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Legal analysis of access to old-age public pension benefits in Rwanda: challenges and trends

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CHAPTER 3: REVIEW OF RWANDA’S LEGISLATION ON OLD-AGE PENSION AND AN ANALYSIS OF ITS COMPATIBILITY WITH THE ILO’S SOCIAL SECURITY STANDARDS

3.1. Introduction

Since 1962 Rwanda has established a national pension system as an integral part of its social security systems, managed under a defined-benefit contributory pension system, which is mandatory for employed workers. Different reforms have been undertaken to extend pension coverage leading to the establishment of voluntary defined-contribution pension schemes.

However, the contributory nature of the existing design and the lack of a national legislation guaranteeing basic income security to all in need through non-contributory universal pension schemes, have deprived many people of the social security protection. This makes it difficult to achieve the levels of protection required by international standards namely the ILO Social Security (Minimum Standards) Convention, 1952 (No.102), Invalidity, Old-Age and Survivors Benefits Convention, 1967 (No.128) and its accompanying Recommendation, 1967 (No.131). These standards provide reference framework on the right to old-age benefits, the way they are guaranteed, accessed, provided and maintained. They are strengthened by ILO Social Protection Floors Recommendation, 2012 (No.202) which requires the provision of basic income security to all in old-age, in national law and in practice. Therefore, this chapter aims to investigate the compatibility of Rwanda’s national legislation with these international social security standards with regard to old-age pension benefit provision, focusing on coverage and benefit levels.

Comprehensive pension coverage exists if there is legislation guaranteeing the right to pensions and its effective implementation. The effective implementation of the legislation can be measured by the number of working age people actually contributing to the pension scheme and the proportion of older persons receiving a pension, either contributory or not, on the basis of a periodical payment as required by international social security standards. In contrast, a non comprehensive social security system not only covers a small number of risks, but also excludes certain groups like informal economy workers. Furthermore, a less comprehensive social security system provides low benefits and low service to beneficiaries. A comprehensive social security system considers the adequacy of benefits as an important aspect of coverage, as it implies the way the benefit levels are calculated, the minimum

period to receive benefit, the way social security systems guarantee at least basic social security and health care for all.

The review of the national legislation and the assessment of its compatibility with international social security standards are necessary to assess whether the universal and legal character of international social security standards are applied in Rwanda's law and practice. Therefore, the analysis of legislation on old-age pension aims to find out key areas and weaknesses of the existing legal framework that deserve further attention. It will be followed by proposals to address the challenge of low coverage and benefits.

Thus, the following discussion explores Rwanda's national legislation on pensions regarding old-age benefits in the light of international social security standards (Section 2) while Section 3 deals with a comparison of Rwanda's legislation on pensions with the ILO international Social Security Standards. Section 4 contains an overall evaluation while Section 5 deals with conclusions and discussion.

3.2. Review of Rwanda's national legislation on pensions regarding old-age benefits in the light of international social security standards

This section investigates how the national legislation of Rwanda guarantees the provision of old-age pension and complies with international social security standards. In a well-designed pension system, the law establishes basic social security guarantee, the national laws and the regulations specify the range, qualifying conditions and levels of the benefits giving effect to these guarantees.¹¹¹ Therefore, to realize the right to old-age benefits, social security systems that enhance compliance with international norms and national legal frameworks should be in place. The design of pension systems should be translated in a clear legal framework which sets up basic principles related to the definition of the contingencies to be covered, persons protected, benefit, financing, governance, in conformity with Part V of the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102).¹¹²

Thus, this section explores the attitude of Rwanda's Constitution regarding the incorporation of international treaties in the domestic legislation and the evolution of the

¹¹¹ ILO R202, II. 7.

¹¹² Hirose Kenichi, *Pension Reform in Central and Eastern Europe. In times of crisis, austerity and beyond* (ILO 2011) Decent Work Technical Support Team for Central and Eastern Europe, p.31.

pension legislation in Rwanda with a focus on the aspects of reform introduced by the pension law adopted in 2015. It also reviews the structure of the Rwandan population and addresses the coverage gap in pension protection. Furthermore, the section describes the structure of the national pension schemes in Rwanda in comparison with ILO Multipillar-Pension Model. The existing social protection policies in Rwanda are also described and the need to cover “the missing middle” (with reference to persons who have been left out) is also addressed.

3.2.1. The Rwanda’s Constitution and the incorporation of international treaties in the domestic legislation

The Constitution recognizes the importance of incorporation of international treaties and the binding force of international treaties and agreements which have been duly ratified or approved.¹¹³ However, Rwanda has not yet ratified the ILO Social Security (Minimum Standards) Convention, 1952 (No.102) which constitutes the legal foundation of the social security systems, despite Rwanda becoming an ILO member State on 18 September 1962.¹¹⁴ As a member state, Rwanda has the obligation to provide regular report on the application of adopted Conventions in accordance with article 19 of ILO Constitution.¹¹⁵

In accordance with article 51 of the Rwanda’s Constitution of 2003 revised in 2015, the state has the duty within the limits of its means, to undertake special actions aimed at the welfare of the indigent, the elderly and other vulnerable groups. The welfare of the elderly implies the provision of social protection including basic income security. However, the lack of a national legislation guaranteeing basic income security to all in old-age constitutes a constraint to compliance with international social security standards which established the principle of universality of coverage. The existing social protection support is limited to a small proportion of the population in the category 1 of the indigents, currently corresponding to *Ubudehe* category E considered as special category. It must be pointed out that errors of exclusion in targeting the poor prevent many elderly to benefit from social protection support. In contrast, errors of inclusion provide social benefits to people who do not

¹¹³ Republic of Rwanda, ‘The Constitution of the Republic of Rwanda of 2003 revised in 2015’ Art.168, *OG* No. Special of 24/12/2015.

¹¹⁴ ILO, ‘Country profile, Rwanda’ < <https://www.ilo.org/dyn/normlex/en/f?p=1000:11003:::NO:>> accessed 21 April 2020.

¹¹⁵ ILO, ‘ILO Constitution’, Art 19,5 (e)

<https://www.ilo.org/dyn/normlex/en/f?p=1000:62:1546169504103:::NO:62:P62_LIST_ENTRIE_ID:2453907:NO> accessed 26 August 2021.

deserve.¹¹⁶ This happens when some households are excluded from the categories of social benefits beneficiaries, while their neighbours who may be in very similar situation are included.

3.2.2. The evolution of the pension legislation in Rwanda and the particular aspects of the current 2015 pension legislation

The first pension systems date back to the colonial era when Rwanda was under Belgian colonial rule. During that period, social security was managed by two organizations set up by the Statutory Orders of 1st August 1949 for Occupational hazards and that of 6th June 1956 for pensions (retirements) and was limited to few workers.¹¹⁷ Upon achieving independence on 1 July 1962, Rwanda enacted the Social Security Law of 15 November 1962, which provided for the creation of *Caisse Sociale du Rwanda* (The Social Security Fund of Rwanda), a public institution guaranteed by the State and responsible for managing both Occupational hazards and Pension schemes. Pension schemes were organized as a compulsory savings schemes (defined-contribution) guaranteeing benefits based on contributions and related interests.¹¹⁸ This pension scheme proved unsuitable and was abandoned in 1974 in favour of a defined-benefit scheme mandatory for employed workers, governed by the Decree law of August 22/1974 concerning organization of social security.

Different pension reforms were undertaken to improve social security systems leading to the adoption of other legislations such as the Law n° 06/2003 of 22/03/2003¹¹⁹ modifying and completing the decree law of August 22.1974 concerning organization of social security and the current Pension law No.05/2015 of 30/03/2015 governing the organization of pension schemes for employed workers in public and private sector. The pension law of 2015 provides the possibility for self-employed to adhere to public pension and the possibility for private insurance companies to manage private pension schemes on

¹¹⁶ Nasra Bishumba, 'Citizens demand for special category of Ubudehe' *The New Times* (Kigali, 04 September 2019) < <https://www.newtimes.co.rw/news/citizens-demand-special-category-ubudehe> > accessed 11 November 2021.

