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

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CHAPTER 5: IMPROVING THE LEGAL FRAMEWORK AND POLICIES OF OLD-AGE PENSION PROVISION IN RWANDA

5.1. Introduction

A review of regulatory and policy framework and practices on pensions provision in Rwanda has shown significant challenges in closing coverage gaps for contributory pension schemes, despite the progress made in adopting innovative legal approaches for pension coverage extension. The informal economy has been one of the key areas that need development, given that low pension coverage can be attributed to the voluntary nature of pension schemes established for the fast growing informal economy workers. ILO Recommendation, 2015 (No.204) concerning the transition from the informal to the formal economy highlights the characteristics of informal economy, which are: decent work deficits, the denial of rights at work, inadequate social protection, the absence of social dialogue, among others.[267]

The extension of pension coverage to workers in the informal economy requires the adaptation of legal frameworks and policies which facilitate the realization of the right to old-age benefits for everyone guaranteed by international social security standards. ILO Social Protection Floors Recommendation, 2012 (No.202) provides that social security extension strategies should apply to persons both in the formal and the informal economy and support the growth of formal employment and the reduction of informality.[268] Therefore, the existing scope of legal coverage, which is limited to contributory schemes is not sufficient to achieve effective coverage and to facilitate the transition to the formal economy.

It is also necessary to take additional actions to ensure the effective implementation and enforcement of legislation. The actions to be taken include removing administrative and financial barriers to pension coverage, awareness-raising and building trust and taking into account special needs and circumstances of workers in the informal economy and other vulnerable groups.[269] In addition, legal coverage of the poor and vulnerable groups who do not have access to any other mechanisms of social protection is needed to guarantee a basic level of protection through non-contributory pension schemes.

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[267] R204- Transition from the Informal to the Formal Economy Recommendation, 2015 (No.204), Preamble <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R204> accessed 7 May 2020.
[268] ILO R 202, para. 15.
[269] ILO (n 263), p.72.

Thus, this chapter identifies key barriers to the effective application of the legislation and policies on old-age pension benefits provision and looks for effective strategies to strengthen pension schemes, guided by international social security standards.

5.2. Barriers to the effective application of national pension legislation and policies

The low access to public pension benefits is associated with various barriers, including legal barriers and administrative barriers. There are also barriers related to limited awareness or knowledge of social security programmes and barriers related to the disparities between legal systems in the region, that undermine the portability of the pension benefit for migrant workers. All those barriers constitute constraints that reduce the coverage rate and require a different strategy to ensure the full realization of the right to social security guaranteed by the international social security standards.

5.2.1. Legal barriers

Pension legislation determines the persons who have legal rights and entitlement conditions. A number of formal and informal economy workers or self-employed are excluded from pension coverage. This subsection explores legal barriers to the compliance with mandatory pension scheme for employed workers and legal barriers to the extension of pension coverage to self-employed and informal economy workers.

A. Barriers to the employed-workers' registration and payment of contributions in mandatory pension scheme: Employers' non-compliance

The application of the pension legislation with regard to the registration of all salaried workers in mandatory schemes is not effective, despite the legal obligation of declaring and paying the social security contribution imposed on employers in the public and private regulated sector. Progress has been made in collection of contributions with income taxes to maximize the coverage but some workers are not registered with the social security due to the low enforcement of rules preventing different types of evasion of social security obligations. Public pension systems in Rwanda face the challenge of employers' non-compliance as reported by Rwanda Social Security Board, arguing that it becomes a major problem when a member reaches retirement and his/her contributions are missing, with a consequence of reduced pension benefits.[270]

[270] RSSB, *RSSB Action Pan Fy 2020-2021*, June 2020, p.8. https://www.rssb.rw/fileadmin/user_upload/RSSB_Action_Plan_2020_-_2021.pdf> , accessed 25 August 2021.

There are different types of evasion where some employers do not register their employees or report incorrect number of workers where some are registered and have labour contracts, while others are not registered. Employers may also declare low salaries excluding allowances/indemnities or deduct contributions and do not submit the related declarations to the social security institution. This situation exposes individuals to the risk of not complementing required period of 15 years to qualify for periodical pension benefits, reduces the level of coverage and the level of future old-age benefits; hence, undermining compliance with international social security standards.

Rwanda Social Security Board conducts periodical enforcement, audit and inspection in public and private sector in case of non-compliance.[271] However, all employers are not effectively audited. The 2015 Pension law determines total penalties of three per cent (3%) to employer for delay of declaration (1.5%) or remittance of contributions (1.5%).[272] 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.[273] In case of employer's non-compliance, the employee has the right to claim, as explored in the case of *Twagiramungu Telesphore v ECOBANK Rwanda Ltd* and the case of *Twagiramungu François v AKAGERA BUSINESS GROUP LTD.*

1. **The High Court decision RSOCA0171/15/HC/KIG of 22/04/2016.**[274]

In *Twagiramungu Telesphore v ECOBANK Rwanda Ltd*, RSOCA0171/15/HC/KIG [2016], at the appeal level, on 22/04/2016, the High Court based in Kigali-Rwanda decided on the case of the employer's non-compliance with social security legislation regarding declaration and payment of contributions. When Mr Twagiramungu Telesphore reached retirement age in 2013 he realized the irregularities in his social security contributions for the

[271]Ministerial Order No.005/16/10/TC of 19/04/2016 determining modalities of forced recovery of contributions arrears under mandatory pension scheme, *OG* No.18 of 02/05/2016.
[272] Art.12 of law No. 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *O.G* No. 20 of 18/05/2015.
[273]ISSA, *ISSA Guidelines: Contribution Collection and Compliance* <https://ww1.issa.int/guidelines/ccc> accessed 23 January 2020.
[274]The Judiciary of Rwanda, High Court Decision RSOCA0171/15/HC/KIG *Twagiramungu Telesphore v ECOBANK Rwanda Ltd* [2016] <***https://www.judiciary.gov.rw/uploads/tx_publications/law_d7c6beba6c2283f4ef1e8cc43783f3201469522852.pdfaccessed***> 20/09/2021.

period worked in Burundi (since 1/7/2008 until July 2011) where he was transferred for a short period by his employer ECOBANK Rwanda Ltd. Therefore, he addressed the issue to his employer (ECOBANK Rwanda Ltd) who refused to comply arguing that Mr Twagiramungu's missing social security contributions should be paid by ECOBANK Burundi Ltd in the social security institution of Burundi *(Institut National de Sécurité Sociale* (INSS)) because he was seconded to work for the same enterprise in another country (Burundi) for a period exceeding twelve (12) months. This argument was supported by the Court in first instance in court decision RSOC Bis 0025/15/TGI/NYGE of 30/11/2015.

