CEBES on the agenda for the deprivatization of health and SUS

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THIS EDITORIAL COMPLEMENTS THE ONE PUBLISHED IN THE PREVIOUS ISSUE of the journal 'Saúde em Debate'. It seeks to deepen the debate on the privatization of health in Brazil, helping with the agenda of deprivatization of the Unified Health System (SUS). The starting point is the chapter on health in the 1988 Constitution[1], the result of the struggle of the Brazilian Health Reform Movement, which enshrined a radically democratic and universalist conception of health. The trajectory of the constitutional mandate reveals, however, that the SUS, despite considerable advances, coexists with chronic underfunding and with the expansion of a private sector that paradoxically feeds on public resources, configuring the hybridization of the sector, a product of the correlation of political forces, and not of technical neutrality.

The two terms of Fernando Henrique Cardoso (FHC) consolidated the hegemony of neoliberal macroeconomic adjustment over health financing: the Fiscal Responsibility Law (LRF) (Law No. 101/2000), in force until the present day, limited personnel expenses, favoring the private sector. In the same period, the government regulated health plans (Law No. 9,656/1998) and created the National Supplementary Health Agency (ANS) (Law No. 9,961/2000), in an implicit break with the universalist project[2]. On the other hand, Constitutional Amendment No. 29/2000, which linked minimum resources to health, was an achievement of the progressive field, and not a government initiative, even with the resistance of the Ministry of Finance of the then government[3]. Under the influence of the World Bank and the Inter-American Development Bank, the government replaced the universalist horizon with the 'guaranteed social minimum' and created the Social Organizations (OS) (Law No. 9,637/1998), whose constitutionality the Federal Supreme Court would recognize in 2015, in the Direct Action of Unconstitutionality (ADIN No. 1,923). OSs are exempt from bidding for management contracts with the government in areas such as health, education, and culture.

The Lula and Dilma governments (2003-2016) expanded the health budget and, with the More Doctors program, the health workforce[4]. Still, they did not structurally confront the public-private relationship: they maintained and expanded the tax waiver of health plans, continued to use OS in hospital management, and did not provide the ANS with resources to reverse the predatory relationship of the private sector, a position that reflected a deliberate strategy of governability in coalition with parties linked to this sector. Fagnani[5] describes the result as "social developmentalism" that expanded public services without violating the mercantile logic, postponing the structural contradictions of the constitutional text. In 2015, during the economic crisis, Dilma adopted the fiscal adjustment of Minister Joaquim Levy, which weakened the SUS and deepened dependence on the private sector[6]. His impeachment, in 2016, by a parliamentary coup supported by sectors of private health capital, paved the way for the most aggressive privatization offensive in the recent history of the SUS.

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The Temer government approved the Constitutional Amendment – EC No. 95/2016, which froze federal primary spending for 20 years and withdrew hundreds of billions of reais from the SUS compared to the previous rule[6,7], while the tax waiver to the private sector continued to grow. The Bolsonaro government (2019-2022), whose management of the pandemic is considered one of the most disastrous in the world[8], deepened outsourcing and created other types of OS, such as the Health on the Spot Program, without guarantees of public control. Lula's victory in 2022 brought the repeal of EC No. 95/2016, replaced by EC No. 126/2022 (transition and fiscal framework) and by Complementary Law (LC) No. 200/2023, which instituted the New Fiscal Regime, which still limits the expansion of the SUS, the tax waiver remains without a structural solution and the government coalition reproduces the tensions that have already limited previous mandates. Thus remains the challenge of advancing the constitutional project – which would require confronting interests that make up the government's own parliamentary base – and which depends on the capacity of social movements and academia to mobilize and expand this room for maneuver[9]. In the face of this hybrid model, built by concrete political choices, it is worth examining two fronts of privatization: the health insurance market and the OS.

