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

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CHAPTER 7: RECOMMENDATIONS

Having completed this research, some recommendations are formulated to the different stakeholders that play an active role in the social security sector. Those are, The Government of Rwanda, Social security institutions, employers and workers' unions, the civil society and the community as well as the ILO.

7.1 The Government of Rwanda

- *Maintaining social security schemes under State guarantee*

The government of Rwanda should continue to be a guarantor of the mandatory social security schemes and to guarantee in law and in practice the provision of basic income security to all in need in old-age, ensure the maximum coverage of the social assistance programmes, put in place an enabling environment for smooth operations of the social security and effective coordination, institute regulatory and legal framework and should continue to ensure the supervision of the social security sector.

- *Ratification of the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102)*

The study recommends the incorporation of the ILO social security minimum standards into Rwanda's Constitution (which is the country's fundamental law) through the ratification of ILO Conventions, 1952 (No.102) and others standards providing higher levels of protection which are not yet ratified, such as ILO C128. In the legal hierarchy, once ratified and incorporated in the Constitution, international social security standards, mainly Conventions, have the priority and are used for the interpretation in case of conflict in national legislation or in case there is confusion in terminology. The ratification also allows Member States to benefit from ILO technical support and supervision on a priority basis and serves as an indicator of the legal conformity. In addition, the ratification reflects a strong commitment for ratifying-countries to progress towards higher levels of social security protection while maintaining the level already achieved.

- *Implementing national floors of social protection*

Social protection floors, which are 'nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion' should be implemented to ensure effective application of ILO

Recommendation, 2012 (No.202). This Recommendation sets up principles to be applied in the gradually extension of population coverage and in determining the range and level of benefits. Therefore, the state responsibility in implementing national floors of the social protection should focus on progressive realization, including setting targets and timeframes; coherence with social, economic and employment policies; regular monitoring of implementation and periodic evaluation; tripartite participation and consultation with the representative of persons concerned.

7.2. Social security institutions

The following recommendations are addressed to social security institutions, mainly the Rwanda Social Security Board (RSSB) which manages the social security at national level.

- *Strengthen contributory pension schemes*

RSSB should strengthen the existing contributory pension schemes through the reinforcement of mandatory adhesion; strengthen the integrated collection of contributions with tax collection to prevent and detect evasion of contribution payments, undeclared work and fraud which reduce the coverage and lead to low compliance with the minimum standard levels of coverage set out by the international social security standards.

- *Offer quality pension benefits and services*

RSSB shall continue to reform the pension systems and administration in order to ensure effective application of laws and regulations so as to maximize coverage in mandatory and voluntary contributory pension schemes and to offer quality benefits and services. Proper management of investments is recommended to ensure sustainability of pension schemes and regular adjustment of pension benefits. RSSB should conduct regular actuarial studies to have accurate data; ensure good governance of pension schemes, involve stakeholders, and increase the legal literacy of the population on social security rights through sensitization campaigns focusing on informal economy. Recent administrative and financial autonomy granted to RSSB will improve RSSB efficiency.³⁴²

³⁴²Art. 4 of Law No. 009/2021 of 16/02/2021 establishing Rwanda Social Security Board, *OG* No. Special of 17/2/2021.

- *Reform Long-Term Savings Scheme (EjoHeza)*

The important gap identified is the lack of enforcement mechanism due to the voluntary nature of the *Long-Term Savings Scheme*. Another gap is the provision of benefits limited to the period of twenty (20) years, while ILO C102 (art 28) requires that all pension benefits have to be paid in cash as periodic payments for the duration of the contingency. This constitutes a challenge for contributors who will live longer, as the scheme will deliver income security through regular pensions for the elderly until the age of 75 years, since the retirement age is fifty-five (55) years.³⁴³

Thus, the study recommends legal reform of *Long-Term Savings Scheme* to make the scheme mandatory for self-employed with contributory capacity and for workers in organized groups. The study also recommends the provision of pension benefits for the duration of the contingency (old age). The approval and commitment by the Government on RSSB's proposal for such an important reform will be needed, given the importance attached politically to the *Long-Term Savings Scheme* for the protection of informal sector workers and their families.

- *Introduce non-contributory universal pension schemes (tax-financed)*

This study recommends the adoption of a legislation governing non-contributory universal pension schemes to guarantee at least basic income security to all elderly residents from age of sixty (60). The scheme will not be a means test and will cost around 1% of GDP.

The experience of Rwanda in achieving universal health coverage, through compulsory coverage, provides evidence that achieving old-age pension coverage by guaranteeing basic income security to all the elderly is possible. Pension schemes have a long-term character and are provided under conditions of the retirement age, and those who reach the retirement age are not as many as those who are covered in medical schemes.

- *Improve the Information and Communication Technologies in the social security management*

The effective management of social security and the efficiency in service delivery require improving the Information and Communication Technologies, making faster, simpler

³⁴³ Art.3 of Ministerial Order No 001/18/10/TC of 05/12/2018 determining modalities of granting Long-Term Savings Scheme Benefits, *OG* No.50 of 10/12/2018.

and more client-oriented the administrative processes and procedures used by social security systems in the registration, collection of the contributions and the payment of the benefits while also providing adequately trained staff to ensure the availability of the necessary specialists in social security.