At the appeal level, the Court analysed the case and found out that the employment contract between Twagiramungu and ECOBANK Rwanda Ltd and the salary remained valid as mentioned in the secondment letter. Therefore, the Court referred to the article 4 of law No 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda and decided that ECOBANK Rwanda Ltd had the responsibility to declare and to pay the missing contributions of three (3) years worked in Burundi. The contribution base was 1900$ monthly payment given to Mr Twagiramungu by ECOBANK Burundi Ltd as allowances, as well as related penalties for delay within Rwanda Social Security Board (RSSB).

- ***Assessment***

It appears that initially, the employer has not respected the provision of article 4 of law No. 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda. It provides that 'Employees working for an enterprise operating in Rwanda but seconded to work for the same enterprise in another country shall remain subjected to pension scheme applicable in Rwanda provided the duration of work does not exceed twelve (12) months'. Thus, ECOBANK Rwanda Ltd should not assign the work for the period exceeding twelve (12) months, if it decided to continue to pay salaries to the seconded employee in another country.

2. The Court of Appeal decision Nº RS/INJUST/RSOC 00001/2019/CA

In *Twagiramungu François v AKAGERA BUSINESS GROUP LTD*, RS/INJUST/RSOC 00001/2019/CA, at the appeal level, on 20/11/2020, the Court of Appeal based in Kigali-examined the High Court decision Nº RSOCA 0110/15/HC/KIG of 20/11/2015 on the case of Twagiramungu François who claimed for refund of housing and transport allowances for three month (January, February, March 2007) deducted by error on his salaries and not reported to the social security institution (RSSB). It means that his employer (AKAGERA BUSINESS GROUP LTD) has not reported the entire salaries based on which pension contributions were calculated.

The employer referred to the provision of article 83 and 142 of Law No.13/2009 of 27/05/2009 regulating Labour in Rwanda (which was in force at that time), providing for the prescription of salary payment fixed at two (2) years, and argued that the claim of Twagiramungu has no justification due to prescription of the right to salary as he delayed to claim his salaries. As a consequence, the employer argued that the claim for pension contribution has no justification, given that pension contributions are calculated based on salaries. This argument was supported by the Court in the first instance and in the appeal.

- ***Assessment***

At the appeal level, the Court of Appeal examined the article 83 and 142 of the former Law No 13/2009 of 27/05/2009 regulating Labour in Rwanda and referred to the provision of article 4 (1º) of law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, determining the persons who should be registered in mandatory pension schemes. The Court of Appeal found out that the employer has paid part of pension contributions and supported the argument of the employer on the prescription of the rights to housing and transport allowances (part of salaries) and the prescription of the claim on the portion of pensions contribution not reported to social security institution (RSSB), as decided by the High Court.

This study examines the case and the law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda (article 7) and observes that the contribution due to mandatory pension scheme are based on gross salary composed of base salary, allowances, bonuses and other fringe benefits as well as the cash value of the benefits in kind. However, allowances with refund character and retirement benefits shall not be included in the contribution base. The article 2 (1º) of Ministerial Order No.002/16/10/TC of 19/04/2016 determining compensatory benefits and cash value of benefits in kind under mandatory pension scheme excludes transport allowances from allowances with compensatory character subject to contribution.[275]

[275] Ministerial Order No.002/16/10/TC of 19/04/2016 determining compensatory benefits and cash value of benefits in kind under mandatory pension scheme, *OG* No.18 of 02/05/2016.

The 2015 pension law (art 12) determines penalties to the employer for delay of declaration and payment of contributions, while its article 14 determines forced recovery as follows: 'Subject to the provision of the civil, commercial, labour and administrative procedure, the entity responsible for the management of pension shall have powers to carry out a forced recovery against the employer having failed to pay contributions. In this regard, a Ministerial Order No.005/16/10/TC of 19/04/2016 determines modalities of forced recovery of contributions arrears under mandatory pension scheme.

The study observed that there is no prescription of forced recovery of arrears of social security contributions, which means that the RSSB should use its powers to carry out a forced recovery against *AKAGERA BUSINESS GROUP LTD* on the portion of salary not declared (house allowances).[276] The study observed that the prescription of salary payment (2 years) was maintained even when the Law No.13/2009 of 27/05/2009 regulating Labour in Rwanda was replaced in 2018.[277] Therefore, the study considers that labour legislation and pension legislation should be harmonized with regard to the issue of prescription of salary payment. Since there is no prescription of the right to pension contribution and to pension benefits for insured person,[278] labour legislation should not determine the prescription of salaries based on which pension contributions are calculated.

B. Barriers to the adhesion of the self-employed workers and the informal economy workers to pension schemes

Rwanda faces problems in effectively reaching the informal economy and the self-employed, who are characterized by irregular and unpredictable income with no legal obligation to adhere to voluntary pension schemes. The income for informal economy workers may be low, given that the minimum wage of Rwf 100 ($ 0,097) used in Rwanda is out dated as explained in chapter three of this study. The absence of a legislation setting the minimum wage is a challenge to cover some categories of workers with particular characteristics such as domestic workers who are the most vulnerable group of the most serious decent work and pension deficits in informal economy where women are the

[276] Art.9 (4 °) of Law No. 009/2021 of 16/02/2021 establishing Rwanda Social Security Board, *OG* No. Special of 17/2/2021.
[277] Art.76 of Law No. 66/2018 of 30/08/2018 regulating Labour in Rwanda, *OG* No. Special of 6/09/2018.
[278] Art.91 of Law No. 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No. 20 of 18/05/2015.

majority.[279] The double challenge for Rwanda is to extend social security coverage and to help workers to grow out of the non-regulated work into the formal regulated employment.

1. Gender gap in pension provision

Different studies have shown gender inequality in social security coverage where it is low for women in comparison to men. Only one out of three women of working age has some form of legal coverage.[280] Generally, women benefit from social insurance of their husband if they are legally married, which often become their only source of income and if they divorce, they lose the right to pension benefits. In the situation of poverty, women have the least access to food, health, education training and opportunity for employment and other needs. [281]

Despite the progress made by Rwanda in gender equality and that pension legislation is not discriminatory, there is still much to be done to fight against inequalities in decent employment and in pension schemes participation. The inadequate integration of women in the labour force affects the pension coverage level, considering that women constitute the majority of the population and are predominant in informal work.[282] For example, women are the majority in agriculture or other sectors frequently not covered by existing legislation and their higher likelihood of having shorter and more often interrupted careers in formal employment constrains their ability to contribute to social insurance or other forms of pension insurance.[283] Therefore, gender gaps in the labour market constitutes barriers to access pension benefits and reduces the coverage rate at the national level leading to low compliance with the minimum standards level of coverage set out in international social security standards.