¹¹⁷ CSR, 'Getting to know better the National Social Security Fund of Rwanda (Memorandum)' (1999) *Solidarité-Nta Mugabo Umwe* 13, Revue Semestrielle de la Caisse Sociale du Rwanda, p.36.

¹¹⁸ François-Xavier Ngarambe, 'Social security in Rwanda: Overcoming indifference' (2003) *International Social Security Review* 56 (3-4), p11.

¹¹⁹ Law No.06/2003 of 22/03/2003 modifying and completing the decree law of August 22.1974 concerning organization of social security, *OG* No.12bis of 15 June 2003.

voluntary basis to be licensed by the National Bank of Rwanda. The Bank identified the existence of a limited number of private pension schemes.¹²⁰

A. The major reform introduced by the Rwanda's Pension Law adopted in 2015

The major reform introduced by the Rwanda's Pension Law adopted in 2015 is based on five particular aspects: The increase of the retirement age from 55 years to 60; the increase of the period used as the basis for calculating the total average monthly earnings received by employee during the last five (5) years, which was previously three years (3) preceding the date of pension entitlement, serving the computation of old-age pension benefits¹²¹; the separation of the Pension schemes legislation from the Occupational hazards legislation which were combined in one legislation since 1962; the recognition of the possibility for authorized financial institutions to establish complementary pension schemes¹²² and the increase of maximum age and contribution base for self-employed who decide to participate in mandatory pension schemes, initially established for employed workers. In this regard, the pension law of 2015 makes improvement by increasing the maximum age (from 45 to 50 years old) for right to membership for self-employed people who were not previously member of pension scheme.¹²³

In addition, contribution base for the adhesion of the self-employed to public pension scheme, which was previously limited to a low ceiling of one hundred four thousand Rwandan francs (RfW 104,000) has been increased. Under the 2015 pension law, the salary used as the basis for calculating the contribution shall not be less than the base salary and may not exceed one hundred and thirty per cent (130%) of final salary used as the basis for calculating contributions. This salary cannot increase by more than thirty per cent (30%) every three (3) years.¹²⁴ This reform helped to increase the number of affiliates to pension schemes.

¹²⁰ National Bank of Rwanda, 'Private pensions schemes service providers', <<https://www.bnr.rw/index.php?id=196>> accessed 18 July 2020.

¹²¹ Art.19 of law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

¹²² Art.35 and 37 of law No .05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

¹²³ Art.5 of law No. 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No. 20 of 18/05/2015.

¹²⁴ Art.7 of law No.05/2015 of 30/03/2015 governing the organization of pension in Rwanda

Previously, the Ministerial Order No.1424/06 of 27 October 1986 determining modalities of affiliation of self-employed people to pension schemes (art.5),¹²⁵ required that the salary used as the basis for calculating the contribution must neither be less than the legal minimum wage (which was considered Rwf 100 a day translating into Rwf 2600 a month at that time) nor more than forty (40) times that amount of salary.

B. Pension coverage extension through Long-Term Savings Scheme ‘EjoHeza’

While in Rwanda health insurance is mandatory for all residents, the participation in pension scheme is only mandatory for employed workers with a regular and predictable income. Due to the limited social security pension coverage, an innovative approach for pension coverage extension was introduced in 2017 with the adoption of the Law No.29/2017 of 29 June 2017 establishing a *Long-Term Savings Scheme* and its organization, with the aim to extend pension coverage to informal workers. This is a voluntary scheme for informal economy workers, commonly known as (LTSS)/*EjoHeza*, which is a fully funded national public pension and savings scheme.

Despite having the characteristics of a complementary scheme, as it is based on voluntary affiliation, *EjoHeza* is the only pension scheme to which many people have easy access. However, the voluntary nature of the scheme implies the absence of legal obligation to adhere to the scheme, which makes the implementation process difficult to achieve universal coverage envisaged by the international social security standards. As detailed in chapter 4 of this study, the absence of legal obligation to adhere to the *Long-Term Savings Scheme* implies the lack of penalties for those who do not register and those who register but fail to pay regular contributions until their reach retirement age. As a consequence, the level of coverage is affected and benefits are reduced and depend on investments performance. The international social security standards require that benefits should be sufficient to maintain the family of the beneficiary in health and decency.¹²⁶

C. Coverage gap in pension provision associated with labour force participation

The population of Rwanda is still young and largely rural with limited capacity to find productive jobs with regular and predictable income to participate in the pension schemes. Data from the Labour Force Surveys (LFS) 2020 show that the labour force

¹²⁵ Ministerial Order No.1424/06 of 27 October 1986 determining modalities of affiliation of self-employed people to pension schemes, *OG* No. 24, 1986.

¹²⁶ Art.67 of ILO C102.

participation occupies 56.4% and the majority of employed population are self-employed engaged in substance agriculture (55.3%) and women are majority in informal economy. In 2020, the unemployment rate stood at 17.9% and was the highest since 2017. It was higher among females (20.3 per cent) than among males (15.9 per cent) and higher among young people (22.4) than among adults (14.1 per cent), higher among urban people (18.1 per cent) than among rural people (17.7 per cent).¹²⁷

The analysis of the experience of Rwanda in pension protection for older persons shows that the pressure is not a result of the ageing of the population, since older people aged 60 years and above represents 5.1 per cent of the Rwandan population.¹²⁸ Gaps in pension protection are originating from an accumulation of harmful exposures and limited opportunities over the life course.¹²⁹ These harmful exposures include lack of proper schooling and low access to formal employment, gender inequalities, which result in poverty and vulnerability that hurt from a young age to adulthood and old-age, and the continuation of work by many aged persons, mainly in the informal economy beyond their productive age.

3.2.3. Rwanda's Pension Pillars in comparison with the ILO Multi-Pillar Pension Model

The Rwanda's pension system is based on three Pension Pillars: The 1st Pillar or Social Insurance Pillar is a mandatory defined-benefit which is a contributory public pension scheme managed by a public institution (RSSB). The 2nd Pillar or Complementary Pillar is a complementary voluntary and contributory defined-contribution named *Long-Term Savings Scheme* commonly known as *EjoHeza*, also managed by a public institution (RSSB). There is also a 3rd Pillar or Voluntary Personal Savings Pillar which is a contributory voluntary private pension generally managed by private pension administrators such as financial institutions (mainly commercial banks and insurance private companies), for those who have the economic capacity to make their additional savings.¹³⁰

¹²⁷National Institute of Statistics of Rwanda, *Labour Force Survey Report 2020*, March 2021 <<https://www.statistics.gov.rw/publication/labour-force-survey-annual-report-2020>>, p. ii, accessed 25 August 2021.

¹²⁸ Republic of Rwanda, *National Social Protection Policy* (MINALOC June 2020), Kigali, p.27.

¹²⁹ Ibid.

¹³⁰ Art.35 of law No. 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

A. Lack of Pension Floor (Zero Pillar) : A gap in the Rwanda's pensions system

Pillar 0 is called also the Pension Floor, which is a non-contributory universal coverage. Universal non-contributory old-age pension scheme is a publicly financed pension scheme in the sense that beneficiaries are not required to previously pay the contributions to get pension benefits, rather the financial resources come from general taxes or particular goods. This pension model may sometimes be means-tested or universal and subjected to the requirement of age and residency for eligibility.

The relevance of a non-contributory “zero pillar” for poverty alleviation (like the basic pensions) is also recognized in The World Bank report on pension reform. (Old-Age Income Support in the Twenty-first Century: An International Perspective on Pension Systems and Reform) published in February 2005.¹³¹

The analysis of the structure of pension schemes shows that the established pension pillars in Rwanda are tailored to ILO Multipillar-Pension Model described in Chapter 2. However, the ILO Multipillar-Pension Model is based on the four pillars required to meet international social security standards. It is clear that, the Rwanda's pension system lacks one important pillar (Pillar 0 called also the Pension Floor).