7.3. Employers and workers' unions

- *Employers shall register all employees and ensure timely and accurate remittance of declaration and payment of contributions and shall provide training to their employees on social security rights.*
- *Workers' union shall support social security systems through their participation in national social dialogue consultation and assist their members to know their social security rights and obligations.*

7.4 Civil society, Non-Government Organizations (NGOs) and communities

During the reform process of pension schemes, the role of the citizens and the civil society in policies adoption and implementation to push for the necessary change is crucial. Therefore, the civil society shall participate in the national social dialogue consultation and non-governmental organizations shall complement the efforts of the Government in the provision of social assistance programmes and the establishment of supplementary schemes as well as raising awareness for the realization of the right to pension for everyone.

Communities shall have a culture of saving for their future retirement and continue to strengthen their local initiatives of savings through micro-finance in order to have a contributory capacity allowing them to participate in voluntary pension schemes.

Communities shall have the values of solidarity and pooling of resources, as they are the foundation for any national or community-based scheme aimed at ensuring at least a minimum income or service for all members, including those with a sustainable savings capacity.

7.5 The ILO

This study has been inspired by the findings from the General survey conducted in 2019 by the ILO Committee of Experts on the Application of Conventions and Recommendations in accordance with articles 19 and 22 of the ILO Constitution, reported

during the International Labour Conference, 108th Session, 2019. The Committee considers that all approaches to the development and implementation of social protection legislation and policies must be rooted in the principles set out in ILO Recommendation No.202 and other ILO social security standards with a view to building universal and comprehensive social protection systems that provide adequate benefits.

- *Strengthening training, education and research activities*

Enhancing collaboration between the ILO and the Government of Rwanda through training, education, and research activities is recommended to help advance all efforts related to the realization of human rights to social security, especially awareness of the ratification of international social security standards. The importance of ratifying ILO Conventions is that ratifying countries benefit from ILO experience and technical assistance (policy advice, capacity building, actuarial studies,...) on a priority basis.

- *Strengthening regional and international cooperation*

Strengthening regional and international cooperation is necessary for experience and expertise sharing in social security as well as for labour mobility and portability of pension benefits for migrant workers. Therefore, it is necessary to take measures to strengthen the international cooperation, particularly with the ILO and effectively applying international social security standards in law and in practice, customizing ILO technical advice, enhancing technical cooperation and strengthening national dialogue. For effective implementation of ILO Recommendation, 2012 (No.202), Member States may seek technical assistance from the ILO and other relevant international organizations in accordance with their respective mandate.

SUMMARY

Legal analysis of access to old-age public pension benefits in Rwanda: Challenges and Trends

This study explored the topic entitled '*Legal analysis of access to old-age public pension benefits in Rwanda: Challenges and Trends*' aims at investigating if old-age public pension systems in Rwanda are compatible with the international social security standards developed by the ILO.

Rwanda has made progress in elaborating a basic legal framework for the regulation of pension systems. However, the right to social security including basic income security in old-age is not realized for many old people, despite the international recognition of the right to social security for everyone (Art 22& 25 of The Universal Declaration of Human Rights, 1948).

The application of the pension legislation with regard to registration of all salaried workers in mandatory schemes is not effective due to different types of evasion, while the adequacy of pension benefit is also undermined by the lack of a systematic indexation mechanism to the cost of living. Therefore, Rwanda should take further steps towards the trends in most countries that focus on pension reforms by adapting the existing legislations and policies on pensions for the excluded population and ensure the provision of adequate benefits.

The study used research methodology based on doctrinal legal research, focus group discussion and comparative legal analysis to explore the research topic and to find answer to the research problem. The study also used a rights-based approach to social security to examine to what extent the international public law instruments entail a right to old-age pension and to find out effective strategies to improve the legal framework and policies on old-age pension provision in Rwanda. By doing so, the study introduces the Rwandan pension legislation to a wide audience and contributes to the academic debate about how to extend coverage of old-age pension and provide adequate benefits to all older people in Rwanda.

In the past, little attention had been given to the research on the legal perspective of old-age pension provision in Rwanda in the light of international social security standards. The gap in that area of research leads to the situation where pension provision has been

generally limited to salaried workers with a contributory capacity who enjoy a regular and predictable income, thus leaving out of protection the unemployed population, particularly informal economy workers.

With regard to benefits, traditionally, the assessment of the adequacy has been limited to the aspect of quantity (the level of replacement ratio) while there are other factors to be considered as well. For example the quality of benefit provided, the way it is accessed, delivered and maintained.

ILO social security standards constitute an international reference framework on old-age pension provision by determining the way benefits are guaranteed, accessed, provided and maintained. ILO C102 remains the flagship Convention and it is strengthened by other social security standards providing a higher level of protection such as Invalidity, Old-Age and Survivors Benefits Convention, 1967 (No.128), and its accompanying Recommendation, 1967 (No.131). These standards are strengthened by ILO Social Protection Floors Recommendation, 2012 (No.202) which focuses on the principle of universality of protection and defines more the State responsibility to make the right to basic income security to all in need in old-age realizable.

