AN ANALYSIS OF THE FEASIBILITY OF SUSTAINING RETIREMENT BENEFITS IN SOUTH AFRICA

By

MAKWARELA MUTSHIDZI

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SUPERVISOR: ADV. MJ MANGAMMBI

CO-SUPERVISOR: DR. IM SEFOKA

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DECLARATION

I, Makwarela Mutshidzi (201608324), declare that the mini dissertation hereby submitted to the University of Limpopo for Master of Laws has not previously been submitted for any degree at this or any other institution. I further declare that it is my own work in design and execution, and that all materials contained therein have been duly acknowledged through a prescribed in-text (footnotes) referencing and bibliography.

Mutshidzi Makwarela

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DEDICATION

This research is dedicated to my only grandmother I have Vho-Mmbangiseni Tshavhungwe Nenzhelele Gabara for the love and support she showed me during the long journey of academic. To my parents Vho-Mbulaiseni Gladys Makwarela and VhoAzwihangwisi Phainos Makwarela you said poverty is not the limit, your support will be forever honoured. To my only one uncle Thivhilaheli Edwin Nenzhelele your encouragements are honoured thank you for the support.

ABSTRACT

Retirement reforms in South Africa is a longest debate post democratic systems of governance which has been accepted with mixed reactions from members of retirement funds and retirement industry. This debate has been ongoing since 2002 to date. Since then, National Treasury has published numerous retirement reforms discussion papers which aimed at overhauling the retirement funding systems to be in line with the core values of the Constitution of the Republic of South Africa, 1996 which is based on no-racialism, non-sexism, social justice, and human dignity. The retirement funding systems under apartheid systems of governance excludes Africans, coloureds and Indians. The system favoured the white minority who were far ahead of blacks in terms of retirement funding savings. The study analysis the feasibility of sustaining retirement benefits in South Africa and explore measures which must be implemented in order to achieve and deliver preservation of the pension fund benefits. Furthermore, it interrogates contemporary literature, regulations, and policies to explore ways in which the current retirement system may be reformed holistically to ensure that preservation of the pension fund benefits is achieved.

CHAPTER ONE: INRODUCTION AND OVERVIEW OF THE STUDY

1.1. Introduction and historical background

The historical background of the pension fund system in South Africa dates back to the time when the Pension Fund Act[1] was enacted in 1956 and since then, it had a remarkable history.[2] Driven by the international instruments for social security in the form of pension schemes, the South African pension fund system held a perception that the Pension Fund Act should alleviate poverty among elderly and retired people.[3] The principal aim of the Pension Funds Act[4] is to provide a regulatory framework in respect of "registration, incorporation, regulation and dissolution of pension funds" and incidental matters pertinent to pension funds.

The establishment of advanced provident funds consequently caused a substantial transition from "defined benefit funds" to "defined contribution funds" that ensued between 1980 until early 1990s.[5] The effect of this transition transpired when a risk shifted from employers to employees and fund members were placed on advantageous state than funded members.[6] In addition, this had negative impact on employees in a sense that a low rate interests applied for refunding employees that were under a 'defined benefit coverage' and their employers' fund would be included after a long

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[1] Act 24 of 1956.

[2] Pension Funds Online, Pension System in South Africa' https://www.pensionfundsonline.co.uk/content/country-profiles/south-africa accessed 26 April 2022. [3] Such as the Old-Age and Survivors' Benefits Convention 128 of 1967 and Social Security (Minimum Standards) Convention 102 of 1952.

[3] Moleko Nthabiseng and Sylvanus Ikhide, 'Pension funds evolution, reforms and trends in South Africa' (2007) International Journal of Economics and Finance Studies 9(2), 134.

[4] Act, 24 of 1956.

[5] Moleko and Sylvanus, (2007) International Journal of Economics and Finance Studies 9(2), 135 and 141; National Treasury Republic South Africa (2004) "Retirement fund reform: a discussion paper "10.

[6] National Treasury, 'Retirement Fund Reform a discussion paper' (2004) page10.

duration of rendering services.[7] Moreover, the donation pension was regulated by strenuous governance which made it fall under both Provident Fund and Pension Fund Act.

This necessitated that the pension donations needed to be approved by the Commissioner of Inland Revenue for the purposes of Provident Fund and also need approval from the Pension Funds registrar for the purpose of fulfilment with the Pension Act. Considering the need to develop a less rigid and uncomplicated pension fund system that entrenches more benefits to pension beneficiaries, the 2017/2018 National Budget Review brought transformative changes in the South African pension system despite the numerous amendments of the Pension Fund Act.[8] The budget speech review which took place in February 2017 introduced broader precepts for the newly developed social security substructure which alleviated risks and strenuous governance of the initial and former pension system.[9] These changes were brought along with promulgation of the "Pension Funds Amendment Act".[10]

The improvements entrenched in the Pension Fund Amendment Act were consequential implementation of the recommendations from various commissions[11] that were entrusted with powers to review the legal position and effects of the operational South African pension system in order to govern whether there is a necessity for reform or not.[12] Based on the commissions' report, the key objective is "to set up an appropriate social security concept that prioritises the needs of people without any incomes, with insufficient incomes or who are engaged in informal activities leading towards the creation of a comprehensive social security system".[13]

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[7] Pension Funds Online, Pension System in South Africa' https://www.pensionfundsonline.co.uk/content/country-profiles/south-africa accessed 26 April 2022.

[8] National Treasury, 'Retirement Fund Reform a discussion paper' (2004) 5.

[9] National Treasury, 'Retirement Fund Reform a discussion paper' (2004) 5.

[10] Act 11 of 2007.

[11] The commissions included "the Mouton Commission (1992), Katz Commission (1995), Smith Commission (1995), National Retirement Consultative Forum (1997), and the Taylor Committee (2002)".

[12] National Treasury (2004) 'A discussion paper' 8 and 9.

[13] National Treasury (2004) 'A discussion paper' 9.

In order to achieve this objective, the amendments had to provide clarity on various specific expressions, refine and replace out-dated provisions, provide clarity to certain sections pertinent to their practicality and throw light on provisions pertinent to the "determination and apportionment of actuarial surplus in a pension fund and to update references to legislation and institutions".[14]

The new proposed retirement reforms and social security integrated contributory and social assistance arrangement with an aim to ensure that South African pension laws guarantee all South Africans with basic retirement benefits. The present South African retirement laws dictate that there should be a compulsory review and audits in order to achieve consistency and sort out issues that were caused by the old Pension Fund Act. Moreover, a reviews and audits requirement by the Pension Fund Amendment Act further purported to consolidate retirement funding arrangement and simultaneously develop a regulatory structure that are coherent to the broader retirement funding systems in South Africa.[15]

The age of retirement in South Africa is usually fixed between 60 to 65 years in many companies, public institutions and government sector.[16] The pension fund system in South Africa is governed mainly by the Pension Funds Act (PFA).[17] The aim of this Act is "to provide for the incorporation, regulation, registration and dissolution of pension funds and related matters".[18] Many employees often resign few years before the actual retirement age. Many employees who retire without proper education on how to invest often squander all their pension funds within few years of retirement and they apply for governmental old-age support grant.[19]

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[14] Preamble of the Pension Fund Amendment Act. The legislature has amended the Pension Funds Act several times since the latter's promulgation in 1956, with an attempt to create a pension fund system that prioritises comprehensive social security schemes.