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[279] Florence Bonnet et al., *Women and Men in the Informal Economy: A Statistical Brief* (ILO, Manchester, UK: WIEGO 2019), p.5; An Mi-young, 'The gender impact of National Pension reforms in the Republic of Korea' (2009) *International Social Security Review* 62 (2), p.78.
[280] ILO, *Women and men in the informal economy: A statistical picture*, Second edition (ILO 2014), p.10.
[281]Convention on the Elimination of All Forms of Discrimination Against Women, UN General Assembly Resolution 34/180 of 18 December 1979.
[282] Republic of Rwanda, National Institute of Statistics of Rwanda, *Fourth Population and Housing Census, Rwanda 2012* (RPHC4 Thematic Report : Population Size, Structure and Distribution, NISR January 2014) , p.xv<https://www.statistics.gov.rw/publication/rphc4-thematic-report-population-size-structure-and-distribution> accessed 20 January 2021.
[283] Republic of Rwanda, Gender Monitoring Office, *The State of Gender Equality in Rwanda: From Transition to Transformation* (March 2019), p.47 <http://gmo.gov.rw/fileadmin/user_upload/Researches%20and%20Assessments/State%20of%20Gender%20Equality%20in%20Rwanda.pdf.> Accessed 22 September 2021.

2. **Legal exclusion : Absence of legal obligation for self-employed to participate in pension schemes**

Generally, the design of contributory social insurance schemes covers formal employment providing regular and predictable income. The reality in developing countries is that many jobs in rural areas are informal and excluded from the social insurance legislation.[284] The legal exclusion of self-employed workers has its origin in the absence of legal obligation for them to participate in pension schemes or their failure to meet certain eligibility criteria. Even in urban areas self-employed such as medical doctors who own clinics, advocates who own law firms may not adhere to voluntary pension schemes, despite having contributory capacity.

3. **The low financial capacity of the self-employed to cope with the 'double contribution' in financing pensions**

The 2015 Rwandan Pension law provides the possibility for the self-employed to voluntarily adhere to public pension insurance system, but a very limited number of them do so due to different challenges.

First, the self-employed face the challenge of age restriction imposed by the pension legislation which granted the right to membership only to the self-employed who are not aged over fifty (50) years.[285]

Secondly, self-employed workers are subjected to the same contribution rate as that applied to employed workers (6 per cent of gross salary) while they are not in the same conditions. It means that self-employed workers face the challenge of paying the full contribution rate of pension schemes, which is high compared to that paid by the employed workers who share the contribution rate with their employers on equal basis, each one paying 50 per cent of the contribution. In line with the ILO Convention 102, the total of the insurance contributions to be paid by insured employees shall not exceed 50 per of the total of the financial resources allocated to the protection of employees and their wives and children. Contribution rate is determined in a manner which avoids hardship to persons of

[284] Andrew M. Allieu,'Implementing nationally appropriate social protection systems and measures for all: gaps and challenges facing rural areas' (*A presentation at the UN DESA Expert Group Meeting on Eradicating Rural Poverty to implement the 2030 Agenda for Sustainable Development*, Addis Ababa, 27 February 2019), p.4.
[285] 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.

small means and takes into account the economic situation of the country and of the classes of persons protected.[286]

Contribution to be paid by self-employed may be unaffordable or unattractive and may act as a disincentive or a barrier to social security coverage. Therefore, to encourage the self-employed to adhere to a pension scheme, it is necessary to put in place adapted mechanisms such as subsidies and change in payment schedule to facilitate self-employed with very low earnings to afford to pay the required social security contributions. The Cabo Verde has provided a good example by introducing a contribution system based on income categories and leave the workers flexible to choose which category to contribute to.[287]

In the agricultural sector the respect of periodicity of payment and the maintenance of the same amount of contribution may be difficult for self-employed due to their volatile earnings often linked to seasonality. Therefore, Rwanda can learn from the experience of countries like Tunisia, Ecuador, Colombia, that have reformed their legal system to find innovative solutions to cover particular categories of the excluded population like the agricultural workers.[288]

C. Disparities between legal systems in the region: A barrier to the portability of pension benefits for migrant workers.

Social security systems are established under national legislation and take into account the periods of employment, economic activities or residence to provide benefits. These considerations often prevent workers who migrate from one country of employment to another from enjoying their pension right due to the *principle of territoriality* which limits the scope of application of the social security legislation, leading to the loss of coverage and the limitation on the portability of the benefit abroad.[289] Therefore, it necessary to harmonize legal systems in the region and to sign reciprocal agreements to increase the level of coverage while facilitating the portability of the pension benefits for migrant workers.

[286] ILO C102, art. 71(1, 2).
[287] Fabio Durán Valverde et al., *Innovations in extending social insurance coverage to independent workers: Experience from Brazil, Cabo Verde, Colombia, Costa Rica, Ecuador, Philippines, France and Uruguay* (ILO 2013) ESS Document No. 42, p.22.
[288] ILO (n 263) pp.85-87.
[289] Kulke (n 30), p.7.

1. ***The example of reciprocal agreement in Great Lakes Region: The portability of social security benefits under the CEPGL General Convention***

After the 1994 Genocide against the Tutsi, Rwanda faced the problem of portability of pension benefits for migrant workers who returned home from different countries. Only one regional reciprocal agreement on social security exists between Rwanda, Burundi, the Democratic Republic of the Congo, under the Economic Community of the Great Lakes Countries Convention. The CEPGL General Convention covers the workers who are subjected to the social security legislation of any of the member countries or who have contributed to the social security institution in any member-state.[290]

The General Convention allows the combination of careers in different member countries, with the advantage that in the absence of the General Convention, the worker who does not qualify for old-age pension (because he/she has worked in each country for less than 15years) would simply receive a lump sum paid only once by each country, instead of the guaranteed monthly pension. The CEPGL General Convention also allows the portability/transfer of the social security benefits to be channelled through national Central Banks to the social security institution that regularly pays the beneficiary in the country of residence.[291]

2. The example of bilateral social security agreement

Another example of reciprocal agreement is the General Social Security Convention between The Republic of Rwanda and The Republic of the Congo (also called Congo-Brazzaville), signed on December 23rd, 2016.

3. Pension benefits for migrant workers in the East African Community

Other regional organizations in which labour and social security rights are an integral part have been created to facilitate regional integration. Those are the East African Community (EAC) and the East and Central Africa Social Security Association (ECASSA) which have been established to promote the development of legal mechanisms that will facilitate the harmonization of the schemes benefits and the qualifying criteria in order to facilitate a cross border labour mobility.[292]Therefore, the analysis pointed out the need to

[290]Ellis Ruhumuriza, 'Aglance at the Social Security General Convention in the Great Lakes Countries (Burundi, DRC, Rwanda)' (2002) *Solidarité - Nta Mugabo Umwe* No.17, Revue Trimestrielle de la Caisse Sociale du Rwanda, p.10.
[291] Art.40 (4) of The CEPGL General Convention on social security, 1978.
[292] ECASSA,' Ecassa Update', *A Newsletter for the Social Protection Schemes in East and Central Africa*

harmonize legislation in the East African Members States and to sign a reciprocal agreement facilitating the portability of contributions or pension benefits for migrant workers of the region.