B. The first Pillar or Social Insurance Pillar: A mandatory defined-benefit pension scheme with a flexibility clause in favor of the self-employed

Public pension systems in Rwanda are under the state guarantee and comprise mandatory pension schemes and voluntary pension schemes. Mandatory pension schemes are managed under defined-benefits (pay-as-you-go /PAYG).¹³² Currently, mandatory pension schemes are regulated by law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda to which all employees in the public and private sector are subjected. Despite the mandatory aspect of the pension law for employed workers, relatively few workers contribute to the pension schemes.

The pension law provides the possibility for other persons to contribute voluntarily to the mandatory pension schemes (established for employees) under certain conditions. Those persons are former employees who were members of a mandatory pension scheme but no

¹³¹ Robert Holzmann, ‘Global pension systems and their reform: Worldwide drivers, trends and challenges’ (2013) *International Social Security Review* 66 (2), p.11.

¹³² Odette Nyiramuzima, ‘Explaining Rwanda's Pension Structure: The choice of Defined-Benefit System’ (2015) *The RSSB Magazine* 2, A Publication of Rwanda Social Security Board, pp.18-20.

longer meet the conditions for maintaining membership, and on their own initiative and upon written request, may continue to contribute to the scheme. The right to membership in mandatory pension is also recognized for self-employed people who were not previously members, provided they make a request and are not aged over fifty (50) years. Self-employed voluntarily commit to paying a contribution of 6 per cent of their declared monthly income, which is ‘double’ given that for employed workers that contribution is equally shared by employers and employees who pay each 3 per cent of the employee’s earnings.¹³³ In line with the art.5 of law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, modalities of registration with mandatory pension scheme are determined by Ministerial Order No.004/16/10/TC of 19/4/2016.¹³⁴

However, despite the progress made in making pension legislation flexible to allow the self-employed to adhere to pension schemes, the period requirement (contribution of fifteen (15) years) for eligibility to periodical payment of pension benefits may be high and very few self-employed manage to retire with regular or complete benefits.

C. The second Pillar or Complementary Pillar: Voluntary public pension schemes

In an effort to extend pension coverage to the informal economy workers, Rwanda introduced a public pension and savings scheme with a voluntary nature, designed to be accessible and affordable. Therefore, in 2017 Rwanda adopted Law No.29/2017 of 29 June 2017 establishing the *Long-Term Savings Scheme* and determining its organization with the aim to extend pension coverage to the informal economy. The *Long-Term Savings Scheme* is commonly known under the popular name “*EjoHeza*” which means a brighter future.

Despite the effort made by Rwanda to establish public mandatory pension schemes for employees and voluntary pension schemes for informal economy workers, the coverage remains low as the existing pension schemes only have a contributory character and are suitable for employed workers with regular and predictable incomes. In addition, voluntary pension schemes are characterized by the absence of a legal obligation for the unemployed population to participate in pension schemes.

¹³³ Presidential Order No.009/01 of 10/05/2016 determining contributions rate to mandatory pension scheme, OG No.22 bis of 30/05/2016.

¹³⁴ Ministerial Order No.004/16/10/TC of 19/4/2016 determining Modalities of registration with mandatory pension scheme, OG No. Special of 05/05/2016.

While formulating policy recommendations aim at extending pension coverage to the unprotected population, the National Social Security Policy of 2009 recommended the establishment of a Provident Fund that provides pre-retirement benefits as defined by the law and it requires mandatory adhesion to the Provident Fund for all workers with formal contracts with an employer.¹³⁵ According to that Policy, the self-employed and workers in organized groups must adhere to at least one scheme of the third pillar being complementary savings for the retirement managed by RSSB Provident Fund or by Qualified Private Pension Funds. Contrary to the mandatory nature of the Provident Fund recommended by the National Social Security Policy 2009, the Long-Term Savings Scheme ‘EjoHeza’ was established on a contributory basis and has a voluntary nature by opening a savings account with the scheme administrator.¹³⁶

D. The third Pillar or Voluntary Personal Savings Pillar

Rwanda’s Pension law of 2015 provides the possibility for authorized financial institutions to manage Personal pension schemes (Personal retirement saving accounts managed under a defined-contribution system) and recognizes that Complementary occupational pension schemes can also be established upon agreement between the employer and the employee.¹³⁷

However, limited private pension schemes are established. Findings from different studies show that voluntary pension schemes based on individual savings accounts are not able to guarantee the principles of social security and should always complement, and not replace Pillar 1 and 2.¹³⁸ ILO R202 requires the establishment of a universal non-contributory scheme to guarantee basic income security to all the population which is not covered by the existing contributory pension schemes and reaffirms the relevance of the pre-existing international standards, mainly ILO C102, C128 and R131.

¹³⁵ Republic of Rwanda, *National Social Security Policy* (MINECOFIN 2009), p.26 <<http://www.minecofin.gov.rw>> accessed 20 March 2019.

¹³⁶ Art.3 of the Law No.29/2017 of 29 June 2017 establishing *Long- Term Savings Scheme* and determining its organization, *OG* No. Special of 18/08/2017.

¹³⁷ Art.35 of law No.05/2015 of 30/03/2015 governing the organization of pension schemes.

¹³⁸ ILO (n 23), p.7.

3.2.4. Social protection policies in Rwanda: Addressing the need to cover ‘the missing middle’

Despite significant progress in establishing pension systems and social protection policies in Rwanda, a large share of the population is not covered by social security. The reason for exclusion in social protection is simply because non-registered persons in social security schemes are not covered by the applicable legislation and are also facing difficulties in accessing poverty-targeted social protection programmes because they are deemed not to be ‘poor enough’. The excluded categories called a ‘the missing middle’ are often under no legal obligation to join social protection schemes while there is no other alternative of being covered by non-contributory schemes, which are mostly not directly anchored in any legislation.

Even those who are registered in a pension scheme, they have the obligation to comply with the qualifying period of contribution (fifteen (15) years) for the future retirement with periodical payment of benefits. They many fail to meet that requirement due to income insecurity and fall into poverty in old-age.

A. Poverty-targeted social protection support: Limitations of Direct support provided to the poor and vulnerable people

The National Social Protection Strategy¹³⁹ has been put in place to respond to the requirement of article 51 of the Constitution, regarding the duty of the state to undertake special actions aiming at the welfare of the indigent, the elderly and other vulnerable groups, within the limits of its means.¹⁴⁰ Social protection measures put in place to support vulnerable people include the direct support provided to the poor and vulnerable people by the government, through Vision 2020 *Umurenge* Program (VUP¹⁴¹) managed by the Ministry of Local Government.

However, the *Direct support* is limited to a small proportion of the population in the category of the indigents (*Ubudehe* category 1 currently corresponding to category E). Vision

¹³⁹ Republic of Rwanda, ‘National Social Protection Strategy’ (MINALOC 2011 and 2020) <https://www.minaloc.gov.rw/fileadmin/documents/Minaloc_Documents/National_Social_Protection_Strategy.pdf> Accessed 20 April 2020.

¹⁴⁰ Republic of Rwanda, ‘The Constitution of the Republic of Rwanda of 2003 revised in 2015’, *OG* No. Special of 24/12/2015.

¹⁴¹ Government of Rwanda, *Vision 2020 Umurenge*, An integrated Local Development Program to Accelerate Poverty Eradication, Rural Growth and Social Protection, EDPRS Flagship Document, August 2007 <<https://www.undp.org/content/dam/rwanda/docs/povred/VUP-VISION-2020-UMURENGE-DOCUMENT.pdf>> accessed 29 March 2020.