[15] National Treasury, 'Retirement Fund Reform a discussion paper' (2004) page 5.

[16] Section 19 of the Government Employees Pension Law 21 of 1996.

[17] The Pension Funds Act 24 of 1956.

[18] Preamble of the Act.

[19] Johan Marx, 'Mitigating the South African retirement-income shortfall crisis' (2018) Journal of Economic and Financial Sciences 11(1), 4; Bomikazi Zeka, Chantal Rootman, Janine Kruger, 'A Review.

The South African National Treasury has reported that many employees often spend their pension funds due to various reasons such as losing a job, changing a job, venturing into businesses or just retiring before even reaching 60 years.[21] The National Treasure further reported that these kind of premature retirements and resignations often lead to many ex-employees to withdraw their pension funds and squander them without saving the money.[22] This phenomenon has led to overcrowding of the government old-age grant. This would not be the situation should people spend their pension funds wisely or where there is a certain legislation that prohibits people to withdraw their pension funds before they reach certain age.

The Pension Fund Act is silent about this situation. Considering the problem stated, not regulating the pension funds in a manner that people will retire with enough money preserved to spend after their age of retirement is another problem that perpetuates poverty in South Africa.[23] Furthermore, this problem necessitates that the Pension Fund Act should be amended with a purpose to address this issue. This is due to the fact that most employees that retired early and spent their retirement funds without preserving any of them was due to vulnerability caused by the lack of financial knowledge.[24]

1.2. Statement of the research problem

The South African pension fund system is largely regulated by the Pension Funds Act (PFA).[25] The aim of this Act is "to provide for the registration, incorporation, regulation and dissolution of pension funds and incidental matters".[20] Moreover, the government

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20 The Factors Influencing Retirement Funding Adequacy: A South African Perspective' (2017) International Journal of Management and Applied Science, 3(9), 51 and 52.

21 National Treasury South African, 'Technical Discussion Paper B for public comment: Enabling a better income in retirement' (2012) Government of South Africa 7.

22 Ibid.

20 Preamble of the Act.

23 National Treasury South Africa, 'Encouraging South African households to save more for retirement' (2021) The Government of South Africa 1. Ruan Jooste 'Long-awaited pension reforms deal

introduced retirement reforms, including reforms that are associated with preservation of savings in an attempt to ensure that retired members of pension funds are provided with advanced protection against exhausting their funds prematurely. Nevertheless, the enactment of the Act did not bring about any difference relating to the sustainability of the pension benefits for it does not compel retired members to save and or invest the benefits. As a result, majority of the members who have retired often spend all their contributions or benefits on their cost of living without even investing them to ensure that the income stream lasts them for a longer period. This makes them to exhaust their pension benefits in a short space of time following their retirement and subsequently become poor to an extent that they rely on government social assistance commonly known as the old age pension/grant. In essence, compulsory investment of the pension benefits is imperative for poverty alleviation. It is within this context that the study examines the feasibility of the sustainability of retirement benefits of South Africans.

1.3. Literature review

Naive utilisation of pension benefits has dragged many households into over indebtedness, and this is caused by failure to invest pension funds upon or before retirement. According to Jooste another aspect that causes poverty upon retirement is lack of adequate preservation of funds. This is due to the fact that many ex employees often withdraw their pension funds upon resignation or when they change jobs without investing such funds.[21] Jooste further argued that the root cause of this

with only half of the problem' (2021) Daily Maverick https://www.dailymaverick.co.za/article/2021-01-04-longawaited-pension-reforms-deal-with-only-half-of-the-problem/ Accessed 19 April 2022.

[21] Jooste R(2021) Daily Maverick https://www.dailymaverick.co.za/article/2021-01-04-longhttps://www.dailymaverick.co.za/article/2021-01-04-long-awaited-pension-reforms-deal-with-only-half-of-the-problem/awaited-pension-reforms-deal-with-only-half-of-the-problem/ Accessed 19 April 2022.

norm to many employees is that they lack financial knowledge that they can preserve their pension lump sum payment.[22]

The South African National Treasury has stated that many employees change jobs several times and along the way, they withdraw all their pension savings and spend all of it without preserving it for retirement and they become poor shortly after retirement.[23] Furthermore, the South African National Treasury stated that these improvements may include but are not limited to assessing all the pension policies, making amendments thereto, and implementing measures to aid in flexible withdrawals of the pension funds.[24] Taking into account this problem, there was a necessity to make improvements so that the regulations of the pension fund system of South Africa may offer extensive protection to many vulnerable employees whose vulnerability has been caused by lack of knowledge.

George developed a pension fund management model that aimed at resolving and finding solutions to problems underlying pension system in South Africa.[25] The pension management model relied on the Broad-Based Black Economic Empowerment Act 53 of 2013 (BBBEE) perspective to provide a variety of pension schemes to meet the diverse socioeconomic requirements and standards of the employees and pensioners.[26] Furthermore, the model required that there should be a development of a policy that regulates and monitors the conduct of pension trustees and the government so as to provide effective protection against malpractices and charging of fees that are excessive on pension funds.[27]

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[22] Jooste R https://www.dailymaverick.co.za/article/2021-01-04-long-awaited-pension-reformshttps://www.dailymaverick.co.za/article/2021-01-04-long-awaited-pension-reforms-deal-with-only-half-of-the-problem/deal-with-only-half-of-the-problem/ Accessed 24 March 2022.

[23] National Treasury,' frequently Asked Question on retirement reforms page 7.

[24] http://www.treasury.gov.za/twinpeaks/CoFI%20Bill%20policy%20paper.pdf; Accessed 24 March 2022. National Treasury (2004) 'Retirement Reform a discussion paper' 50.

[25] Travers G.D, 'Analysis of South African pension fund conversions: 1980-2006; developing a model for dealing with environmental change' (2009,) University of South Africa 231.

[26] Ibid (n31) 231-234.

[27] Ibid (n32) 231-234.