The analysis of 2015 Rwanda's pension legislation (art.33) has shown restrictions to social security rights due to the *principle of territoriality*, considering that pension benefits are not transferred abroad if beneficiaries no longer resides in Rwanda, unless there are reciprocal agreements or international convention. The following discussion proposes strategies to improve legal framework and policies towards compliance with international social security standards.

5.2.2. Administrative barriers and limited awareness or knowledge of the social security programmes

Self-employed workers may also face the challenge of low education and technological level to deal with complex administrative processes and procedures in registration, contribution collection, benefit payment and record-keeping, used by social security programmes Considering that most public pension schemes are mandatory for employed workers, the responsibility of registration and payment of contribution is assigned to employers.[293] They benefit from social security training on their rights and obligations while for self-employed workers, without having an employer, they are isolated with limited awareness or knowledge of the social security programmes. Most of the self-employed workers and the informal economy workers are in rural areas and face the challenge of legal illiteracy while they have to deal with all administrative process and procedures themselves.[294]

5.3. Strategies to improve the legal framework and policies of old-age pensions provision

This section proposes strategies related to the effective enforcement of the existing pension legislation to maximize registration, and collection of contribution and compliance, by removing legal and administrative barriers. The study also suggests strategies related to the introduction of non-contributory universal pension schemes, guided by the basic

(2008), Nairobi, p.5.

[293] Art.9 Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No. 20 of 18/05/2015.

[294] ILO (n 263), p.4.

principles set out in international social security standards. The effective national strategies should be in line with national priorities, administrative feasibility and affordability and should aim at achieving universal coverage. This implies providing at least the basic income security to the population (horizontal) and progressively ensuring a higher level of protection (vertical dimension), guided by ILO C102 and other standards, providing higher levels of protection such as ILO C128 and R131 as well as ILO R202.

The proposed strategies also consider the update of the national employment and social security policies to guarantee the right to pension for everyone. The literature suggests strategies for pension coverage extension to meet the standard level of protection set out in international social security standards. Bloom and McKinnon choose the combination of policies that will optimize coverage, benefits and financing given a country's demographic history practices regarding family support of the elderly, political system, extent of informal labour and fiscal situation.[295]

Gillion et al. suggest three approaches to the extension of pension coverage:[296] The first concentrates on coverage for formal sector workers and presumes that economic development will gradually lead to an expansion of coverage as the formal sector grows. The second approach gradually extends coverage to include all employed people and devise special arrangements for some self-employed with the limits of administrative capacity. The third approach provides almost universal coverage under the law, but recognizes that for the foreseeable future, compliance levels will be low.

Hagemejer and McKinnon argue that the design and implementation of comprehensive national floors of the social protection should be based on four essential elements: respect for the rights and dignity of people holding rights to social security; full participation of the civil society, universal coverage at the local, national and international level; and concern for vulnerable groups.[297]

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[295] Bloom (n 78), p.1.

[296] Gillion (n 13),p.203, see also Clive Bailey, 'Extending social security coverage in Africa'(2004), p.14 < http:// www.ilo.int/public/english/protection/socsec/pol/campagne/files/addispaper.pdf> accessed 4 April 2017.

[297] Krzysztof Hagemejer & Roddy McKinnon,'The role of social protection floors in extending social security to all', (2013) *International Social Security Review* 66 2-4, p. 13.

5.3.1. Legal and administrative reform: Strengthening the existing contributory pension schemes

This subsection describes three strategies for legal and administrative reform to strengthen the existing contributory pension schemes. The study focuses on strengthening enforcement and inspection mechanisms as well as increasing contribution rate; removing administrative barriers to the registration, declaration of incomes, payment of contributions and receipt of pension benefits and strengthening administrative and legal innovation.

A. *Strengthening enforcement and inspection mechanisms as well as increase of contribution rate*

Different types of evasion exist where legal provisions regarding registration and payment of contributions are not respected by some employers, especially in private companies like tea and coffee factories, restaurants and domestic work among others. Thus, prevention, punishment of contribution evasion, effective enforcement and inspection are important strategies. Penalties for employers' non-compliance should be increased to ensure the registration of all workers and a maximum contribution collection and compliance in order to access pension rights and ensure the sustainability of pension schemes. There is also a need for reform on the level of contribution rate to allow periodical adjustment of pension benefits while ensure the sustainability of pension scheme. Different actuarial studies have reported that contribution rate of 6 per cent introduced in 1974 is not an actuarially fair contribution rate given the current parameters of RSSB's pension scheme.[298]

B. *Removing administrative barriers to the registration, declaration of incomes, payment of contributions and receipt of pension benefits*

It is necessary to simplify administrative process and procedures used by social security programmes and consider the realities of rural areas population who constitute the majority of the population highly dependent on agriculture with a higher level of informality in employment arrangements. For example, the use of mobile phone technology in registration and payment of contribution as well as in receipt of pension benefits can facilitate the adhesion of more self-employed to pension scheme as most of people in Rwanda has mobile phone linked to the national identity card. Other strategies are the

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[298] Republic of Rwanda, *National Social Security Policy* (MINECOFIN February 2009), p.21 <https://www.rssb.rw/fileadmin/user_upload/national_social_security_policy_0.pdf> accessed 2 October 2020.

improvement of the quality of infrastructure (like electricity and internet) and the increase of public awareness.

C. Strengthening administrative and legal innovation

In Rwanda, the establishment of joint working partnerships between Rwanda Social Security Board and Rwanda Revenue Authority for unified social security contribution collection with tax collection had a positive result.[299] In addition, the significant decentralization process of social security operations at district level, started in 2006-2007 by opening branches of Rwanda Social Security Board in all 30 districts of the country had positive impact. Contributions collected increased by over 50 percent from 2006 to 2007 and coverage of informal sector increased and service delivery in claims processing was improved.[300]

However, in the rural area, limited knowledge of self-employed, the poor quality of infrastructure (like electricity and internet) is a challenge to afford the technology and the complex procedure used by social security institutions. For example, to register and to declare social security contributions, self-employed workers often require the assistance of tax advisors with the associated cost reducing their earnings. Therefore, strengthening decentralization process and joint working partnerships, removing administrative barriers with regard to completing registration, declaration and making contribution payments and accessing benefits, the increase of public awareness campaigns on social security systems and the availability of infrastructure are good strategies to encourage the enrolment of informal economy workers in the pension scheme.

Despite the Rwanda's legal innovation by introducing a *Long-Term Savings Scheme* with some flexibility for membership to extend pension coverage to the informal sector, in a country with a predominant informal sector, the performance of a voluntary scheme to guarantee the provision of pension benefits is limited. The reasons behind are the lack of enforcement mechanisms for members who drop out since there is no legal obligation to adhere to a voluntary pension scheme and low contributory capacity of informal economy workers due to irregular and unpredictable incomes. Therefore, it is necessary to introduce tax-financed mechanisms to compliment contributory pension schemes.