The health insurance market: Growing profit, insufficient regulation

The aggregate data of spending of 5.1% of the private Gross Domestic Product against 4.7% public hides relevant dynamics: according to ANS[10], operators and benefit administrators recorded net income of more than R$ 11 billion in 2024, an increase of more than 270% over 2023, total revenue of around R$ 350 billion, the best result in the sector since the first year of the pandemic, driven by the medical-hospital segment and the remuneration of R$ 120 billion in accumulated financial investments. There is a counterpart in the income of the families: Montes de Moraes et al.[11], with data from the 2017/2018 Household Budget Survey, show that the commitment of income to individual plans rose from 4.5% (under 19 years of age) to 10.6% (79 years or older), exceeding 40% of per capita income for more than 5% of older people who pay for this plan, which shows a shift in risk to the individual as they get older and becomes ill, unlike the equivalent protection of the SUS.

The tax waiver for health is currently the subject of an interpretative dispute: Mendes and Weiller[12] treat the deduction of medical expenses and health plans in the Income Tax as a regressive tax expense, which subtracts potential resources from the SUS; the Institute of Supplementary Health Studies[13], financed by the sector itself, contests this reading, which does not automatically invalidate it, but requires counterpoint from independent sources, a gap that public health has not yet filled. Riani Costa and Bahia[14], when comparing Brazil and the United States of America, show that adherence to plans increases even in recessionary scenarios, contrary to conventional economic theory. This indicates that supplementary health requires regulation that treats it as a structural and growing part of sectoral financing.

Social Organizations: Expansion without systematic evaluation

A survey by the Brazilian Institute of Social Health Organizations[15] shows that, of the 1,874 establishments currently managed by OS, concentrated mainly in the Southeast, about 80% are under the management of

only 27 organizations, an indication of a concentrated market, not of a pulverized universe of local philanthropic entities. The literature on accountability, still modest, converges in the finding of a gap between the legal requirement of disclosure and practice. Morais et al.[16] found that the state of Rio de Janeiro, one of the entities that most use the model, occupied the 35th position among 53 evaluated in terms of active transparency. Braga[17] systematized irregularities in the model between 2015 and 2022 and argues that migrating to other private administrations, such as Public-Private Partnerships (PPP) or state foundations, without facing accountability, tends to repeat the same weaknesses under another name.

This accumulation qualifies the position historically opposed by the Brazilian Center for Health Studies (CEBES) to OS: the opposition in principle does not exempt the entity from producing systematic evidence on a model that is now consolidated. Two axes are required: to update the mapping of the concentration of the hospital management market by OS, which can be extended to state foundations, and to replicate, state by state, the methodology of Morais et al.[16] for the monitoring of active transparency, a task within the reach of the state and municipal centers of CEBES.

The fiscal arguments in favor of privatization: Elements for a critical reading

Understanding the tension between constitutional law and the lucrative market as a political dispute requires revisiting the fiscal arguments that defenders of the expansion of private space use in the technical support of the discourse of "collaboration"[18] and that criticism cannot ignore at the risk of losing persuasive force. The most recurrent argument is that PPPs, OSs and concessions expand the capacity for public investment without generating direct debt or putting pressure on the primary balance in the short term, since the disbursement is diluted over time[19], a real appeal under the LRF, a framework that has historically limited the expansion of the public workforce. A World Bank study on the efficiency of health spending in Brazil even recommends PPPs as a way to improve the cost-result ratio of the SUS[20], an argument to which are added those of risk transfer and stimulus to economies of scale, defended by entities such as the Health Coalition Institute[21].