2020 *Umurenge* Program (VUP) reaches 85,542 households by old persons aged 65 years and above.¹⁴²

The successful support is mainly the medical insurance guarantee (Community-based health insurance/ *Mutuelle de santé*) provided by the government to the indigents on the grounds that medical insurance in Rwanda is mandatory.¹⁴³

B. Ubudehe categorization: The basis for determining eligibility to a range of social benefits

Ubudehe category is the system of classification of the population according to their financial capacity.¹⁴⁴ The naming of *ubudehe* categories was changed from numerical numbers to letters, the new categories being referred to as Category A, B, C, D & E. Special category E is for indigents expected to benefit full state social protection support.¹⁴⁵

➤ *Ubudehe: A traditional practice evolved into a targeting mechanism*

Ubudehe is a traditional practice where people used to sit together to analyse their problems and help each other in problem solving at a local level. *Ubudehe* practice has evolved into a targeting mechanism, used for determining households or individuals' eligibility for a whole range of social benefits and poverty reduction. From 2001, the government of Rwanda designed *Ubudehe* as a policy and approach to increase the level of institutional problem solving capacity at the local level by local government with the participation of citizen, through collective action.¹⁴⁶

➤ *Ubudehe management and database*

The *Ubudehe* program is currently managed by the Local Administrative Entities Development Agency (LODA) through District and Sector administration. The former was

¹⁴² Republic of Rwanda, *National Social Protection Policy* (Ministry of Local Government, June 2020), p.28 <https://www.minaloc.gov.rw/fileadmin/user_upload/Minaloc/Publications/Policies/Social_Protection_Policy_Adopted_1.pdf, accessed 31 August 2021.

¹⁴³ Law No. 03/2015 of 02/03/2015 governing the organisation of the Community-based health insurance, *OG* No.15 of 13/04/2015).

¹⁴⁴ *Ubudehe* is a Kinyarwanda word referring to the long-standing Rwandan practice and culture of collective action and mutual support to solve problems within a community. Today, the concept has been translated into a home grown development programme whereby citizens are placed into different categories. These categories inform the level of support families receive through government social protection programmes. These categories have been utilised during the establishment of Long-Term Savings Scheme, an informal sector pension scheme which is a national public savings scheme fully funded.

¹⁴⁵ Julius Bizimungu, 'New *ubudehe* categories: What you need to know' *The New Times*, Rwanda's Leading Daily, (Kigali June 25, 2020); Republic of Rwanda, *National Social Protection Policy* (MINALOC June 2020) p.34.

¹⁴⁶ R Sebates-Wheeler et al., 'Challenges of Measuring Graduation in Rwanda' (2015), IDS Bulletin Volume 46 (2), p.2.

initiated by the Ministry of Finance and Economic Planning (MINECOFIN) in collaboration with the Ministry of Local Government (MINALOC) within the context of the Poverty Reduction Strategy (PRSP).¹⁴⁷ It must be pointed out that *Ubudehe* database serves as a reference in social protection programs such as the management of Community-Based Health Insurance and the Long-Term Savings Schemes as well as the social assistance programs.

➤ ***Process of categorization and indicators for the identification of the poor and the poorest***

Every Citizen is registered in *Ubudehe* database which contains data collected at village level, for each and every household, for household Head and household members regarding their living standards (socio-economic condition). Citizens are classified into categories, noting that the poor and the poorest are identified using indicators such as home ownership, livestock ownership, land ownership, lighting source, access to health care, access to education, access to paid employment, etc.

Community members participate not only in data collection but also in data validation, given that they have knowledge of their neighbours. Data from village level are submitted to Cell, Sector and Districts levels for validation and comparison with other existing socio-economic data, and finally they are validated at province level and then consolidated at national level.

On Tuesday, 19 February 2019, the Ministry of Local Government (MINALOC) launched National Consultations on *Ubudehe* categorization Review to gather information from the public countrywide on how to improve *ubudehe* categorization (which comprised four categories 1,2,3,4) and set criteria. Usually, *Ubudehe* categories are reviewed after three (3) years, so as to identify any changes in living standards of citizens.¹⁴⁸ Therefore, the new five *ubudehe* categories are represented by letters A,B,C,D and E; noting that Category A comprises households with the highest income, while E is the category of indigents (the most vulnerable in the society).

¹⁴⁷ Local Administrative Entities Development Agency (LODA), ‘Ubudehe’, <<https://loda.prod.risa.rw/ubudehe>> accessed 31 August 2022.

¹⁴⁸ MINALOC, ‘MINALOC launches National Consultations on Ubudehe Categorization Review’ <<https://www.minaloc.gov.rw/news-detail/minaloc-launches-national-consultations-on-ubudehe-categorisation-review>> accessed 22 August 2022.

In terms of income security guarantee in old-age, social protection systems have left out of protection other categories of people in need not categorized in *Ubudehe category 1* of indigents (the elderly and other vulnerable groups such as people with a disability). They are not covered by the existing contributory pension schemes and are not classified in the special category of the poor to benefit poverty-targeted social protection support.

The analysis of the existing social protection policies shows that a lack of legislation guaranteeing basic income security to all people in need in old-age exposes them to vulnerability and constitutes a legal constraint on the application of ILO Social Protection Floors Recommendation, 2012 (No.202) as well as achieving specific targets contained within the SDGs and AU Agenda 2063.

C. The need to invest in social protection, guided by the ILO standards

Universal social protection coverage is at the core of the ILO's mandate, guided by ILO social security standards, including the Social Protection Floors Recommendation, 2012 (No.202).¹⁴⁹ In this regard, the ILO standards aim to provide clear guidance to the countries to implement social protection floors to achieve universal social protection. However, the challenge of low coverage is global and crucial in the poorest countries. Particularly in Africa, the Arab States and Asia, gaps in the coverage and benefits adequacy are associated with significant underinvestment in social protection.¹⁵⁰ For example in Africa, average spending on social protection is 3.8% of GDP and of 2% on health. It is estimated that low-income countries will need to invest an additional 15.9% of GDP per annum to guarantee at least a basic level of social security for all.¹⁵¹

The Social Policy Framework for Africa agreed at the AU conference of African Ministers in charge of Social Development held in Windhoek, Namibia on 31 October 2008 has noted that 'Investment in and access to social protection is still low in many countries. Social protection and social security will be built gradually, based on comprehensive longer-

¹⁴⁹ World Bank Group and International Labour Office. 'Universal Social Protection: Country Cases, Global Partnership for Universal Social Protection USP 2030' (2016), p.2<<https://www.social-protection.org/gimi/gess/RessourcePDF.action?id=55072>> accessed on 4 May 2020.

¹⁵⁰ ILO, *World Social Protection Report 2017-19 : Universal Social Protection to Achieve Sustainable Development Goals*, p.XXIX <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf> accessed 4 May 2020.

¹⁵¹ ILO, *World Social Protection Report 2020-22: Social protection at the crossroad in pursuit of a better future* (2021), p.40<https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_817572.pdf> accessed 5 November 2021.

term national social protection action plans.’¹⁵² Therefore, there is a need to invest in social protection to establish a universal non-contributory pension scheme to compliment contributory schemes to cover the excluded population.

3.3. Comparison of Rwanda’s legislation on pension schemes with the ILO Social Security Standards

This section reviews the provisions of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda in regard to old-age pension with the view to investigate its compatibility with the ILO social security standards, particularly ILO Social Security (Minimum Standards) Convention, 1952 (No.102) and Invalidity, Old-Age and Survivors Benefits Convention, 1967 (No.128). The analysis focuses on the coverage and benefit aspects in accordance with articles 4 of Rwanda’s Pension Legislation related to persons subject to social security and on article 18 related to entitlement conditions to access old-age pension benefits as well as article 19 related to the computation of benefits. The study compares these national legal provisions with article 27 of ILO C 102 setting the minimum standard levels of the personal scope of protection and article 16 of C128 related to the required minimum level of coverage. In terms of the minimum standard levels of benefit to be provided in old-age pension, the study reviews articles 65, 66 and 67 of C102 and article 29 of C128, related to the level of the benefits in order to investigate the compatibility of the national legislation with these international social security standards.

3.3.1. Personal scope of protection under Rwanda’s pension legislation in comparison with ILO Convention, 1952 (No.102) and Convention, 1967 (No.128)

The personal scope of pension protection is determined by article 4 of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda. The persons subject to mandatory pension schemes are salaried workers governed by the law regulating labour in Rwanda¹⁵³, regardless of nationality, types of contract, duration of the contract and the amount of wages.¹⁵⁴ This means that the persons subject to pension law include temporary and casual workers; professionals and in-service trainees, apprentices. Also are subject to the pension legislation, civil servants, political appointees, government’s

¹⁵² African Union, ‘First Session of the AU Conference of African Ministers in charge of Social Development’ (Windhoek, Namibia on 27-31 October 2008), p.17

<<https://www.un.org/esa/socdev/cgms/docs/2009/Ghana/au2.pdf>> accessed 8 August 2021.