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[299] Art.11 of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda, *OG* No.20 of 18/05/2015.

[300]ISSA, *Handbook on the extension of social security coverage to the self-employed* (2012), p.23 <https://ww1.issa.int/sites/default/files/documents/publications/2_handbook-extension-selfemployed-26571.pdf.> accessed 22 September 2021.

5.3.2. Guaranteeing in national legislation basic income security to all elderly through a variety of financing options

Ensuring the guarantee of pension benefits in old-age to all in need implies not only strengthening the existing contributory pension scheme (mandatory and voluntary) but also establishing non-contributory universal pension schemes. The idea of universal coverage is defined and concretized by ILO Social Protection Floors Recommendation, 2012 (No.202), which strengthens pre-existing ILO standards, particularly ILO C102 and C128, which are not based upon universal coverage, but only determine the minimum standard of protection and require gradual extension of the scope of protection. For example, by the time the ILO C102 was established in 1952, the extension of social security coverage was considered a long-term process determined by the pace of the formalization of labour markets.[301] Therefore, ILO R202 determines the State responsibility to provide basic income security to all in need in the form of a non-contributory pension scheme (universality of protection, based on social solidarity, among others).[302] Considering the compulsory and long-term nature of pension rights, adequate regulation in this domain is crucial to allow the benefits to be realized in compliance with the international social security standards.

However, in Rwanda, like in most developing countries, the lack of a legislation setting social security basic income guarantee in old-age, justifies a strong need to establish non-contributory universal pension schemes as an alternative to complement the existing contributory schemes and to close the coverage gap. Therefore, the adaptation and the update of the social security legal and regulatory framework as well as the diversification of financing options are important strategies to comply with international standards and to respond to the current needs of society.

A. *Learning from some successful stories*

Different countries provide some experience in achieving universal pension coverage through a pension model which sometimes may be under the form of means-tested and sometimes universal and subjected to the requirement of age and residency for eligibility such as those introduced in Mauritius, Botswana, Namibia, Nepal and Samoa.[303] Universal

[301] Cichon (n 31), p. 24.
[302] ILO R202 , I.3, (a).
[303] Robert Holzmann and Richard Hinz, *Old age income support in the 21st century: An international perspective on pension systems and reform* (World Bank 2005), p.97.

non-contributory schemes are also introduced in high-income countries like New Zealand and Brunei[304], New Zealand having a longer history of universal pensions established in 1898.[305] Means-tested non-contributory schemes have been developed in developing countries such as Argentina, Bangladesh, Brazil, Chile, Costa Rica, India, South Africa, Sri Lanka, and Uruguay.

Universal non-contributory old-age pension schemes may be suitable for developing countries in meeting the needs of the poor elderly and in closing the pension coverage gap. Therefore, the establishment of non-contributory pension schemes is important as it helps, to some extent, to bridge the coverage gap between men and women. The experience of Cabo Verde is worth to be mentioned where women over the retirement age are the majority to receive non-contributory pension benefits (41.4 per cent) than men (31.6 per cent) who occupy the predominant place in receiving pension benefits in contributory schemes (11.4 per cent compared to 28.2 per cent).[306]

Some scholars find the implementation of non-contributory schemes difficult and point out the negative effect of universal non-contributory old-age pension scheme on intra-family and intra-community transfers and total family labour supply.[307] There is also an argument that a universal non-contributory old-age pension scheme may be too expensive and if funded through general taxes they may encourage work in informal economy where taxes are not easily collected.[308]

Other scholars argue that the implementation of non-contributory schemes is affordable in developing countries.[309] Both sides have a common view that most developing

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[304] ISSA and SSA, *Social Security Programs Throughout the World: Asia and the Pacific, 2018* (SSA 2019), p.68, p.188 <https://www.ssa.gov/policy/docs/progdesc/ssptw/2018-2019/asia/ssptw18asia.pdf > accessed 29 March 2020.

[305] Larry Willmore, 'Universal pensions in low-income countries' (Initiative for Policy Dialogue), (Working Paper Series, IPD-01-05, Initiative for Policy Dialogue, Columbia University 2001),p.11 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=381180> accesssed 29 March 2020.

[306] ILO (n 71), p.21.

[307] Colin Gillion et al. (eds), *Social security pensions: Development and reform* (International Labour Office 2000); Nanak Kakwani and Kalanidhi Subarao, ' Ageing and poverty in Africa and the role of social pensions' (United Nations Development Programme Working Paper No.8, August 2005), United Nation Development Programme, International Poverty Centre.

[308] E Overbye, 'Extending social security in developing countries: A review of three main strategies' (2005) *International Journal of Social Welfare* 14 (4).

[309] Robert Holzmann, 'Social protection of the rural population: The need to think outside the box'(Paper presented at plenary session Social Protection of the Rural Population at the General Assembly of the International Social Security Association, Beijing, 12-18 September 2004) International Social Security Association.; J K M Johnson and J B Williamson, 'Do universal non-contributory old-age pensions make sense for rural areas in low-income countries?'(2006) *International Social Security Review* 59 (4), p.47; Larry Willmore,'Universal age pensions in developping countries: The example of Mauritius'(2006) *International*

countries do not have sufficient resources to finance universal flat old-age pensions. Other studies have provided solutions for financing social protection floors in order to guaratee basic income security to all in old-age at a reasonable cost, even in resource-constrained circumstances, which serves as a platform for the gradual implementation of a full social protection system.[310]

1. ***The source of financing and fiscal cost as a percentage of GDP for the development of non-contributory pension scheme: Domestic resource mobilization***

With regard to the fiscal cost as a percentage of GDP for the development of non-contributory pension scheme, the cost of benefits depends on the proportion of older persons in the population and the level of the national poverty line (which determines the level of the benefit. A study conducted by the ILO in 57 lower income countries has shown that an average of 1.6 per cent of GDP could be required to finance universal pensions for older persons over 65 years of age, set at a level of 100 per cent of national poverty line).[311]

This study explored the experience of universal pensions in low and middle-income countries in Africa and found that at around 1 per cent of GDP, Rwanda can put in place universal pension. For example in Kenya, approximately 833,000 recipients of the *Inua Jamii Senior Citizens* Scheme are entitled to KES 2,000 (US$ 19.7) per month with related cost of 0.13% of GDP.[312] Therefore, this study estimates benefits of RWF 25,000 (US$ 25) per month to be entitled to the elderly, since older people aged 60 years and above represents 5.1 per cent of the Rwandan population (estimated to 600.000 older persons).[313] The total expenditure to be allocated to the universal non-contributory pension scheme is estimated to 180.000.000 million per year. The Government of Rwanda has made some progress in

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Social Security Reviw 59 (4), p.87.