The criticism of these arguments, in addition to being political, must also be empirical: Almeida[19] observes that PPPs are rarely preceded by a cost-effectiveness assessment in the face of direct public provision, in which the decision is based on the premise that the partnership is inevitable and advantageous, not on comparative study, which makes the argument of efficiency more rhetorical justification than demonstrated results. In addition, the absence of accounting debt at the time of contracting does not mean the absence of fiscal commitment, as the PPP creates a long-term obligation that competes with other future budget priorities, including the expansion of the public network itself. There is, therefore, real tension between two paths: the expansion of the public network, which requires facing the limits of spending on personnel and investment; and the partnership with the private sector, which sidesteps these limits in the short term, at the cost of committing future resources and transferring governance to actors whose declared objective – profitability and profit – does not coincide with the constitutional principles of universality and integrality. Accepting the internal coherence of the privatizing tax argument, and not just denouncing it as a disguised interest, is a condition for CEBES to be able to dispute this terrain with concrete proposals for public financing.

For an agenda of confrontation

Concerning OSs, the priority is to produce, and not just claim, systematic performance evaluation, updating the indicators of concentration[15] and active transparency[16], with the possibility of forwarding them to the state Audit Courts and the Federal Court of Accounts in cases where the publicity gap constitutes non-compliance with the Access to Information Law.

As for the workforce, the debate on a single career for the SUS requires separating the form of contracting services that may involve different management models from the form of employment of workers, which is currently fragmented between the Unified Legal Regime, the Consolidation of Labor Laws, temporary contracts, outsourcing by OS and foundations, so that the defense of a stable public bond is not held hostage to the position on a specific management model.

Another aspect to be raised in the debate on privatization refers to parliamentary amendments: between 2014 and 2023, the volume of amendments destined to the public sector grew by 371%, from R$ 4.9 billion to R$ 23 billion[22]; in 2024, of the total of R$ 44.67 billion in amendments, 66% were directed to the public and transfers to municipalities[23]. Fleury et al.[24] show that, while total expenditure on Public Actions and Services in Health grew 163% between 2013 and 2024, the share originating from amendments grew 2.657%, evidencing a substantive change in composition, not just in volume. This trend stems from a recent normative chain: EC No. 86/2015 made individual amendments mandatory and linked 50% to the tax; EC No. 126/2022 raised the percentage to 2% of Net Current Revenue and extended the impositivity to bench amendments; and LC No. 210/2024 expanded the transfer obligations as of 2025[25], altering the balance between the powers, since the instrument conceived as a budgetary complement to the case by case has become a structural source of financing for the SUS, unlinked to national, regional or local planning.

The practical effects are the fragmentation of planning, inequality in the distribution of resources and vulnerability to clientelism. A survey by the Institute for Health Policy Studies on amendments in health between 2016 and 2024 found that the smaller the municipality, the greater the volume received via amendments for basic care, resources that, because they do not finance personnel expenses, produce installed capacity without the necessary professionals to operate it[22]. The problem is not only one of political capture, but of design: even well-intentioned amendments operate with an inadequate instrument to finance the most critical item of the SUS, the labor force. Resolution No. 798/2025 of the National Health Council (CNS), which defined social control over the amendments, has not yet been assessed, which constitutes a concrete window for CEBES to monitor its implementation before the application, or non-application, becomes a fait accompli.

In this context, two fronts are viable in the short term: systematically monitor the implementation of CNS Resolution No. 798/2025 in state and municipal health councils; and defending, in the legislative debate on the next Budget, that individual amendments be redirected mainly linked to Municipal Health Plans already approved by the respective councils, which does not eliminate the instrument, but subordinates it to health planning.

As for financing, linking every new federal resource to the exclusive expansion of the public network itself, and not to the contracting of private services, deserves to be a legislative flag, articulated with the struggle for the Social and Sanitary Responsibility Law, so that the budget expansion achieved in recent years is no longer compatible with the simultaneous and vigorous growth of private participation. Finally, CEBES' response to the fiscal arguments examined cannot be restricted only to denouncing the economic interest behind PPPs and OSs. Still, it should focus on producing comparative cost-effectiveness studies between direct and private

management, which are currently practically absent in the Brazilian literature[19], and which would allow us to dispute, with their own evidence, the technical terrain currently occupied almost exclusively by institutes financed by the private sector and by organizations such as the World Bank.

Authorship contributions

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