¹⁵³ Law No. 66/2018 of 30/08/2018 regulating Labour in Rwanda, *OG* No. Special of 6/09/2019.

¹⁵⁴ Art. 4 (1) of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

officials, and employees of international organisations and foreign governments residing in Rwanda.

A. Situation of the membership of the mandatory defined-benefit pension schemes managed by RSSB at 30 June 2019

In mandatory defined-benefit pension managed by Rwanda Social Security Board, the total contributing members at 30 June 2019 were 553,876 and the number of deferred contributors (which was 846,907) is rising at a faster rate than actives, while pensioners were 41,474.¹⁵⁵ It must be pointed out that few workers make contributions and relatively few elderly receive pensions. Low contribution density has impact on the sustainability of social security and exposes affiliates to the risk of not completing required period of contribution (15 years) to qualify for periodical pension benefits.

B. Contributory character of pension schemes

Existing pension schemes have a contributory character and are generally designed for employees in the formal and regulated sectors with regular and predictable incomes. In the informal economy, contribution is difficult to secure and maintaining up-to-date and correct records is administratively complicated when workers are casuals and work irregularly for different employers. In this case, determining pension benefits (conceived as a replacement of income) is difficult because of unpredictable income, considering that the income to be replaced is not easily determined. Even though the pension law is open to all employed workers and to the self-employed, the pension law has limitations for the self-employed with regard to age, considering that those aged over 50 years who were not previously members of pension scheme, are not allowed to adhere voluntarily to a public pension scheme.

C. Social security number: A legal and technical norm to determine personal scope of coverage

Different scholars have stressed the importance of the registration in social security issues. Paul-Anthelme considers the personal social security number for a registered member as a legal and technical norm, which is as much a mechanism for surveillance and monitoring

¹⁵⁵ RSSB, *Rwanda Social Security Board Annual Report and Financial Statements for the year ended 30 June 2019*, p.6 <https://www.rssb.rw/fileadmin/user_upload/Annual_Report_Financial_Statements_2018_-_2019.pdf> accessed 2 September 2021.

as it is a necessary instrument for giving effect to social rights.¹⁵⁶ Therefore, a social security number makes it easier to determine the level of coverage because enrolment in social security places the individual in the ranks of those who have a legal right to pension benefits. Goveia explored the issue of non-compliance and addressed related operational challenges, namely error, evasion and fraud. Error is considered as an administrative matter while evasion and fraud are primarily legal matters. The author recommended three generic types of intervention to tackle non-compliance worldwide, which are prevention, detection and deterrence.¹⁵⁷ In the same perspective, the ISSA has developed guidelines to provide a high-level reference point for its members to improve the contribution collection and compliance within social security institutions.¹⁵⁸

From the analysis of the discussion on the personal scope of the pension protection, it appears that social security institutions should design institutional strategies to make the procedure of registration flexible, increase the number of new members in mandatory pension schemes in order to attain minimum standard levels of protection and to effectively maximize revenue collection, compliance as well as to ensure a flexible procedure for the access to benefits.

D. The minimum standards of pension coverage set by ILO Convention No.102 and Convention No. 128

The minimum standard of coverage set by ILO C102 (art.27) is 50 per cent of all employees; or the economically active population forming not less than 20 per cent of all residents with means below a certain limit. ILO Convention No.128 (art.16) increases the level of protection to at least all employees, including apprentices; or categories of the economically active population (forming at least 75 per cent of the entire economically active population); or all residents whose resources are under a prescribed threshold. The Invalidity, Old-Age and Survivors Benefits Convention, 1967 (No.128) requires the extension of the coverage to persons whose employment is of a casual nature; or all the economically active persons.¹⁵⁹ These social security standards limited the protection to a certain percentage of the population. Therefore, C102 and C128 are strengthened by ILO Social Protection Floors

¹⁵⁶ Adèle Paul-Anthelme, 'The Social security number: A small device underpinning big systems' (2017) *International Social Security Review* 70 (1), p.3.

¹⁵⁷ Luana Goveia and Anahi Sosa, 'Developing a compliance-based approach to address error, evasion and fraud in social security systems' (2017) *International Social Security Review* 70 (2), p.87.

¹⁵⁸ ISSA, 'ISSA Guidelines: Contribution Collection and Compliance' <<https://www.issa.int/guidelines/ccc>> accessed 23 January 2020.

¹⁵⁹ ILO C128, art.16 (1.a,b).

Recommendation, 2012 (No.202) which emphasizes on the principle of universal coverage and requires governments to establish a national legislation guaranteeing basic income security to all in need in old-age.

In comparison with the minimum level of protection required by ILO C102 and C128, the personal scope of the social security pension protection in Rwanda remains low as the coverage rate falls below 10 per cent as reported by the National Social Security Policy.¹⁶⁰ The National Social Protection Policy reaffirms the limited access to any form of pension.¹⁶¹

3.3.2. Qualifying conditions and level of old-age benefit provided under Rwanda's Pension legislation in comparison with ILO Convention No.102 and Convention No.128

A. Statutory retirement age

The provision of old-age pension benefit is subjected to qualifying conditions such as reaching the statutory retirement age and compliance with the qualifying period of contribution. The prescribed retirement age is set at sixty (60) years in accordance with Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda. Individuals are eligible for a monthly pension if they have accumulated 15 years of service.¹⁶² Retirement age for a public servant is set at sixty-five (65) years with the possibility of retiring early at the age of sixty (60) upon request to competent authority.¹⁶³

The increase of the retirement age in 2015 as a strategy to maintain long-term financial sustainability of pension schemes (without increasing contribution rate) and to allow more workers to fulfil qualifying period of contribution for the eligibility to periodical pension benefit has become the main policy choice for Rwanda. However, raising the retirement age has been a subject of debate among members of Parliament, Trade Unions and Association of Pensioners in Rwanda who have called for the reduction of early retirement

¹⁶⁰ Republic of Rwanda, *National Social Security Policy* (MINECOFIN 2009), p.10.

¹⁶¹ Republic of Rwanda, *National Social Protection Policy* (Ministry of Local Government, June 2020), p.27 <https://www.minaloc.gov.rw/fileadmin/user_upload/Minaloc/Publications/Policies/Social_Protection_Policy_Adopted_1_.pdf> accessed 31 August 2021. See also Republic of Rwanda, *National Older Persons Policy* (MINALOC 2021), p.9.

<https://www.minaloc.gov.rw/fileadmin/user_upload/Minaloc/Publications/Policies/National_Older_Policy_fin_al.pdf> accessed 6 November 2021.

¹⁶² Art.18 of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

¹⁶³ Art.85 of Law No. 017/2020 of 7/10/2020 establishing the general statute governing public servants, *OG* No. special of 8/10/2020.

age from the current minimum of 60 years to 55 years, arguing that this would create more opportunities for young graduates to get jobs, while it would allow elderly employees to retire while still relatively energetic.¹⁶⁴

In accordance with ILO Convention No.102, the prescribed age shall be not more than 65 years. However, the Convention allows a higher pensionable age ‘as may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned’.¹⁶⁵

This study considers that, despite the current need to increase contribution rate in pension scheme, it does not seem so obvious that increases in contribution rate will be much more acceptable by scheme’s members than raising again the retirement age. In practice, actuarial reports recommend that a relatively balanced approach combining moderate gradual changes on the scheme’s parameters (contribution rate, retirement age, number of years of contributions used to determine the average salary for the calculation of the benefit,...) is to be considered as a more promising avenue than one-parameter change, for efficiently addressing the issue of financial deficits. Generally, those changes are not very popular: Participants in the scheme, when asked to share their views, say that they do not like increases in contribution rates, in retirement age,...or any change which seems unfavourable to them. But there must be some change anyway, to address the problem of financial deficits

B. Minimum standard level of old-age benefit

With regard to old-age benefit provision, reference is made to the level of benefits determined by the ILO C102, which sets minimum standard levels of benefit to be provided while calculating the periodical payments of benefit. These standards levels serve to evaluate to what extent the benefits guaranteed under national laws attain the rates required by ILO C102. Therefore, the periodical payment of benefit is calculated as follows:¹⁶⁶

- Where the classes of employees or classes of the economically active population are protected, the minimum amount of the beneficiary must correspond for a standard beneficiary (40 per cent) to a given percentage of the previous earnings of the beneficiary or breadwinner. The percentage must be met if the previous earnings of the beneficiary or breadwinner are equal to or lower than the wage of a skilled manual male employee. In

¹⁶⁴ Emmanuel Ntirenganya, ‘Calls grow to lower retirement age’ *The New Times* (Kigali, 27 March 2018), p.1.