[310] Elliott Harris, ‘Financing social protection floors: Considerations of fiscal space’ (2013) *International Social Security Review* 66 (3-4), p.111.

[311] Isabel Ortiz et al., ‘Universal Social Protection Floors: Costing Estimates and Affordability in 57 Lower Income Countries’ (2017) (ESS-Extension of Social Security, ESS-Working Paper No.58, ILO Social Protection Department, p.24<https://ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_614407.pdf> accessed 22 November 2021.

[312] ILO Social Protection Department, ‘Inua Jamii Senior Citizens’ Scheme’ Country Brief 1, p.3 <https://www.developmentpathways.co.uk/wp-content/uploads/2019/05/Inua-Jamii-Country-Brief-1.pdf> accessed 6 November 2021.

[313] Republic of Rwanda, *National Social Protection Policy (*Ministry of Local Government, June 2020), p. 27 <https://nyarugenge.gov.rw/fileadmin/user_upload/REPORT/Approved_Social_Protection_Policy.pdf> accessed 2 February 2021.

increasing the budget allocated to the social protection sector from 5.7 per cent in 2018/19 to 6.5 % of GDP in 2019/20.[314]

2. Learning from Rwanda's strategy for universal health coverage

In Rwanda, a recent experience of mandatory health insurance for all population has shown that developing countries are capable of improving their revenue effort to implement health coverage.[315] The experience of Rwanda, which has successfully implemented universal health coverage financed by domestic resources and reached the highest health coverage rates in Sub-Saharan Africa, demonstrates that it is also possible to implement universal pension coverage using domestic resources.[316] To explain this, in Rwanda, Community-Based Health Insurance is financed by the beneficiaries' annual contributions, but these contributions are not sufficient to cover medical costs. Therefore, the Prime Minister's Order No.105/03 of 30/09/2020 related to the Community-Based Health Insurance Scheme contributions determines the source of financing as follows: government's subsidies, subsidies from health insurance entities operating in Rwanda, subsidies from telecommunication companies levied on telephone calls, subsidies from petrol and gas oil trade companies as well as extra funding from statutory deduction of 0.5 per cent on public and private employee's monthly net salary.[317]

3. Putting in place a National Social Protection Fund

As per the analysis, this study suggests other strategies, such as putting in place a National Social Protection Fund to finance non-contributory universal old-age pension. Deduction of 1 per cent on all financial transactions can be a source of financing. Other possible options that this study suggests are from the experience of other countries in which financing universal pensions come from cigarettes and luxury goods like in Ghana, taxes on tourism like in Liberia.[318] Ortiz et al. made a significant contribution to the study and

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[314] UNICEF/Rwanda, 'Social Protection Budget Brief: Investing in inclusiveness in Rwanda 2019/2020' (December 2019), p. 3 <https://www.unicef.org/rwanda/media/1926/file/Social-Protection-Budget-Brief-2019-2020.pdf>, accessed 22 November 2021.

[315] Law No.48/2015 of 23/11/2015 governing the organization, functioning and management of health insurance schemes, *OG* No.4 of 25/01/2016.

[316] ISSA, 'Rwanda wins ISSA Award for Outstanding Achievements in Social Security' (World Social Security Forum, Brussels, 14-18 October 2019)<https://ww1.issa.int/news/rwanda-wins-issa-award-outstanding-achievements-social-security> accessed 8 October 2020, see also Laurent Musango et al., 'Rwanda's health system and sickness insurance schemes' (2006) *International Social Security Review* 59 (1), p.93.

[317] Art.2 of Prime Minister's Order No.105/03 of 30/09/2020 related to the Community-Based Health Insurance Scheme contributions, *OG* No. Special of 1/10/2020.

[318] Isabel Ortiz et al.,'Universal Basic Income proposals in light of ILO standards: Key issues and global

suggested six options to finance universal Basic Income at adequate benefit levels to effectively reduce poverty and inequalities including the following: re-allocation of public expenditures, increasing tax revenues, lobbying for aid and transfers, eliminating illicit financial flows, using fiscal and central bank foreign exchange reserves, restructuring existing debt.[319]

Thus, the study considers that the establishment of non-contributory 0 pillars in Rwanda is feasible, based on the experience of other low and middle income countries and the experience of Rwanda in achieving universal health coverage. It must be pointed out that Rwanda has put in place social assistance programs with non-contributory component (Direct income support and Community-Based Health Insurance), which covered essentially old-age people and disabled who are Head of households and classified in *Ubudehe* category 1 as explained in chapter three.

Evidence from the studies conducted by ILO confirms the feasibility of the establishment of non-contributory 0 pillars in low-income countries. For example, in 2008, ILO has conducted a study to investigate if low-income countries can afford basic social security, emphasizing that the cost of keeping people excluded will be higher and higher and translates into poverty, increasing inequalities and the growing likelihood of conflicts. According to the ILO calculation, less that 2 per cent of the global Gross Domestic Product (GDP) would be necessary to provide a basic set of social security benefits to all of the world's poor.[320] Evidence come from the ILO two costing studies, one in Africa for seven countries (Burkina Faso, Cameroon, Ethiopia, Guinea, Kenya, Senegal and the United Republic of Tanzania) and the other in Asia for five countries (Bangladesh, India, Nepal, Pakistan and Viet Nam).[321]

5.3.3. Policy reform: Job creation and decent work promotion through formalization

The process of formalization implies the transition from informal to the formal economy. In Rwanda, informal workers are present in every sector of the economy, ranging from construction site workers to housekeepers, agricultural labourers to office workers,

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costing, ESS-Extension of Social Security' (ESS-Working Paper No.62, 2018) International Labour Office, Social Protection Department, Geneva, p.19 < https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_648602.pdf> accessed 2 February 2021.

[319] Ibid. (n 318), pp.19-20..

[320] ILO, 'Can low-income countries afford basic social security?' (2008) Social Security Policy Briefings, Paper No.3, International Labour Office, Social Security Department, p.2-3.

[321] Id.p.5.

street vendors to mine workers.[322]The high unemployment rate that characterizes most developing countries is an obstacle to the access to formal employment where social security rights are respected. In the context of growing informalization, casualization and feminization of labour markets, the emphasis is no longer on the promotion of full employment but rather on the need for decent work.[323] Access to decent employment is a good strategy to contribute to social security, considering that benefit levels provided in contributory pension schemes tend to be higher than those from non-contributory pension schemes. Therefore, social security strategies should support the growth of formal employment and the reduction of informality, and should be complemented by active labour market policies whenever appropriate.

Considering that most pension schemes are contributory, strategies for social security extension are closely associated with employment policies. Moving from the informal to formal economy is an important strategy facilitating the access to a decent work providing the security of revenue and pension coverage. Therefore, it is necessary to build an economic and social framework that leads to sustainable enterprise creation and growth of decent and productive employment to meet international goals.