This viewpoint of the above model was widely welcomed by the National Treasury as it added that in both the public and private sectors there should be flexible pension schemes. This flexibility is purported to suit the diverse socio-economic standard of employees and pensioners and protect them against all other schemes that may maliciously deal with their pension funds.[28]

International experience based on observation of the ILO (international labour standards),[29] foreign regulatory systems and international conventions[30] have suggested that there is a need for a regulatory system that has to mandatory intervene in the current pension system otherwise it will be onerous to create a pension system that is driven by the suitability of retirement products.[31] Taking into consideration the above statement, the National Treasury responded by proposing a three-tier assembly for annuitizing balances of retirement. The first one-third (1/3) of the outstanding retirement benefits may be collected in money or as at present. The remaining two thirds of the withdrawal amount, up to a maximum amount must be utilised to purchase a default asset that provides some protection against unanticipated perpetual risk.[32]

Nevondwe opined that the need for preservation of pension funds is inevitable and this requires portability system that is flexible enough to increase the probability that employees will have enough funds after retirement and such funds will not be recklessly squandered.[33] This consequently requires that there be arrangements for preservation with number of available financial preservation in order to render the

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[28] Ibid (n33).

[29] https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/socialhttps://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang--en/index.htmsecurity/lang--en/index.htm. Accessed 24 March 2022.

[30] The Social Security (Minimum Standards) Convention, Invalidity, Old-Age and Survivors' Benefits Convention and Social Protection Floors Recommendation convention.

[31] National Treasury, (2012) 'Enabling a better income in retirement' 42.

[32] Ibid(31)

[33] Nevondwe LT, 'South African Social Security and Retirement Reform: A long journey towards the redrafting of the new Pension Funds Act' (2010) Pensions: An International Journal 15, 287.

South African pension system serving the best interests of its people.[34] According to Nogantshi the right system for South Africa is multipillar to cover all groups of income in the country. The restriction for the strategy will be financial education for South Africans. To alleviate poverty at a basic level, the first pillar must be a non-contributory pillar.[35]

Mamabolo posits that the retirement reforms proposals for retirement fund are a sign that the government is increasing security of finance to all citizens.[36] The mandatory preservation introduction is the right way of encouraging savings. Mamabolo further argue that quite a number of South Africans are retiring poor and unprepared financially.[37] Only few workers are capable of maintaining a pre-leaving of work level of eating after they have retired because of lack of savings when they leave their work.

The small number of people who are saving and preserving for retirement is a serious concern as retirees will be poor and relying on old age grant which cannot be enough for their survival.[38] This research suggests that it is important to restructure the laws governing retirement funding. This is due to the fact that the current laws are not updated enough to meet the current economic needs and conform to the social security standards.[39] The system of retirement does not accommodate the needs of South Africans and the system of present retirement was not related in 1956 when the PFA was promulgated. The pension funds in South Africa are not safe due to weak governance system characterised by high tax rate and elevated cost of retirement.[40]

Kgatla is of the view that the system of retirement will be simplified by introducing a uniform tax treatment for retirement fund benefits and donations. Kgatla further posits

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[34] Nevondwe (2010) Pensions: An International Journal 15, 25.

[35] Somaguda-Nogantshi A, 'South Africa's Retirement Reform: lessons from the Chilean reform enacted in 1981' (2008) University of Pretoria 1, 105.

[36] Mamabolo M.M, 'Retirement reforms laws: A comparative study between South Africa and Chile' (2015) University of Limpopo 42.

[37] Ibid (n42) 42.

[38] Ibid (n43) 43.

[39] Ibid (n41) 43.

[40] Ibid (n41) 42.

that various ways of reforming annuities market, lowering fund of retirement cost and toughen fund governance should be considered on a serious note.[41] The requirements of annuitisation for all kinds of retirement funds should be correlated to minimize the impact on less earning household.[42] The government and relevant stakeholders (such as employers, service providers, members and unions) should prioritise rebuilding by distributing all important funds in terms of both finances and personnel to implement suggested overhaul.[43] The method of collection revenue need to be established and focus to collect revenue to help vulnerable employees.

Segodi is of the view that there must be restructurings in the laws, regulations and policies that oversee pension fund in South Africa. Those reforms must aim at flattening out the irregularities and paradoxes such as high taxation on members who are resigning and pre-retirement cashing-out of lump sum.[44] The reforms must aim at encouraging people to preserve for pension by eradicating the impediments including the high tax rate on people who are resigning and early-retirement lump sum withdrawal.[51] The improvements should likewise bring about elasticity of such scheme and make sure that retirement preservation is invested in the high protected instrument.[45]

The government should introduce research unit to deal with taxation and pension fund unit in the National Treasury.[46] The National Treasury proposed that even small scale employers and their employees should have pension funds where they preserve funds.[47] In order to make this practicable, the National Treasury introduced the

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[41] Kgatla IP,' Social Security and Retirement Reforms in South Africa: Prospects and Challenges' LLM Dissertation, (2013) University of Limpopo 51.

[42] Ibid (n47).

[43] Ibid (n47) p 50.

[44] Segodi VO,' A law regulating taxation of pension benefits in South Africa' March (2015) University of Limpopo, 41.

[45] Ibid (n44).

[46] Ibid (n45) p 42.

[47] National Treasury, 'Improving tax incentives for retirement savings: Technical Discussion Paper E for public comment' (2012) Government of South Africa 1.

umbrella of funds whereby the small scale employers and their employees should be given various exceptions in regard to deductions and tax liabilities so that they have enough funds to spend daily and simultaneously preserve for pension.[48] In an attempt to strengthen the pension fund system in South Africa, the National Treasury held that members of its economics, law, taxation, researchers and sociology will carry on researching on good method and ways of bettering the system in answer of the problems the country is facing in that respect.[49]

The point of departure is to look at systems of agreeing to all the laws, policies and adjustment that governs taxation and pension fund to remove flaws and misperception.[50] The study agree with Segodi in the sense that if the students and ordinary people are being taught about the importance of preservation, they will retire with enough money and use it wisely. In this regard mandatory savings education must be given to everyone free of charge for equitable access to knowledge development platform.

Rusconi opines that the "Financial Sector Conduct Authority" (FSCA) should make clarity to its regulatory aims concerning retirement funds.[51] This approach system to the retirement funding system may call high risk of failing market and some steps that may be lay hold of by regulators to overawe the risk.[52] The primary goal of the approach considers a framework of old age grant provisions in respect of efficiency, sustainability, coverage and security and the role of FSCA to develop and meet the regulatory imperials. We must consider regulatory priorities through the line of primary goal, providing a sound point of departure and better opportunities.[53]

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[48] National Treasury, 'Governance of umbrella funds' Government of South Africa 1.

