, competed with the

insurance companies and became a model in terms of enabling disabled employees to return to work and achieving functional recovery through specific medical treatments.

For their part, workers' organizations encouraged on the one hand reporting employers who favored commercial companies and on the other [supporting] employers who paid their contributions to the Occupational Accidents Section of the National Savings Fund. So as to provide coverage for people who got injured in other regions, "trauma staging posts" were created to insure treatment in any part of the country (Figueroa Araya, mar. 1944, p.59).

As in Chile, from the 1930s on, Peru introduced active measures in the areas of health and education. In 1936, the National Fund for Worker Social Security (Caja Nacional de Seguro Social Obrero) was created (law no.8.433), the most notable consequence of which was the inauguration in 1940 of the Workers Hospital (Hospital Obrero) in Lima, run by Guillermo Almenara Irigoyen, a medical doctor and the minister for public health, and Edgardo Rebagliati, a lawyer.[4] The inauguration was attended by important government officials from the region, an indicator of the importance attached to the idea of using state funds to create a hospital dedicated to the wellbeing, safety and protection of workers. At least in rhetorical terms, it sought to break the tradition of philanthropy and charity in medical care and position the state in a central role in regulating labor and healthcare relations. Among the dignitaries who attended was Salvador Allende, at that time minister for public health in Chile.

The organization of the Workers' Hospital was intended to achieve a significant professionalization of the field. To this end, medical teams from the United States were hired, and medical and administrative techniques and procedures were adopted to optimize time and improve healthcare nationwide among workers in industry, commerce and agriculture, apprentices, people working from home and domestic servants. As Paulo Drinot (2011) points out, indigenous people were left out of this healthcare protection measure, since it was felt they were not ready to become industrial workers. The design and implementation of social security reflected the fact that ideas on social and labor policy were tinged with a strong element of racial discrimination (p.220-223).

The conditions covered were those of illness, maternity, disability, old age, death and rehabilitation. Benefits included health care, hospital stays, therapies, subsidies, pensions and orthopedic devices. It was funded by dues from insured workers, employers and the state. The fund was also financed by taxes on tobacco and alcoholic beverages, fines, inheritances, legacies and donations (Bramuglia, sept. 1943, p.39). In 1948 Employee Social Security (el Seguro Social del Empleado) was instituted. Both funds covered illness and periods of maternity leave, retirement and disability among enrolled workers (Cueto, 2004).

Unlike the previous cases, in Argentina there was no hospital seen as a leader in the treatment of occupational pathologies and complications. While from the late 1920s on, the debates and proposals included creating a Polyclinical Work Hospital (Hospital Policlínico del Trabajo) to bring together injured and sick workers in a facility that specialized in treating their conditions, it never saw the light; probably because these proposals never clearly articulated who would fund it (Feinmann, mar. 1925, p.24). From the 1940s on, some labor unions began to set up their own hospitals intended for employees and families.

An example of this is the Railroad Hospital (Hospital Ferroviario), created in 1944, funded by union dues and state support. Based on this experience, the unions began organizing medical services (Ossorio y Florit, mayo 1945, p.91-96; Andrenacci, Lvovich, Falappa, 2004).

By the 1930s, there was a striking similarity between Peru and Chile in their attempts to come up with more inclusive social security systems. It is highly likely that the important meetings hosted by the International Labor Organization had a significant impact on both countries in terms of rectifying the legal frameworks that were already in place and thus reinforcing and extending existing models. It should be remembered that in 1936 the Labor Conference of American States was held in Chile; in 1941, the Inter-American Conference on Social Security in Lima; and in 1942, Santiago de Chile hosted the First Inter-American Conference on Social Welfare, whose fundamental objective was to intensify cooperation among countries in the Americas in the field of social security to preserve and improve the health and productivity of workers and their families (Lauzet, mayo-jun. 1942, p.34).

As Patricia Flier shows, these conferences set a trend in terms of labor and social policy at the time. This included the growing state intervention in the regulation of various spheres of social life; growing acceptance among the business community of the need for such intervention; growing integration of unions into the structures of the state; the discrediting of liberal policies; the growth of full employment; the gradual universalization of social security and concern about workers' psychophysical deterioration due to their financial situation, unhealthy conditions, overwork and fatigue (Flier, 2006, p.197-226; Gaggero, Garro, 2004, p.175-192). According to Eric Hobsbawm, if revolution was the daughter of war, so was the International Labor Organization (ILO) and with it the aim of crafting social legislation and labor regulations on a worldwide scale. The creation of this international organism made it necessary to explore in more depth ways of consolidating the integration, regulation and drafting of labor legislation (Hobsbawm, 2005, p.62). Specifically in relation to the issue of work accidents, after 1925, the ILO agreed to standardize across all the member countries the minimum amount of compensation, jurisdictions in terms of conflicts over compensation, regulations on occupational illnesses, equal treatment for foreign workers and citizens, and the extension of coverage to agricultural workers (Pozzo, 1939, p.80). Thus, the ILO played a leading role in putting labor reforms on the agenda and developing labor law in countries across the continent. Beginning in the 1920s and 1930s, resolutions from the agreements were ratified by the dynamics of local politics in Latin American member states.[5]

Final considerations

As suggested by Fernando Devoto y Boris Fausto (2008, p.7-17), this article constitutes a point of departure for future research, rather than an arrival point. In the future, it will allow us to return with new questions, greater polyphony and some reformulated hypotheses. However, as a first systematic overview of the topic, I would like to emphasize various commonalities and differences in the face of the same challenge: how to protect the workforce in the context of industrialization and decline in the flow of international migrants.