A. The 2030 global goals for Sustainable Development (SDGs)

Globally, it is estimated that, 734 million jobs will be required between 2010 and 2030 to accommodate recent and demographic shifts, account for plausible changes in labour force participation rates, and achieve target unemployment rates of/ or below 4 per cent for adults and/or below 8 per cent for youth. Otherwise, failure to create the jobs that are needed through 2030 would put currently operative social security systems under pressure and undermine efforts to guarantee the national social protection floors enshrined in the Sustainable Development Goals (SDGs), particularly, Goal 8.[324]

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[322] Rwanda Civil Society Platform, *Social Security in the Informal Sector in Rwanda* (2013), p.3 <http://www.rcsprwanda.org/MG/pdf/final-report_CSPII-2-RCSP_doc pdf> accessed 2 February 2021.

[323] ILO, 'Building a Social Protection Floor with the Global Jobs Pact', 2nd African Decent Work Symposium 2010, 06-08 October 2010, Yaounde-Cameroon, p.xvi.

[324] David E Bloom et al., 'Global employment and decent jobs, 2010-2030: The forces of demography and automation' (2019) *International Social Security Review* 72(3), p.43.

B. The National Strategy for Transformation (NST1)

In Rwanda, during the elaboration of The National Strategy for Transformation (NST1), job creation was included as one of the key components of the economic pillar. It is estimated that 1,500,000 jobs will be created by 2024.[325] In this perspective, job creation and the reduction of informality will create employment relationship with the social security legal obligations imposed on employers to register their workers in social security and to pay contributions which will increase the level of coverage. Under Rwanda's pension law, an employer has the obligation to register a newly hired employee with a public institution in charge of pension schemes within seven (7) working days from the date of employment.[326]

Thus, the extension of coverage to the category of workers in the informal economy through the process of formalization is an important strategy to increase the level of coverage. It must be pointed out that encouraging formalization is part of Target 3 of Goal 8 of the 2030 UN Agenda for Sustainable Development, which itself (Goal 8) is about Decent Work and Economic Growth.[327]

The process of formalizing jobs can be done by facilitating the transition of workers and economic units from the informal to the formal economy (where undeclared and unregistered jobs become declared and become registered, facilitating the enforcement of social security rights); promoting the creation, preservation and sustainability of enterprises and decent jobs in the informal economy; and by preventing the informalization of formal economy jobs.[328]

During the process of formalization, it is important to use the sector-based approach rather than the general approach to achieve effective pension coverage extension. While informality and many of its causes affects sectors across national economies, the informal employment may be concentrated in particular sectors with sector specific forms and drives. This is the case for domestic workers, highly characterized by informal arrangements

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[325] Republic of Rwanda, National Institute of Statistics of Rwanda, ' Rwanda toward achieving 1.500.000 job creation', https://www.statistics.gov.rw/publication/rwanda-toward-achieving-1500000-job-creation accessed 29 September 2021.

[326] Art.6 of Law No.05/2015 of 30/03/2015 governing the organization of pension schemes, *OG* No.20 of 18/05/2015.

[327] ILO, *Promoting Employment and decent work in a changing landscape* (2020), International Labour Conference, 109th Session, Geneva, p.151< https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_736873.pdf,accessed> accessed 18 May 2020.

[328] R204- Transition from the Informal to the Formal Economy Recommendation, 2015 (No.204), I.1 <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R204>, accessed 9 May 2020.

significantly contributing to informality, especially among women. The nature of a domestic worker's contract is specific for this reason: the employment relationship takes place within the private sphere, the household (while for formal workers, the contract takes place in employer's premises); it can be blurred or distinguished by social norms and highly personalised contexts; and it falls outside the conventional regulatory frameworks of many countries in designing coherent and integrated strategies to facilitate the transition from the informal to the formal economy.

C. ***Improving investment policy and assessing pension benefits adequacy in relation with the Rwanda Social Security Board investment of reserves***

Over the last decade, the social security investments has received increasing attention. There has been growing concerns over Rwanda Social Security Board (the national institution managing all public social security systems) involvement in investment activities. Contributors and pensioners several times questioned whether the Fund should makes investments and if the return from investments benefits to contributors and pensioners. Considering the compulsory and long-term nature of mandatory funding of pension schemes, adequate regulation is crucial for the availability of sufficient fund for the administration cost and payment of benefits. Therefore, every pension scheme shall establish its investment policy for its development and the best interest of beneficiaries pursuant to the internal investment policy. The legislator may establish regulations regarding the content of investment policy and areas of investment.[329]

Investment has an impact on pension benefits adequacy in a way that if investment provides an inadequate rate of return, pensions may be insufficient to ensure satisfactory living standards for retirees. Low rate of return may arise owing to investment in low-yielding assets or to excessive administration coasts. Meanwhile, if investments are too risky, pensioners risk poverty if they retire in unfavourable market circumstances, even if the mean rate of return over time is high. Excessive risks may arise if assets are inadequately diversified.[330]

1. Why investments and do they benefit pensioners?

Rwanda Social Security Board's investments are classified in two categories: *Fixed income investments* (bank term deposits, corporate bonds/loans, treasury bonds/bills,

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[329] Art.70 of Law No. 05/2015 of 30/3/2015 governing the organization of pension schemes in Rwanda.

[330] Colin Gillion et al.(eds), *Social Security Pensions: Development and reform (* International Labour office 2000), p.155.

mortgage) and *Non-fixed income investments* (Real Estate, Equity/local, equity/foreign). The objective of RSSB investment is to get a competitive return (dividends and capital gains) in order to ensure institutional long-term financial sustainability. Investment is critical concern for the institution as it provides the institution with capacity to effectively finance its liabilities. This is made possible by generating revenues in response to growing benefits as well as operational costs related to all schemes.

- ***Advantage of the formula used in calculation of pension benefits for beneficiaries***

In pension systems managed under defined-benefit, beneficiaries benefit from the formula used in calculation of pension benefits, given that it considers salaries and the period of contribution, rather than considering contributions paid by employees and employers on equal share (6% of employee's gross salary). With the increase of 2% of every additional year to required period of 15 years of contribution to benefit 30% of monthly average salary pension and the possibility of increase of benefits, the investment of reserves play a vital role to make adjustment of pension benefits realizable. The investment of reserves also allows social security institution to provide benefits to insured person until death and to extend benefits to legally survivors (spouse and children, or parents for single insured). However, the study identified irregularities in pension benefits adjustments and the lack of systematic indexation to maintain the value of pension benefits overtime.