[49] National Treasury 'Strengthening retirement savings: An overview of proposals announced in the 2012 Budget' (2012) Government of South Africa 1.

[50] Segodi V.O (2015) University of Limpopo, 42.

[51] Rob R,' Regulating South Africa's retirement funds: The case for clearer objectives: South African Journal of Economic and Management Sciences'30 November 2021,7.

[52] Ibid (n51).

[53] Ibid (n52).

Like other various retirement market, South Africa's environment for old age supply in the private sector is big, complicated and very essential to a broad range of participants.[54] It is deeply distinguished by problems, especially with regard to the arrangement of enticements amongst agents and their principals.[55] This environment needs sound and productive oversight. The FSCA has been given the authority to perform this oversight. It requires to station a set of regulatory aims that are expressed plainly and also interpreted into quantifiable results.[56] Success against these conclusions should be always reported to the government for policy adjustment.[64]

Marumoagae is of the view that in the government of South Africa there is a need to introduce mandatory savings with the intention to help members of retirement funds to be independent with sufficient funds after they have retired.[57] All members of the retirement fund should be obligated to save without exceptions, but if members are facing serious financial problems which might lead them into debts they must be allowed to cash out their retirement savings.[58] The proposed mandatory savings of retirement benefits in South Africa is flexible.[59]

It is not desirable to force members to save money which they are in need of it at the moment. The National Treasury of South Africa encourages savings and gives workers opportunity to decide when they retire on how they want to spend their benefit.[60] Despite implementing mandatory savings, it can be a very good motive to enforce the sympathies and serve hardship test in South Africa.[61] It was made clear that the test is applied in relation to early withdrawal and only when employees have reached

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54 Ibid (n54) 8.

55 Ibid (n54) 8.

56 Ibid (n55) 8.

57 Marumoagae CM, 'Addressing the challenge of withdrawal of lump sum retirement benefit payments in South Africa: lessons from Australia' (2017) The Comparative and International Law Journal of Southern Africa p 145.

58 Ibid (n57) p 145.

59 Ibid (n58) p 145.

60 National Treasury South Africa, 'Encouraging South African households to save more for retirement' (2021) The Government of South Africa 1.

61 Ibid (n60) p 145.

retirement age in South Africa. The payments of lump sum system encourage savings of retirement funds. It is only those who have concrete reasons for wanting to have access to their benefit as lump sum payments should be allowed to access the funds.[62] Concrete reasons are when the beneficiary or any family member is sick and want medical attention, when they want to pay their bond or pay fees of their dependants upon losing their job and when they are under serious debts.

The study agrees with Marumoagae on the basis that those who have concrete reason should be given access to their retirement savings to cover some of the gap going on in their lives. Those who don't have valid reason (such as serious sickness or any other matters) must be denied access to their retirement savings as they are the one who will retire poor and suffer because they won't be having enough. Mandatory savings will help employees to retire with adequate funds that will enable them to live a standard lifestyle and be able to support their dependants.

According to De Beer, South African employees are facing several problems in securing finance for retirement.[63] The essential of suitable financial decision in the dissimulation stage of retirement is acknowledged as essential cause of retirement financial security. The study of De Beer has provided integrated issues that lead to the decision of withdrawing retirement income. South Africans prefer living earnings significantly corrode conservative annuities that the relatively fees which are high on living earnings importance corrode retiral perks and that a considerable portion of living recipients pull out more than the superficially arbitrarily picked considerable tariff of 5% of the equilibrium of their living allowance equilibrium as a yearly income.[64]

The Frequently Asked Question on Retirement Reform, Policy Reform recommendations are found on the assumption that retirees generally make suboptimal financial options that unadventurous annuities that offer endurance conservation are the suitable retirement emolument results for most South Africans

[62] Ibid (n61) p 145.

[63] Jesse De Beer, 'Helping South African Achieve a Better Income in Retirement: A Critical Evaluation of the Impact of Treasury Proposals' (2014) Journal of Economic and Financial Sciences 8(1)1, 196.

[64] De Beer (2014) Journal of Economic and Financial Science 196.

and that the marketability of living annuities is mostly driven by mis-marketing and that financial advisers are inspired by the fairly high profits on these outcomes. The main purpose of the approach proposed by policy is to limit available alternatives to retirees, stimulates protection lifetime and limiting use of financial advice through compulsory option.[65]

1.4. Aims and objectives of the study.

1.4.1. Objectives

The foremost objective of this study is to encourage retirement fund members to resort to investment and enough savings for their own retirement and the needs of their family members in the future.

1.4.2. Aims

The aims of the study are to critique the laws regulating retirement reforms in South Africa and encourage retirement fund members to save adequately for retirement to prevent reliance on old-age benefits to fund their daily needs. The study analysis the feasibility of sustaining retirement benefits and focuses on the retirement reforms to deliver such sustainability. Further, the study examines policies published by government through National Treasury which advocate for retirement reforms which are aimed at overhauling the retirement funding systems which caters and improve the life of retirees. This study further seeks to encourage members of retirement funds to save adequately for retirement so that they can live comfortably when they retire. The study further encourages retirement fund members to have additional funding mechanisms to supplement their retirement savings, for examples purchasing shares using retirement savings with insurance companies to boost their retirement.

1.5. Significance of the study

This study will encourage retirement fund members to save enough and invest to provide adequately for their lives after retirement. Law students, non-law students, retirement fund members, administrators, actuaries and retirement funds industry are

[65] National Treasury, 'Frequently Asked Question on Retirement Reform' March 2015.

beneficiaries of this study as they stand to benefit from the contemporary insight of this study and improve in their respective fields and or studies. The study will also benefit the government, non-government organisations, policy makers, retirement funds industry and legislators as recommendations to the study are aimed at persuading them to adopt the recommended outcome of the study. The study will also assist government to review the retirement laws to cater for the needs of the majority of retirement funds members who are not saving enough for retirement so that they can live adequately after retirement.

1.6. Research methodology

The research methodology applied in this study is qualitative method, relying primarily on policies, books, dissertations, journal articles, newspaper articles, online sources and foreign authorities. Moreover, a comparative study will be employed to compare the retirement funding systems in South Africa and United Kingdom in an attempt to reform and or improve the retirement laws in South Africa. A lesson will be learnt from this country which will assist South Africa to improve its retirement funding systems.

1.7. Scope and limitation of the study

The research will be comprised of five (5) interrelated chapters and the said chapters are briefly outlined below;

1.7.1 Chapter one: Introduction and historical background

This is an introductory chapter which provide an in-depth or insight of the proposed study. It introduces the study and outline thorough comprehension of what the study is all about. This also envisage the historical background of the study.