Despite that Rwanda has not ratified ILO C102 to be legally-bound, in accordance with the article 19 of the ILO Constitution, Rwanda like any other ILO Member state has the reporting duty. The Governing Body has the authority to request Member states to report at regular intervals on measures they have taken to give effect to the provisions of certain Conventions or Recommendations. Due to the ILO tripartite structure, adopted Conventions are internationally accepted as they reflect common values and principles, therefore, provide international reference. Therefore, ILO norms are relevant to Rwanda given that the design and the implementation of social security systems in Rwanda have been influenced by ILO C102.

Through an analysis of the relevant legislation and the practice in Rwanda and the investigation of the level of compatibility with international social security standards, the study found out that currently, public pension schemes are governed by law No. 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda to which all employees of public and private sector are subjected. Therefore, this law was analysed in comparison with the provision of ILO C102 and C128 with regard to the level of the personal old-age pension coverage and benefit. The study observed the challenge of low enforcement

of the Rwanda's pension legislation to prevent different types of evasion in mandatory pension schemes, which leave out of protection some workers in formal employment.

With regard to the level of old-age benefits, Rwanda's pension legislation meets ILO minimum standards, but benefits are not sufficient due to different factors, including low salaries influenced by gap in minimum wage setting and lack of automatic indexation mechanism to prevent deterioration of the value of benefits overtime.

The study also examined voluntary public pension scheme which is governed by Law No. 29/2017 of 29 June 2017 establishing *Long-Term Savings Scheme* and determining its organization whose aim is to extend the pension coverage to the informal sector. *Long-Term Savings Scheme* commonly known as *EjoHeza* (meaning a brighter future) is a fully funded public pension managed under a voluntary defined-contribution pension system. The design and implementation of this scheme are analyzed in comparative study between Rwanda, Kenya and Mauritius in chapter four in the light of ILO two-dimensional approach for the extension of a social security which reflects the principles envisaged in the ILO C102 and R202. To be more impactful, the study referred to examples from other countries across the world for a large audience as well.

The study observed the challenge of the lack of enforcement mechanism for a voluntary pension scheme, such as *Long-Term Savings Scheme* and the provision of benefits in a limited period of twenty (20) yeas. Therefore, the study suggests legal reform of *Long-Term Savings Scheme* to make the scheme mandatory for self-employed with contributory capacity and for workers in organized groups. The study also suggests the provision of pension benefits for the duration of the contingency (old age), given that the ILO C102 (art.28) requires that all pension benefits have to be paid in cash as periodic payments for the duration of the contingency.

Despite the existence of these legal texts and the progress made in pension reforms, the study noted that the existing pension schemes are generally limited to a minority of the population with a contributory capacity. The study also noticed that there is a lack of a legislation guaranteeing basic income security to the elderly people in Rwanda. Therefore, a combination of different approaches such as contributory and non-contributory schemes is suggested in this study as an effective strategy to achieve universal pension coverage and adequate benefits, balanced with the element of sustainability. It must pointed out that any

pension reform requires social acceptability, financial viability, political feasibility, compatibility with economic realities and the labour market, transparent management and administration for the users.

The study also suggests the implementation of policies that consider changing work patterns that prevent poverty and promote decent work by facilitating the transition from informal to formal economy and avoiding informalization of formal economy. The proposed legal and policies strategies are relevant as they help to maintain the level of coverage moving towards higher level of coverage, guided by international social security standards.

Strengthening international and regional cooperation is necessary to benefit from international technical assistance and experience sharing, especially with international organizations such as the ILO and the ISSA, given that they play a leading role in social security development. It is also necessary to strengthen a regional cooperation that facilitates labour mobility and export of social security benefits based on reciprocal agreements that enforce social security right for migrant workers.

Thus, this study constitutes a useful basis for discussion and further research, given that it has demonstrated the importance of applying international social security standards in national legislation to achieve universal pension coverage and Sustainable Development Goal (SDGs) by 2030. Some recommendations are formulated for different stakeholders to play an active role in the social security sector. Those are The ILO, The Government of Rwanda, Social security institutions, employers and workers' unions, civil society and community as well as scholars.

Public pensions are important tools to provide a basic income security to all and to achieve Sustainable Development Goals. The State should continue to be responsible for pension schemes as the continuous capabilities of the State to govern the public social security system is justified by the principles anchored in ILO Convention, 1952 (No.102), art.71-72.

In conclusion, the study leaves space for further research, which will continue to assess if the required minimum standards are achieved in mandatory contributory pension schemes and to assess the design of a legislation guaranteeing basic income security to all the elderly, for example, how the basic income (benefit package) will be determined and the payment mechanism, through which institution universal non-contributory pension schemes will be managed, the entitlement conditions and the financial resources.

Future study is also needed to analyse how private pensions managed by private insurance companies can be developed to complement basic pension provided by public institutions. In addition, in order to continue to enforce fundamental human rights to social security, the present study leaves space to future research on the design of a new pension legislation or the adaptation of the existing legislation and policies to new forms of work.