¹⁶⁵ ILO C102, art.26 para. 2.

¹⁶⁶ ILO C102 art. 28 in connection with arts 65,66,67.

addition, a maximum limit may be prescribed for the benefit rate or for the earnings taken into account. ILO C102 is flexible as it allows countries to choose the formula to use in calculating the benefit, provided that a “standard beneficiary” set in article 67 which is a percentage of 40 per cent of reference wage or earnings is reached. The first formula is applied to the social insurance-based system as the one used in Rwanda;

- Where classes of employees or classes of the economically active population are protected, the minimum amount of the beneficiary corresponding to a standard beneficiary (40 per cent) of the wage of an ordinary (unskilled) adult male labourer is required and the benefit is at a flat rate, or

- Where all the residents are protected, the minimum amount of the beneficiary corresponding to a standard beneficiary (40 per cent) of the wage of an ordinary (unskilled) adult male labourer is required.

ILO C.128 sets the high level of benefit at 45 per cent of a reference wage, while Recommendation, 1967 (No.131) increased the level of benefit at a level of at least 55 per cent of the reference wage. The provision of benefits also considers the aspect of adequacy, which depends on the established level of benefits and its capacity to meet people’s needs, as well as the source of funding. To ensure adequacy of pension benefits, they have to be regularly adjusted to prevent erosion of the value of pension benefits overtime.¹⁶⁷ Old-age pensions are drawn for many years after they are initially calculated and awarded. Therefore, their purchasing power and real value over the years have to be ensured to avoid reducing the standards of living of the pensioners. In this regard, the mechanism to protect the value of pension benefits is done through adjustments or indexation.¹⁶⁸ Social Protection Floors Recommendation, 2012 (No.202) strengthens the pre-existing social security standards and requires that social protection floor guarantee levels should be regularly reviewed through a transparent procedure that is established by national laws, regulations or practice.

C. Qualifying period of contribution for periodical payment of old-age benefits

With regard to a qualifying period of contribution, a full old-age benefit to be discerned from a reduced benefit has to be paid to persons protected who have completed prior to the contingency in accordance with prescribed rules, a qualifying period which may

¹⁶⁷ ILO C 102, art. 66 (8), ILO C128, art. 29; R131, art.24.

¹⁶⁸ Indexation is the method of adjusting pension benefits taking into consideration the evolution of salaries and market price. This method aims to provide benefits which reflect the real value of contributions and real value of salaries, under the condition that the regular actuarial studies confirm the viability of pension schemes.

be either 30 years of contributions or employment, or 20 years of residence.¹⁶⁹ ILO C102 also determines a qualifying period for a reduced benefit and allows pension benefits to be granted to persons protected who have completed half of the qualifying period for the normal pension. Therefore, a person who has completed only 15 years of contribution or employment qualifies for a reduced pension, where the qualifying period for a full pension is 30 years.

From the analysis of Law No.05/2015 of 30/3/2015 governing the organization of pension schemes in Rwanda, it appears that retirement benefits are a fixed function of past earnings and years of employment. The level of pension benefits for an insured person who contributed for at least fifteen (15) years is fixed at 30 per cent of his/her average salary in the last 5 years of employment. If a person has worked over 15 years, then the pension benefits shall be increased by two (2%) per cent for every twelve (12) months of contribution exceeding one hundred and eighty (180) months.¹⁷⁰ An insured person who reaches retirement age without qualifying for entitlement to monthly old-age benefit receives a lump-sum allowance equal to the average of his/her monthly earnings multiplied by number of twelve (12) months period of insurance. Therefore, a contribution to pension schemes for at least fifteen (15) years is required to be eligible to periodic payments of benefits, which should be increased under the condition that actuarial study conducted at least once every five (5) years, shows positive impact on the financial sustainability of pension schemes.¹⁷¹

3.3.3. Critical analysis of the qualifying periods for access to pensions and of the multivariable definition of the adequacy of the benefits

From ILO C102 perspective, a qualifying period can either be a period of contributions or employment, or a period of residence, depending on the scope of the scheme concerned.¹⁷² From the examination of the qualifying periods for access to pension benefits, it appears that the period of contribution and the period of employment are not differentiated. On that issue, Rwanda's pension law is clear in mentioning that those who have access to periodical payment are insured persons who contributed for at least fifteen (15) years. This precision is necessary as persons may be registered in social security for 30 years but fail to pay

¹⁶⁹ ILO C 102, art.29.

¹⁷⁰ Articles 18 and 19 of Law No.05/2015 of 30/3/2015 governing the organization of pension schemes in Rwanda.

¹⁷¹ Art.16 of Law No.05/2015 of 30/3/2015 governing the organization of pension schemes in Rwanda.

¹⁷² ILO C102, art. 29.

contributions during the whole period of employment. This occurs in some developing countries with a low compliance by employers and a weakness in enforcement of contributions due to different types of evasion, error or fraud, poor management of the contributors' social security pension individual's account as well as poor Information and Technology (IT) systems.

With regard to the minimum level of benefit set out in C102 (art. 67) which is a rate of at least 40 per cent of the reference wage, Rwanda's pension legislation fixes the pension benefit rate at 30 per cent of the ensured average salary in the last 5 years, for a person who contributed for 15 years, with the particularity of granting the insured person an additional 2 per cent over 15 years of contribution.¹⁷³ Therefore, the sufficiency of the benefit depends on the adequacy of the salary and the length of the period of the contribution and a stable employment plays a determinant role in pension participation. For example, under ILO C102, a full old-age benefit is granted over a qualifying period of either 30 years of contributions at the rate of 40 per cent of the reference wage and/or a reduced benefit shall be secured to a protected person who has completed at least a qualifying period of fifteen (15) years of contribution or employment.¹⁷⁴ For example, under Rwanda's pension legislation, old-age benefit equal to 60 per cent of the reference wage is granted to an insured person who contributed for 30 years, which means that Rwanda is in conformity with ILO C102 with regard to the standard minimum level of benefits.

However, pension benefits are inadequate in a way that they are not periodically reviewed following substantial changes in the general level of earnings and changes in the cost of living with a purpose of maintaining the value of benefit over time. The irregular adjustment of pension benefit, the level of the salary and the low minimum wage (due to outdated minimum wage) base on which benefits are calculated, affect the adequacy of benefit, despite that Rwanda's Pension law determines the possibility to increase the pension benefit.¹⁷⁵ Therefore, the adequacy of the benefit is obviously not only limited to the percentage of the replacement ratio but it also implies the quality of the benefit in meeting

¹⁷³ Art.19 of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

¹⁷⁴ ILO C 102, art.29 para. 2 (a).

¹⁷⁵ Art.16 of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

the objective of the pension schemes and in responding to the needs of the beneficiaries as well as providing information to the insured persons about their rights and obligations.