1.7.2 Chapter two: Policy and legislative framework on retirement

This chapter interrogate the regulatory framework and related policies on pension fund, more particularly on the issue of preservation of the pension benefits. It takes an in-depth discussion on the laws such as Pension fund Act, Post Office Act, Transnet Pension Amendment Act, Government Employees Pension Law and retirement reforms discussion papers. It provides a broader interaction on these laws to establish whether or not preservation of the pension fund benefits is encouraged or regulated.

1.7.3. Chapter three: International instruments

This chapter deals with international legal framework relevant to pension funds and examine if South Africa laws are consistent with international law.

1.7.4. Chapter four: Comparative study between South Africa and United Kingdom

This chapter deals with the comparative study between South Africa and United Kingdom. It further explores the pension laws from these countries relating to preservation of the pension fund benefits and see if lessons could be drawn for South Africa.

1.7.5. Chapter five: Conclusion and recommendations

This chapter deals with the conclusion drawn from the entire study and make recommendations.

CHAPTER TWO: POLICY AND LEGISLATIVE FRAMEWORK ON RETIREMENT REFORMS

2.1. Introduction

Pertinent to pension fund, preservation entails an amount of money which the government encourages employees through various pension schemes and regulatory framework to save from their salaries so that they may have adequate living funds after retirement.[66] There has been recommendations from various commissions that there is a need to improve the standard of retirement fund governance, including knowledge for trustees and regulations of how they should handle the funds for the purposes of ensuring safety investment of pension funds.[67] This certainly requires all companies that administer pension funds to have adequate knowledge and not misappropriate the pensions funds as that would be contrary to the best interests of pension members. Based on International Labour Organisation (ILO) social security minimum standards, employers and pension fund administrators often encourage employees that earn above certain level to preserve a certain amount of money that should be paid to them upon retirement to avoid relying on old age grant.[68]

In addition, ILO further requires that pension fund administrators, government and employers develop comprehensive schemes for pension fund investment that should benefit retired people and provide them with social security sourced from their preserved money.[69] With attempts to meet the international standards and resemble the emerging changes for pension funds, new governing regulations were introduced in 2013 for the purposes of ensuring that trustees of pension funds conducted themselves diligently and in accordance with the law when they manage.[70]

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[66] Allen Gray (2021) Allan Gray Investment Services (Pty) Ltd 2.
[67] National Treasury,' Frequently Question asked on Retirement Reform' p 1.
[68] Article 1 Social Security Convention; National Treasury,' Frequently Question asked on Retirement Reform' 2.
[69] Article 1 Social Security Convention; National Treasury,' Frequently Question asked on Retirement Reform' 2.
[70] National Treasury,' Frequently Question asked on Retirement Reform' p 2.

The reforms proposed on retirement funds are aimed at resolving the structural deficiencies, the pension system that is currently operating in South African and pension fund that can be through regulatory amendments.[71] This required introducing compulsory pension fund preservations and with the public sector learning from private sector so that there be equality between the management of employees in public sector and employees in private sector.[72]

2.2. Proposed policy reform on retirement

The government of South Africa replaced the Pay-As-You-Go (PAYG) pension scheme and introduced the fully funded pension scheme near the supposition of the apartheid regime's era.[73] This study discussed some of the motives for this change and also indicated its contemporary effects in relation to challenges hindering development in South African pension system hence it was often dominated by lack of adequate protection of the pensioners.[74] A PAYG pension plan is a retirement scheme where participants decide how much they wish to contribute, either by contributing a flat sum of the appropriate amount or otherwise or by having the specified amount periodically withdrawn from their income. The employee has a number of investing options to choose from and decide if they choose a safer, steadier-returning fund or a riskier one that would yield a larger return.

The main issues that PAYG public pension schemes face first and foremost is that pension systems must give retirees a sufficient income throughout this part of their lives. Second, participants want benefits that are proportionate to the contributions made. Removing PAYG system assisted members of pension funds to save as the system was not compelling them to save certain amount, but they were given an opportunity to decide as to how much they want to save. The study believes that by giving employees or pension members an opportunity to choose as how much to

[71] National Treasury, 'Social Security and Retirement Reform' A Second Discussion paper, 27 February 2007, p 18.
[72] Ibid (n71).
[73] Hendricks F, 'The Private Affairs of Public Pensions in South Africa, 'Debt, Development and Corporatizations' springer link 2014.
[74]Ibid (n73).

contribute hinders them from saving enough simply because they not earning much, and they cannot afford to contribute more.

The prevalent effect for changing from PAYG pension scheme to introducing the fully funded pension scheme was to give rise to drastic increase in national debt, as the government employees during apartheid regime voluntarily indebted the state for the purposes of safeguarding their own pensions that they will need when they retire.[75] The apartheid regime noticed that there was a likelihood that the democratic government may not have intentions to honour the apartheid pension system and to avoid substantial loss for the civil servants. There was a various need for consultations and reforms of the past systems to proceed with some of them to the new system.[76] Change in the system of government assisted the pensioners to save more than during apartheid, it was a good move from PAYG system to the current pension system as it encourages members to save for retirement.

Some of the fundamental and main compromises made during negotiations table leading to democratic government was that the assurance to legitimately protect pension funds of government employees, mostly those who accumulated their pension savings under apartheid regime.[77] Therefore, this meant that the debt incurred by the apartheid regime during its last years was carried over to the democratic government and thus the new government started on indebted foundation due to pension fund system of the former government. This caused difficulties on transferring the old pension system into the new system under the democratic government.

Another aspect that contributed to the said difficulty was the creation of Bantustans and making every area of Bantustans to have its own system as this complicated transferring the right amount of rights and responsibilities.[78] A good illustration given by Hendricks about this matter was that "the South African government had its own pension scheme, separate the so-called independent states had their own pension scheme, and the self-governing homelands had their own pension scheme and so on.

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[75] Ibid (74).
[76] Ibid (n75).
[77] Ibid (76).
[78] Ibid (n77).

There were ten such separate pension funds for various arms of the government with no uniformity at all".[79]

In the 2013/2014 Budget Speech Overview, the then Minister of Finance made proposals for changes and introducing new systems in the pension that operated at that time. The proposed reformation envisaged preservation, good governance, annuitisation and harmonisation of retirement funds.[80] The main purpose of the new approach on the pension policies was therefore to make changes and correct the flaws that were brought by the former system, mainly the apartheid system of pension funds.[81] As from 2015, the new system of making pension funds as fringe benefits has commenced and employees where to "receive a tax deduction on employer and employee contributions to a pension fund, provident fund or retirement annuity fund up to 27.5% of the greater of remuneration and taxable income".[82] The proposed changes by the minister really encourage savings and the number of people who are saving seems to have increased drastically through good governance showed by the government.