- ***Continuous access to medical care for retirees with periodical pension benefits***

The insured person who was a member of medical scheme and is entitled to a periodical pension continues to benefits medical services during retirement. He pays a half of contribution equal to 7, 5 per cent of his/her monthly pension rather than paying the total contribution rate of 15 per cent in medical scheme.[331] This means that other portion is supported by social security institution (RSSB) and the budget comes from investment return. However, limited workers comply with qualifying period of contributions for periodical old-age benefits. As a consequence, when retired, they lose the right to the public medical insurance for employed workers to which they have participated.

[331] Republic of Rwanda, MINECOFIN, Ministerial Instructions No. 002/11/10/TC of 24/05/2011 governing health insurance of old age pensioners, art.5.

2. Balancing sustainability of pension schemes and benefits adequacy

The sustainability of social security systems and the provision of adequate replacement ratio in pension scheme are realized if contributing members are increased, given that they are the major source of social security financing, and if investments provide adequate rate of return to guarantee periodical adjustment of pension benefits. The lack of indexation of pension benefits or irregularities in benefit adjustment creates a gap between pensioners' living standards and those of the people who are still economically active. This situation exacerbates the economic and social exclusion of pensioners who are not able to access the finance like loans and cannot afford to access new, modern technologies and new goods and services changing the lives of more affluent groups in society.

The reform of pension schemes to extend coverage and provide adequate benefit while ensuring the sustainability of pension schemes is the focus of much policy attention. ILO social security standards provide guidelines for the provision of old-age benefit and the adjustment respecting different dimensions of benefit adequacy such as the age of eligibility and other entitlement conditions, benefit levels and protection of purchasing power.[332] ILO leaves the freedom to the State to take policy decisions to adjust and reform pension schemes but requires careful monitoring of the schemes to ensure adequacy and at the same time balancing with sustainability through actuarial valuations undertaken both regularly and whenever any important parameters of the scheme change and if necessary, ILO provides technical assistance.[333]

However, the practice in many countries is the absence of regular actuarial valuations or the delay in implementing the recommendations of actuarial valuations. ILO studies realized that pension reforms encounter the problem of short time horizons within the electoral cycle of the politicians who are competent to implement the recommendations, while decisions on pension systems have a very long-term character and affect also future generations.[334]

From the analysis of pension benefits adjustment in Rwanda, it appears that Rwanda Social Security Board (RSSB), the public institution managing social security system at the national level, has experienced delay in pension benefits adjustment, as the current

[332] ILO C102, art.26, 65-67.
[333] Art.10 of ILO Constitution, 1919.
[334] ILO, *Social protection for older persons: Key policy trends and statistics* (2014) Social Security Policy Papers, Paper No.11, International Labour Office-Social Protection Department, p. 29.

adjustment was done in April 2018. [335] This came after fifteen (15) years of the previous pension benefits adjustment done in 2002.[336] It means that pension benefits of people who retired in 2002 remained the same without being adjusted. As a consequence, the purchasing power of pensioners was affected due to inflation.

Thus, regular adjustments of the pension benefits to the cost of living are necessary to prevent absolute poverty among the recipients, provided that initial benefit levels were set at adequate levels. It is clear that the adjusted benefit does not prevent recipients from experiencing relative poverty, as benefits will lag behind the growth of working population average income.[337]

The fund collected from active contributors to finance benefits for inactive pensioners should be well managed and invested judiciously to overcome inflation and to ensure excellence in social security administration. Investment of reserves allows periodical adjustment of pension benefits and the respect of the principle of equity in a way that pension benefits have implications on labour market and social cohesion.[338] An adequate pension benefit provokes the labor mobility and reduces unemployment rate, considering that old people do not hesitate to leave the job and give opportunity to young people. In addition, adequate investment ensures the sustainability of pension schemes and equity between generations in a way that future generation will not have to pay significantly more than the current generation. Hopefully, recent administrative and financial autonomy granted to RSSB will facilitate to make investment more profitable.[339]

5.4. Conclusions and discussion

The present chapter examined some aspects of the legislation and policies of pension systems that need to be reformed to improve the pension coverage and benefits adequacy, in the light of the international social security standards. Therefore, the study identified legal and administrative barriers to the effective application of national pension legislation and

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[335] Presidential Order No.069/01 of 13/04/2018, which increased pensions and occupational hazards benefits granted by Rwanda Social Security Board, *OG* No.16 bis of 16/4/2018.

[336] Presidential Order No.36/01 of 8/04/2002 determining revalorization of pensions and annuity allocated by Social Security Fund of Rwanda.

[337] ILC, *Social protection floors for social justice and a fair globalization* (Report IV (1), International Labour Conference, 101th Session, Geneva, June 2012), International Labour Office, p.29.

[338] Townsend Peter (ed), *Building Decent Society:Rithinking the Role of Social Security in Development* (ILO, Palgrave Macmillian 2009),p. 82.

[339]Art.4 and art 6 of Law No. 009/2021 of 16/02/2021 establishing Rwanda Social Security Board, *OG* No. Special of 17/2/2021.

policies and suggested strategies to improve the legal framework and policies of old-age pension provision.

Strategies for legal reform in mandatory pension schemes focus on the importance of strengthening inspection and the enforcement of the legislation. In this regard, increasing the rate of penalties is necessary to prevent evasion of contributions by employers who underreport the real numbers of their workers or real salaries. An assessment of two cases of employers' non-compliance with social security legislation, reported to the Court show the importance of enforcing workers' rights. The study observed that low enforcement of pension legislation to prevent and punish different types of evasion is a barrier to the maximum registration of all salaried workers and to the collection of contribution and compliance.

It is also relevant to adopt strategies for administrative reform, such simplifying administrative processes and procedures in order to facilitate registration and contribution collection and avail appropriate infrastructure in rural areas like electricity and internet connection as well as training to facilitate social security services delivery. The study also proposed strategies for policy reform to extend old-age pension coverage, based on job creation with the increase of women participation in the labour market and decent work promotion to facilitate the transition of workers from informal to formal economy, guided by the ILO Recommendation, 2015 (No. 204).

In respect to the principle of universality of coverage envisaged in ILO Social Protection Floors Recommendation, 2012 (No.202), the adoption of legislation on non-contributory pension schemes is a strategy to guarantees basic income security in old-age to all the population.

With regard to benefit adequacy, regular adjustment of pension benefits is necessary to meet the needs of pensioners. Current Rwandan pension law does not provide an automatic adjustment to avoid deterioration of the purchasing power of the pensioners, which would push them into poverty. Irregularities in pension benefits adjustment or suspension of benefits severely and immediately affect the standard of living of pensioners and their families. In line with the ILO C102, the benefit must be sufficient to maintain the family of the beneficiary in health and decency.[340] They should be adjusted periodically following substantial changes in general level of earning and/or cost of living in order to be sufficient

[340] ILO C102, art. 67 (c).

to maintain the family of the beneficiary in health and decency.[341] In this regard, it is important to improve investment policy to balance the adequacy of benefits and the sustainability of pension schemes.

[341] ILO C102, articles 65 (10), 66 (8) and 67.