A. Concrete examples of the level of old-age pension benefits

The level of pension benefits for at least fifteen (15) years of contribution is fixed at 30 per cent of the insured person average monthly earnings in the last 5 years preceding the date of pension entitlement. The average monthly earnings shall be equal to one sixtieth (1/60) of the total number of months of contribution from the five (5) years preceding the date of cessation of a remunerated activity.¹⁷⁶

The pension benefits shall be increased by two (2) per cent for every twelve (12) months of contribution exceeding one hundred and eighty (180) months for the insured person who has contributed to the pension schemes for more than 15 years. In case the insured person has contributed to pension schemes less than 15 years, he/she is eligible to a lump sum settlement.

Examples

In case the person has contributed to pension schemes for 16 years, the level of benefit will be 32 per cent of his/her average monthly earnings in the last 5 years preceding the date of pension entitlement; for 17 years, benefit level will be 34 per cent; for 18 years, benefit level will be 36 per cent; for 19 years, benefit level will be 38 per cent, for 30 years, benefit level will be 60 per cent, etc.

1. The example of retirement benefits calculation for the person who has reached retirement age (60 years) on January 1, 2021 and who has contributed for 15 years

For the person who has contributed to pension schemes for 15 years with the gross salary of 500,000Rwf per month (estimated to 700 \$)¹⁷⁷ during the last 5 years of employment (equal to 60 months, from January 2016 to December 2020), retirement benefits will be $500,000 \times 30\% = 150,000$ Rwf per month. There is also the possibility of increase of benefits, under the condition that actuarial study conducted at least once every five (5) years shows positive impact on the financial sustainability of pension schemes.

¹⁷⁶ Art.19 of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, OG No.20 of 18/05/2015.

¹⁷⁷ BNR, 'Exchange Rate' <<https://www.bnr.rw/currency/exchange-rate/>> accessed 1September 2021.

2. The example of retirement benefit calculation for the person who has contributed for 30 years

For the person who has contributed to pension schemes for 30 years with the same salary (500,000Rwf per month during the last 5 years of employment), retirement benefits will be $500,000 \times 60\% = 300,000$ Rwf per month.

3. The example of retirement benefit calculation for the person who has contributed for less than 15 years of contribution to pension schemes

The person is eligible to a lump sum settlement. For example, the person who earned a gross salary of 500,000 Rwf per month during the last 5 years of employment and has contributed for 8 years, his/her lump sum settlement will be $500,000 \text{frw} \times 8 = 4,000,000 \text{Rwf}$.

B. Important parameters that affect the adequacy of pension benefits

It is clear that the access to decent and stable employment, the level of minimum wage, the adjustment mechanisms of pension benefits and the performance of investments are important parameters that affect the adequacy of pension benefits. In Rwanda's pension system, at the time of retirement, the accrual rate looks to be generous compared to the international standards.

However, the accrual rate benefits to those who qualify for periodical pensions and those who have long period of contribution than those who have contributed less than 15 years. In addition, the lack of systematic indexation affects the adequacy of benefits as they lose value overtime due to cumulative inflation. Furthermore, consideration of earnings of the last 5 years of employment (while determining the average monthly earnings) without valorization of wages affects benefits adequacy, especially for those who have lost employment some years ago before they reach retirement age.

Particularly, Minimum wage has the implication on minimum pension benefits. Rwanda's pension legislation determines the minimum pension benefits for old-age, disability or early retirement benefits which shall in no way be less than fifty per cent (50%) of the minimum wage determined by an Order of the Minister in charge of labour.¹⁷⁸ The minimum pension and occupational hazard benefits granted to the insured person cannot be

¹⁷⁸ Art.27 of Law No.05/2015 of 30/3/2015 governing the organization of pension schemes in Rwanda, OG No. 20 of 18/05/2015.

less than thirteen thousand Rwandan Francs (frw 13,000) per month.¹⁷⁹ However, from the analysis, it appears that while determining the Minimum pension benefit, the pension Law of 2015 refers to the Minimum wage while the Minimum wage has not yet been set. Currently, there is no national minimum wage in Rwanda, in most cases it is the minimum wage of 100 Rwf contained in the 1974, 1973 and 1972 labour laws that are referred to legally.¹⁸⁰ Therefore, the lack of a legislation setting a minimum wage affects the level of a salary base on which pension contribution and pension benefits are calculated.

C. The assessment of the adequacy of the pension benefits: the measurement based on the replacement ratio and the quality of pension benefits

Different views emerged among scholars on the assessment of adequacy of the benefit, which goes beyond the replacement ratio considered as a proportion of income when in employment. Traditionally, the definition of the retirement benefits adequacy has often focused on one measure alone, which is the replacement ratio and this measurement was considered by different researchers as being too narrow to assess the adequacy of the benefit. Providing a clear definition of adequacy is necessary to set criteria that help to know what an adequate benefit is and how benefits are accessed and maintained and if the way they are delivered is adequate. In this regard, the multidimensional concept of coverage and benefit is generally related to the extent of the population effectively protected, the scope of the protection guaranteed as well as the “depth” of this protection, which can be assessed by the levels of benefits and the quality of the service provided.¹⁸¹ Therefore, while assessing the adequacy of pension benefits it is important to consider the legal coverage and the effective coverage which imply the aspect of availability, accessibility, appropriateness, meaning that it is important to evaluate how many people are covered, which types of benefits, how much they receive and how easily accessible the services are.

¹⁷⁹ Art.2 of Presidential Order No.069/01 of 13/04/2018 increasing pension and occupational hazards benefits granted by Rwanda Social Security Board, *OG* No.16 bis of 16/4/2018.

¹⁸⁰ ILO, ‘Decent work country programme for Rwanda 2018-2022’, Memorandum of Understanding between the Government of Rwanda, International Labour Organization (ILO), Centrale de Syndicat de travailleurs au Rwanda, Representing other Federations of Trade Unions and The Private Sector Federation, p.9 <https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_674581.pdf> accessed 23/April 2020.

¹⁸¹ Michael Cichon and Hagemeyer Krzysztof, ‘Changing the development policy paradigm: Investing in a social security floor for all’ (2007) *International Social Security Review* 60 (2), pp.169-196.

Recent ILO Social Protection Report 2020-22 has emphasized on the relevance of legal reform of pension, arguing that in the past ‘Pension reforms have been dominated by an emphasis on fiscal sustainability, at the expense of other principles established by international social security standards, such as the universality, adequacy and predictability of benefits, solidarity and collective financing. These are critical for guaranteeing the income security of older people, which is and should remain the primary objective of any pension system’,¹⁸²

The International Social Security Association provided a meaningful explanation on the concept of coverage indicating that coverage is not only about identifying those who have a legal right to receive benefits; it is also about the effective coverage of those who should contribute and be covered according to the law, as well as about the scope of those benefits and their adequacy.¹⁸³ In this regard, a multivariable definition of benefit adequacy considers the aspect of coverage extension at a maximum level by providing benefit and services to the widest number of people, by coverage of the greatest number of risks and by provision of adequate benefits. Therefore, the definition of benefit adequacy goes beyond cash benefit levels and implies meeting other goals of benefits provision including the quality of service, the labour market aims, the security of benefits and the interaction with other stakeholders.¹⁸⁴

The importance of the adequacy of pension benefit is also expressed in The ILO Social Security (Minimum Standards) Convention, 1952 (No.102) which requires the review of the rates of benefits following substantial changes in the general level of earnings and/or cost of living. In addition, the benefits provided should be sufficient to maintain the family of the beneficiary in health and decency.¹⁸⁵ In the same perspective, ILO Social Protection Floors Recommendation, 2012 (No.202) requires the provision of a basic income security which allows life in dignity and corresponds to the monetary value of a set of necessary good and services.¹⁸⁶ Under Recommendation, 2012 (No.202) all residents of a nationally

¹⁸² ILO, World Social Protection Report 2020-22: Social protection at the crossroad in pursuit of a better future (2021), p.22 <https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_817572.pdf> accessed 5 November 2021.

¹⁸³ ISSA, ‘Pension system reform’ (2009) *International Social Security Review* 62 (2), p.1.

¹⁸⁴ Simon Brimblecombe, ‘A multivariable definition of adequacy: Challenges and opportunities’ (2013) *International Social Security Review* 66 (3-4), p.171.

¹⁸⁵ ILO C102, art.65 (10) and 66 (8); art.67.