Attempting to distance ourselves from the narratives told by the protagonists who tried, in slightly different ways, to legitimize the developments undergone in their countries by stressing what was "negative" or "different" about developments in other countries, it is clear that overall, in the early decades of the twentieth century, Chile, Argentina and Peru faced similar challenges in terms of trying to provide compensation for occupational accidents, and overcame them through legal frameworks that regulated the relationships between the parties. The legislative frameworks of Argentina and Peru used the idea of occupational hazard and displaced the idea of culpability that had been established up until that point. Chile, with the reform of 1924, incorporated the idea of employer responsibility. There were similarities between Argentina and Chile in terms of their interest in defining what was meant by an occupational accident and occupational illnesses. While this interest in nomenclature led to an agreement to set up financial protection in the face of common mishaps in the workplace, it did not provide the same protection for conditions as common as tuberculosis, hernias and cardiovascular disease. These conditions continued to be subject to doubt and objections and, in most cases, their connection to everyday activities in the workplace was left up to a judge to determine.

This map of relationships changed around the 1930s. The influence of the International Labor Organization was greater in Peru and Chile. Both nations reshaped and rectified their earlier local agreements on social security in the face of the consensus and recommendations of international meetings held in their countries. Thus, both attempted to centralize their healthcare systems to make them more universally accessible. The clearest example of this was the creation of the Workers' Hospital in Peru and the Orthopedic Hospital in Santiago. In Argentina, on the other hand, while in rhetorical terms a universal social security system was seen as desirable, in practice, the system remained permeated by the interests of union social work organizations and their healthcare systems, attesting to a union movement with greater powers of interlocution and political intervention. While there did exist a system of ideas and recommendations legitimized by international organisms, it is interesting to note how the processes of reception of ideas are not passive and lead to constant reformulation of the ideas themselves. Analyzing these processes of implementation and studying the mechanisms and arguments used to validate them is a field which needs further exploration.

Some professionals and politicians regarded the steps taken in the Chilean context on social security with expectation and interest. In line with what we saw earlier, in Argentina, both in the Secretariat for Work and Welfare (Secretaría de Trabajo y Previsión) (1944) and the Secretariat of Public Health (Secretaría de Salud Pública) (1946), political and specialist debates centered on the creation of Social Security and Chile was seen as the country that had managed to create an Illness Insurance (Seguro de Enfermedad) early on. In the words of Germinal Rodríguez (ene.-mar. 1946, p.11), when launching his project for Preventive Medicine services, "our preventive medicine law was inspired by the Chilean law of 1937 ... Chile was the first country in the world to understand the importance of preserving the ability to work among the laboring classes". The ideal aimed at providing universal health and welfare services for the working classes; not just by granting a financial benefit for injuries, but by improving and broadening social and medical care and encouraging strategies for reeducation and industrial safety.

By around 1946, Argentinian legislation on occupational accidents was seen as obsolete, since it only subsidized and compensated the injured worker, but did not deal with disability or provide allowances for the accident victim's dependents (widows and orphans), and accident prevention campaigns in factory settings had not yielded any advances (Carrillo, dic. 1946, p.42). In this context, in which occupational hazards were discussed and debated in different professional circles, it is not surprising that, in the Peronist era, Argentinian delegates visited these countries – which functioned as models – in order to write reports afterwards about the experiences undergone there. In these reports they included their observations and assessments of the different experiences of each country in terms of trying to provide medical and social care for broad segments of the population. The objective was to extend, via social policies, the array of social security resources. Similarly, well-known Chilean and Peruvian doctors and lawyers visited Argentina and gave lectures on the subject. The function of these "missions" and their reports was to identify the improvements carried out in other countries so that they could then become starting points for improving local legislation. The publication of these lectures and reports and the reproduction of articles in local publications attests to the connections between political and scientific work within a geographic framework that transcended the local. In discursive terms, this confluence of ideas, which had the advantage of not needing mediation via translation, gradually forged a new concept of the state's responsibilities. This state responsibility was seen both in terms of dialogues with local actors and in transnational alignments.

To summarize, from the 1920s on, there were noticeable references in local literature to the experiences of Chile and Peru in terms of occupational accidents and social security. By the 1940s, these transnational references included links to Brazil's experience, particularly on occupational safety and prevention. Undoubtedly, the inter-war period and the boost provided by international organisms after the 1920s created a framework for countries to compare their respective realities and introduce measures to align local realities so as to set the stage for international cooperation.

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NOTES

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[1] Some instances in which these issues were studied in Europe were the International Congress in Paris in 1899, and those in Berne in 1891, Milan in 1897, Paris in 1900 and Dusseldorf in 1903.

[2] This refers to a biophysical accident that occurs when decompression takes place too rapidly after a prolonged period at depth or altitude. It is common among mine workers.

[3] In the 1930s, Germinal Rodríguez had obtained a seat on the Deliberating Council (Consejo Deliberante) as an independent socialist. He was professor in the Medical Sciences Faculty in the Chair of Hygiene and

Social Medicine (Cátedra de Higiene y Medicina Social) and was actively involved in health policy from 1946 to 1950. He also advocated implementing health insurance.

[4] In 1932, Rebagliata edited the *Revista de Seguros*, which became a forum for ideas on occupational accident legislation, insurance and fostered relationships with France, Australia, Spain, Uruguay, Argentina and Chile. Rebagliati referred to the Chilean system, set up in 1924, as a model to emulate, since by the mid-1930s it provided coverage for eight hundred thousand workers (Drinot, 2011, p.199-200).

[5] In this decade the process of ratification occurred in Latin America. In the 1920s, it took place in Chile (1925) and Cuba (1928); in Venezuela in 1932. In 1933 many of the existing agreements were ratified in Argentina, Uruguay, Colombia and the Dominican Republic; Brazil did so in 1934.

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