Amounts in pension fund accounts at the time of implementation of the proposed new pension systems, namely the P-day and growth-On-these, could be withdrawn in cash but subject to taxation and could be taken from preservation fund only.[83] The amounts that employees did not withdraw in any year were carried over to the year that followed.[84]

A formal and informal public consultation involving only affected members was conducted and it was found that majority of the affected persons did not support the introduced pension system. The major reason given against the introduced system with its effect of pay-cash withdrawal benefits was that it is inappropriate to most employees as it did not afford them an opportunity to strike a balance of adequately

[79] Ibid (n78)
[80] National Treasury 'Retirement Reform proposals for further consultation' (2013) 1.
[81] Ibid (n80).
[82] Ibid (n81).
[83] Ibid (n82) p 2.
[84] Ibid (n83).

affording their current basic expenses and making adequate preservation.[85] Only few affected employees supported the new system of full preservation and were mostly people who earned high salaries and had an opportunity to afford preservation and affording daily expenses.[86] The consultation of affected people before implementing new policies ensures coherence to democratic standards and freedom of expression.[87] This also ensured that employees are afforded a pension system that is suitable for them based on their needs and interests instead of operating in a dictatorship system of implementing policies without consulting affected individuals.

The Pension Fund industry in South Africa is one of the largest in the world, with members exceeding 2 trillion.[88] Worldwide and around the country Pension Funds are the most vital institutional investors.[89] They deduct money from both the employees and employers with the purpose of ensuring that the retirees and their dependants have income towards retirement, death or when a member becomes disabled to such extent that he cannot provide for the family.[98] Due to the long-term nature of contributions and the risks associated with keeping such pledges, pension funds do create prudential concerns, even though they differ slightly from other prudential organizations like banks, which guarantee deposits upon demand. Both defined contribution (DC) and defined benefit (DB) plans share this prudential concern, which aims to prevent fraud and excessive risk-taking (which additionally require a continuous matching of liabilities and assets).[90]

Additionally, even while the collapse of a pension fund does not necessarily threaten the entire financial system or economy, a collapse brought on by fraud and poor management can seriously harm pension fund members' futures as well as the security and incentives of the savings system. Therefore, pension funds require sound prudential management.[91] The contribution of the employer makes it clear that the government encourages preservation taking into consideration the fact that

[85] Ibid (n4)
[86] Ibid (n85) p 4.
[87] S16 Constitution of the Republic of South Africa 1996.
[88] National Treasury, 'A safer financial sector to serve South Africa better' 23 February 2011, p 49.
[89] Ibid (n88).
[90] Ibid (n89).
[91] Ibid (n90).

employee’s contribution alone won’t be sufficient. The main goal of the preservation is to retire with something so that they do not suffer the time when they will be not earning anything.

Chapter 7 of the 2011 Budget Review details the status of current South Africa's significant social security reform, which was first announced by the Minister of Finance in 2006 and will also cover retirement reform.[92] In order to safeguard present pension or retirement annuity fund members, the National Treasury has implemented urgent measures relating to governance, transparency and investment framework.[93] Instead of discussing the larger social security and retirement reform, this part of the study will concentrate on the interim measures implemented to safeguard present savings.[94] The budget speech review and minister encourages preservation through retirement reform. They made sure that the pension which is being invested no one should tamper with it.

The National Treasury believes it is critical to increase access to affordable retirement savings options for persons whose work income is low or erratic.[95] In certain nations, mandated social security contributions are used to achieve this.[105] A voluntary system of retirement provision would not be adequate to address the serious issue of the low level of household savings and the propensity for a large percentage of people to reach retirement without adequate provision for themselves or their dependants, according to National Treasury's 2004 Discussion Paper on Retirement Reform, which supported the introduction of compulsory retirement provision.[106] It is suggested that all formal sector employees be subject to required contributions to the national social security system. The introduction of mandatory contributions for household employees and independent contractors would happen gradually.[96] Reforms are necessary to improve the quality of private pension fund provision in South Africa in order to reduce costs and increase equity. These reforms must protect the value of

[92] Ibid (n91, p 50.
[93] Ibid (n92).
[94] Ibid (n93).
[95] National Treasury,’ Social Security and Retirement Reform second discussion paper’ February 2007, p 11.
[96] Ibid (95).

retirement benefits accruing to members through minimum contributions to retirement savings, mandatory preservation and portability, regulated minimum early withdrawal benefits and limited deductions.[97]

Poor early leaver benefits and the provision of such benefits in cash were cited as the main causes of why so many people retire with insufficient benefits by prior commissions of inquiry into retirement funding in South Africa. If reinvested over a number of years, even modest sums acquired early in a person's working career can significantly impact retirement incomes.[98] Given the goal of providing an adequate income in retirement, the proposed implementation of required minimum contributions to retirement savings necessitates a matching restriction on the early withdrawal of such funds. This indicates that benefits must be preserved upon changing jobs, either by transfer to the employee's new occupational fund, an individual retirement account or even the national social security fund.[99]

2.3. Legislative framework on retirement reforms

There are various statutes in South African law that safeguard members of retirement funds from the reach of their creditors. Retirement benefits are given special protection under the applicable provisions of these laws. The purpose of these provisions is to guarantee that members can support themselves after retirement. In other words, these regulations have the effect of creating a general rule that protects retirees from losing their source of income in their later years.[100]

Since South Africa is a member of the ILO, it was bound to ratify the ILO conventions and enact them into its domestic laws which binds all employers, government, employees, companies and pension trustees. Consequently, numerous statutes have been enacted, some amended and others repealed and among such statutes, included

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[97] Ibid (n97).
[98] Ibid (n97)
[99] Ibid(n98).
[100] Section 21 of the Government Employees Pension Proclamation Law 21 of 1996; s 7 of the Transnet Pension Fund Act 62 of 1990; s 10B (1) of the Post and Telecommunication-Related Matters Act 44 of 1958; s 2 of the General Pensions Act 29 of 1979; and section 37A of the Pension Funds Act 24 of 1956.

are several statutes such as the Pension Fund Act, Government Employees Pension Law of 1996 (rule 17), Post Office Act Section 10, Transnet Pension Fund Act Section 2-7 and Financial Services Law Amendment Act (Section 156 protection of pension funds).

2.4. Government Employees Proclamation Act 21 of 1996

According to the GEPA as indicated by the preamble,[101] it is apparent that the legislative body had an objective to "make provision for the payment of pensions and certain other benefits to persons in the employment of the government, certain bodies and institutions, and to the dependants or nominees of such persons".[102] The GEPA obliges every employer who has employed any person who is a member of the Government Employees Pension Fund to make a monetary contribution towards the pension fund for such an employee and at the prescribed rate.[103] As this provision requires employers to deduct from their employees a certain fee based on the stipulated rates, on the other hand it serves a supplementary ratification of the international social security standards set out by the afore discussed conventions of the ILO.