¹⁸⁶ ILO social Protection Floors Recommendation, 2012 (No.202), II.8 (b).

prescribed age have to be covered and benefit in cash or in kind should be provided at a level that guarantees basic income security, so as to ensure effective access to necessary goods and services; prevent or alleviate poverty, vulnerability and social exclusion; and enable life in dignity and the level should be regularly reviewed.

From the analysis of old-age pension benefits provided in first pension pillar in Rwanda, it appears that the adequacy of benefits is measured based on replacement rate, which expresses the percentage of income of insured person in active period. Therefore, the pension benefits at the entry point in retirement respond to the minimum standards level of benefits set out in ILO C102. However, due to the low level of salaries caused by gap in minimum wage setting, benefits are insufficient as the inflation deteriorates the value of benefit overtime.

3.4. The overall evaluation

The above analysis discussed the regulations for old-age pension in Rwanda in comparison with international social security standards, particularly ILO Social Security (Minimum Standards) Convention, 1952 (No.102). From the analysis, it appears that the Convention has had a substantial influence in the adoption of other standards setting a higher levels of protection such as Invalidity, Old-Age and Survivors Benefits Convention, 1967 (No.128) and its accompanying Recommendation,1967 (No.131) as well as the Social Protection Floors Recommendation,2012 (No.202).These social security standards constitute an important international reference. The analysis examined the level of old-age pension protection required by these international legal instruments and the associated academic debates on effect given by the national legislation.The following discussion summarizes the progress that Rwanda has made and the associated problems as well as remedies.

3.4.1. Progress made by Rwanda in establishing social security pension systems and identified gap

Rwanda has made some progress in recognizing the right to social security envisaged in international human rights instruments and in international social security standards, with the inspiration of ILO C102. Particularly, the national legislation governing pension schemes has been adopted since 1962 as an integral part of the social security legislation.The latest established pension laws are Law No.05/2015 of 30/03/2015 governing the organization of

pension schemes in Rwanda for mandatory pension schemes and the Law No.29/2017 of 29/06/2017 governing a Long-Term Savings Scheme in Rwanda.

However, there has been some limits in the progress to achieve universal coverage as required by the ILO social security standards. The effective implementation of a pension legislation faces challenges in its application due to different types of evasion, the lack of a Ministerial Order for the implementation of the labour law with regard to minimum wage setting, which should facilitate the increase of the level of coverage. More particularly, the lack of a national legislation guaranteeing at least basic income security to all in need in old-age is a challenge for Rwanda to comply with international social security standards.

3.4.2. Looking beyond statistical data in assessing the level of pension coverage and benefits: The relevance of the multivariable definition of the adequacy of the benefits

The analysis of the compatibility of the national legislation with ILO social security standards, particularly C102 and C128 and the associated academic debates identified the unique nature of these standards: they quantify in statistical terms the basic protection by setting the minimum coverage of the population and the levels of benefits to be provided by social security schemes in respect to the nine social risks covered by nine branches of the social security, including old-age benefit which is the focus of this study.¹⁸⁷ Therefore, the comparison of the minimum level of coverage sets in ILO standards C102 and C128 with the personal scope of Rwanda's pension legislation found out that Rwanda has not yet achieved the required level of coverage and this situation also affects the adequacy of the benefit provided and the sustainability of pension schemes.

From the analysis, it appears that in terms of the minimum level of old-age benefit, the rate of the benefit is compatible with C102. However, the adequacy of the pension benefit is only limited to the level of replacement ratio while there are other factors to be considered as well. For example, the low level of the personal coverage and the evasion of contributions as well as the low performance of investments affect the sustainability of pension schemes, which is the condition to ensure a periodical adjustment of the benefit.¹⁸⁸ In addition, the lack of updated minimum wage and gender inequalities in labour market affects the contribution

¹⁸⁷ The nine Branches of social security are: Medical care, Sickness Benefit, Unemployment benefit, Old-age benefit, Employment Injury benefit, Family benefit, Maternity benefit, Invalidity benefit, Survivors' benefit.

¹⁸⁸ Art.16 of Law No. 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

level and the adequacy of the retirement benefit calculation. Therefore, to ensure the adequacy of the pension benefit and equity among contributors, the calculation of the pension benefit should consider the valorisation of salaries and regular adjustment of pension benefit in order to maintain the value of the benefit overtime.

While assessing the level of compliance of the national legislation with international social security standards, the analysis revealed the importance of considering the multivaliable definition of adequacy of benefits by looking beyond the quantitative aspect reflected in statistical data on the minimum level of coverage set out by ILO C102 and C128. It means that the compliance of national legislation with the international social security standards implies setting of minimum standard level of benefit in national legislation and in practice. The adequacy of the pension benefits should be ensured through their periodical review following substantial changes in the general level of earnings and or cost of living to maintain the purchasing power of pensioners.

3.4.3. Lack of a legislation guaranteeing basic income security in old-age

An investigation on the level of protection set in the flagship ILO C102 demonstrated that universal access to at least a minimum income security was never codified in ILO social security Conventions. The flagship ILO Convention, 1952 (No.102), limited its protection to a certain percentage of the population with preference for public schemes with a lesser extent for social insurance.¹⁸⁹ Therefore, ILO Social Protection Floors Recommendation, 2012 (No.202) which is the most current adopted ILO social security standard was adopted to fill that gap. The analysis of Rwanda's pension legislation shows that in Rwanda, there is no legislation setting a social security basic income guarantee in old-age to comply with international social security standards. The existing pension schemes are only contributory and they cover people with contributory capacity, capable to fulfill the required period of contribution (fifteen (15) years) to have access to periodical payment of old-age benefit.

Despite that some forms of social protection income support exist for the category of the poor, from the analysis of the existing social protection policies, it appears that a large part of the population lacks income security guarantee in old-age. There are older persons who are not covered in the existing contributory pension schemes, while they are also not classified in the special category of the poor, as they are not 'poor enough' to benefit from

¹⁸⁹ Art.6 of ILO Convention, 1952 (No.102).

poverty-targeted social protection support. This situation exposes unprotected older persons to vulnerability and constitutes a legal constraint to the application of ILO Social Protection Floors Recommendation No.202. Therefore, a combination of contributory and non-contributory pension schemes is needed to cover the excluded population.

3.5. Conclusions and discussion

Through an analysis of the compatibility of Rwanda's national legislation on old-age pension with international social security standards, it is evident that Rwanda has made progress in establishing public and private pension schemes. However, the review of the national legislation on pensions and the assessment of its application shows that the required minimum standard level of personal coverage has not yet been achieved, considering that the majority of the population is not protected.

The existing pension schemes are only contributory, meaning that the national legislation guaranteeing basic income security to all in need in old-age through universal non-contributory pension schemes is lacking. In addition, for those who receive a pension, the benefits provided to many pensioners are not adequate, despite the generous formula of pension benefit calculation (which generally benefits those who contributed during a long period), given that they do not match the cost of living to maintain the purchasing power of the retired workers. In accordance with the ILO C102, the pension benefit should be periodically reviewed following substantial changes in the general level of earnings and costs of living and should be sufficient to maintain the family of the beneficiary in health and decency.¹⁹⁰

From the analysis, it appears that the ILO Convention No.102, Convention No.128 and its accompanying Recommendation No.131 constitute an international reference framework on old-age pension benefits provision by determining the way they are guaranteed, accessed, provided and maintained. These standards are the only ILO standards that require the use of statistical indicators for assessing and monitoring whether the minimum levels of protection in terms of persons protected and the benefits provided are reached in conformity with their requirements. Considering that these standards have limitations as they only set the minimum standards and do not cover the whole population to realize the right to social security for everyone, they continue to be relevant, but they are

¹⁹⁰ Art.67 of ILO C102.

strengthened by Recommendation, 2012 (No.202), which is the most recently adopted ILO social security standard. Therefore, giving effect to international social security standards in law and in practice requires compliance not only based on the legislative conformity in terms of legal coverage but also in terms of quantifiable effective coverage and of the adequacy of benefits.