The GEPA applies only to members that are covered by this Act and according to section 17(1) of the Government Employees Proclamation Act, "a person who is or becomes a member of the fund shall continue to contribute or shall with effect from the date on which he or she becomes a member, as the case may be, contribute to the Fund at the prescribed rate and shall continue to contribute for as long as he or she is such a member".[104] It is submitted that if all members are compelled by the legislature to contribute until they cease to be members then preservation will be delivered. The employer is then obligated to vigorously implement this policy in order

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[101] Currently known as the objective or preamble of the Act, unfortunately the Act in question does not entrench such section but only used words that evidently makes is clear that it's the objective or preamble of the Act.
[102] See also, section 3 of the Government Employees Pension Law Act outlining the purpose of the funds provided under this Act.
[103] Section 17(2) of the Government Employees Pension Law Act.
[104] Section 17(2) of the Government Employees Pension proclamation Law.

to ensure that members continue to contribute and in this way they will retire comfortably.

The rate of contributions mentioned above is subject to section 17(3) of the GEPLA which requires that the amount of salary should be taken into consideration when determining the rate of contributions and should be performed at intervals that are not over 3 years and the legitimately appointed workplace board.[105] Any conduct undertaken by employer or either a new statute has been enacted which gives rise to further financial obligation on the fund, that GEPFA requires such an employer or the government as the case may be, to make further contribution by making additional payment to the fund in order to satisfy and discharge its obligation.[106] The amount of contributions is determined by the amount member of pension are earning, as such those who are earning less they contribute less and those who are earning more they contribute more. Their employers are also contributing according to what their employees earn with the intentions of making contributions as part of encouraging savings.

This provision advances the benefits of members of pension fund and ensures that their salaries are deducted on a reasonable scale so that they still have enough funds to cover up their basic needs and wants during the lifespan of their employment and still they be able to have adequate pension savings. This therefore balances the current interests and future affairs of employees as it ensures a reasonable and fair deduction for current living and future savings.[118] The reasonable scale used to deduct pension to contribute on the retirement savings it would not hinder or disturb them from accessing basic needs during their period of employment. As such they would not even feel that they are saving, or something is being deducted from their salary simply because they are not deducting much but due to employers contribution during retirement it will be enough to sustain employees and their families.

The assignment, transfer, cession, pledge and hypothecation of pension benefits or rights is prohibited under this clause. The second goal is to defend members'

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[105] Section 17(3) of the Government Employees Pension Law Act.
[106] Section 17(4) of the Government Employees Pension Law Act.

retirement benefits from creditors. In other words, this clause safeguards any rights that members or their beneficiaries may have to accrue or receive retirement benefits that are owed to them. Any annuity or gratuity, or both an annuity and a gratuity is referred to as a "benefit" in section 1 of the Government Employees Pension (GEPFL) Law. The legislature defined "annuity" and "gratuity" separately to guarantee that there is no misunderstanding that the benefit mentioned in this section relates to retirement benefits provided by the fund covered by the law.[107]

Seven transactions including assignment, transfer, cession, pledge, hypothecation, attachment and execution of retirement benefits are particularly protected by the GEP Law against harming retirement assets. This clause makes no distinction between retirement monies that have accrued to members but are not yet due and those that have accrued and are due. It is unclear whether protection only applies to retirement benefits that the fund is still investing for the member and to which the member has an interest but no direct claim because exceed events specified in the fund's rules have not yet occurred, or whether this protection also applies to retirement benefits when one of the specified exit events has occurred, but benefits have not yet been received.[108]

2.5. Post Office Act 44 of 1958

The POA[21] regulates various matters affecting employees of South African Post Office including pension funds. According to section 10 of the POA there should be internal management and control of the employees of Post Office and the Post Office as their employer is entitled to make certain deductions from their salaries and deposit it to their pension fund savings. It is succumbed that section 10 of the POA made it clear that the employers and employees contribute toward the pension of the employees. The entitlement of the employer to contribute toward the pension fund of the employees made it clear that post office Act encourages their members to save enough for the requirement.

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[107] Government Employees Pension Fund v Naidoo & another [2006] 3 All SA 332 (SCA) at para 7.
[108] Government Employees Proclamation Law.

In addition, the POA further regulates "the condition for admission to and termination of membership of each fund, the amount and nature of contributions by members and contributions and other payments by the postal employer or the telecommunications employer, the benefits due to members and other beneficiaries, and the manner in which the statuses may be amended, shall be governed by the statutes of each fund, as the case may be".[109] According to section 10(4) of the Post Office Act, deductions of pension fee for the purposes of preserving it is compulsory and every employer in the industry of postal service and telecommunications should ensure that every employee has a pension scheme. It is tendered that Section 10(4) made it mandatory for the employees to be part of the pension fund, they deduct it without the employees consent which is good for employees to have enough retirement savings. Every employee of this industry is obliged to save regardless of their wish, it is a good idea to compel them to save because majority of the employees don't understand saving for future while they are suffering at the moment.

Considering that the ILO has regarded social security right as a fundamental human right, this provision makes it compulsory for every employee under postal employer and the telecommunications to have a pension savings. In order to make certain that the rights embodied in the POA are respected and fulfilled, the legislature placed employer in postal service and telecommunications to be under the obligation to make deductions and savings of pension funds of every employee until retirement.

With an attempt to ensure that these laws are always updated, the POA has been amended several times until there was promulgation of the Post Office Amendment Act[123] which provided comprehensive amendments to the old Post Office Act. A limitation has been created by the new post office legislation as in terms of section (7)(a) of the Post Office Amendment Act. The guarantee of the state in terms of subsection (6) "shall be limited to the difference between the amount paid in terms of section 8(5)(e) to the postal pension fund and the amount of the actuarial liability on the date of employment of an officer or employee by the postal employer of the pension fund referred to in section 8(5)(c) in respect of those officers or employees of

[109] Post Office Act of 1958.

the department who in terms of section 8(5)(d) become members of the postal pension fund, plus interest on that amount calculated at the rate which shall subject to paragraph (c) from time to time be determined by the chief actuary".[110] One can submit that this provision limited government's power over pension of its workers so to limit abuse of powers or arbitrary or fraudulent conduct of the government officials over the pensions of civil servants.

2.6. Transnet Pension Fund Amendment Act 104 of 2000

The Transnet Pension Fund Amendment Act[111] applies to current and retired (former) employees of Transnet in relation to pension funds and regulates how their pension funds should be administered. In addition, the TPFAA meant to regulate the "control and management of the pension fund, admission to and termination of membership, the amount and nature of contributions by members and contributions and other payments by the employer and the benefits due to pensioners and other beneficiaries, the terms and conditions under which members may elect to have their rights ceded and asserts commensurate with such rights transferred from the fund to Pension fund established by the minister in terms of section 14A(2) and the manner in which the Rules may be amended, shall be governed by the Rules of the fund".[112]

In addition, section 12 of the Transnet Pension Fund Amendment Act creates another obligation on employers and the government over the pension fund to mandatorily deduct and preserve a certain amount in accordance with a specific scale.[113] Section 12 of the TPFAA provide that employers and the government are required to ensure that their employees have pension funds that they will be entitled to receive it either upon resignation or retirement.[114] It is quite clear that section 12 of the TPFAA compels the employers and employees to save enough for employees so that they retire comfortably. This TPFAA encourages members of the pension to preserve so that they do not live in poverty after retirement. This section saves majority of the

[110] Act 11 of 1997.
[111] Transnet Pension Fund Act 104 of 2000.
[112] Section 2 of Act 104 of 2000.
[113] Section 12 of Act 104 of 2000.
[114] Section 12 of Act 104 of 2000.

people to maintain the same standard of living with those who are working even after they have retired.

The Act protect retirement fund members from any matter that can interrupt their savings. It states that no pension or lump sum from the fund, or right to such a benefit, or right in respect of contributions made by a member or on his behalf, shall be capable of being assigned, transferred, or otherwise ceded, or of being pledged or hypothecated, or be subject to attachment or any other form of execution under a judgment or order of a court of law, subject to the provisions of section 7 of the Divorce Act 1979.[115] In the event the beneficiary attempts to assign, pledge, or if one hypothecate a benefit or right, payment may be withheld, suspended, or altogether discontinued if the fund so determines; however, the fund may pay the benefit or any benefit pursuant to such contributions in whole or in part to one or more of the beneficiary's dependents or a trustee for such dependent or dependents during the timeframe that the fund may specify.[116]

The purpose of the section is to ensure that members do not retire poor and be capable of sustaining themselves after retirement. The majority of pension fund members are now reluctant to save for retirement reason being that upon divorce, they withdraw money and share with someone who did not contribute that particular amount. The study is of the view that pension fund should not form part of the matrimonial property simply because its aim is to maintain life after retirement and the moment, they start sharing it with the spouse it won’t be sufficient to maintain standard of living after retirement.

2.7. Conclusion

Preservation of the pension fund benefits has become an alarming issue amongst South African, more particularly, the retirees. Most of them live poorly after they have left employment sector due to lack of savings. The retirement system was structured in such a manner that does little to encourage members to save for pension benefits.

[115] Divorce Act 70 of 1979.
[116] Section 7 of Act 62 of 1990.

This was until the ministry of treasury proposed compulsory preservation policy in which monies will be deducted from the members for the purpose of saving for their livelihood after retirement.

The regulations of the pension funds in South Africa provided less favourable pension schemes with less protection against fraud and mismanagement of the funds by pension trustees. This therefore did not conform to the ILO required international standards for social security and consequently, reform of pension funds laws was recommended by various commissions that reviewed policy and legislative framework for pension funds in South Africa. Subsequently, there has been numerous amendments of pension fund laws in South African legal system and the retirement reforms have encouraged workers to save and be able to provide for themselves.[117] These recommendations and the reforms they brought along came with various benefits to pensioners including improvement to the conduct and knowledge of pension trustees, standard of retirement fund governance and the protection of members' interest.

[117] National Treasury, 'Frequently Asked Question on Retirement Reform' p 2.

CHAPTER THREE: INTERNATIONAL INSTRUMENTS ON PRESERVATION OF PENSION FUNDS

3.1. Introduction

This chapter focuses mainly on the international instruments dealing specifically with the issue relating to the preservation of the pension fund benefits. It interrogates how preservation of pension fund benefits is dealt with on international sphere and evaluate if lesson could be drawn or learned by South Africa. This chapter investigates the effectiveness of the laws or set of rules encouraging preservation of the benefits to the members so that they live comfortably even after pension or retirement. It explores avenues and advantages for effective implementation of the law regulating pension fund benefits.

3.2. Constitutional aspects of international law.

The ILO acknowledged in its 2019 Centenary Declaration the need to strengthen the circumstances for workers' rights around the world, particularly the right to social security and that general and durable peace can only be realized if it is built on social justice.[118] The ILO states that an international legal framework on social standards maintains a level playing field in the global economy" simply summarizes the rationale for international labour and social security standards. It aids in preventing governments and companies from succumbing to the temptation of decreasing labour standards in the hope of increasing their comparative advantage in world trade. Since governments and the social partners embraced international labour standards as minimal requirements, it is in everyone's best interest to have them applied uniformly so that those who do not comply with them do not undercut the efforts of those who do.[119] Conventions, protocols and suggestions make up these standards.[120]

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[118] ILO 2021 https://www.ilo.org/wcmsp5/groups/public/---ed norm/---relconf/ documents/meeting document/wcms_780953.pdf 9.
[119] ILO Rules of the Game 10-11.
[120] ILO 2019 https://www.social-protection.org/gimi/RessourcePDF.action?

ILO conventions are crucial in developing fundamental labour and social security norms. Researchers concur that the ILO conventions are crucial for establishing criteria for decent labour.[121] Conventions and recommendations are created through the use of international standards.[122] Through its yearly International Labour Conference in Geneva, the ILO develops these global standards. Government, labour, and employer officials from all over the world were present at this International Labour Conference.[123] Member states of the conference specify the subject and place it on the agenda. The International Labour Office then compiles a report on the laws and practices of the member states. After that, the report is forwarded to the ILO and member states for feedback.

Additionally, the International Labour Office drafts an instrument for discussion before submitting it to the conference for adoption after any required revisions have been made. Participants in the Conference can review the draft instrument for comments during the two-way conversation. It is significant to highlight that approval requires two-thirds of the standard votes.[124] The convention is typically adopted once the two thirds threshold has been met. Any convention or protocol must be submitted to the national competent authority of each ILO member state after it has been enacted for the enactment of applicable legislation or other steps, including ratification.

In the case of South Africa, the founding fathers of the Constitution should be applauded for demonstrating a desire to be a part of the international community by ratifying and consenting to be bound by labour and social security laws that are recognised both internationally and regionally. Since South Africa joined the international community with the advent of democracy, international law is seen in this context as a cornerstone of the country's legal system.[125] According to Olivier, the

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[121] Compare Weiss 2013 IJCLLIR 7-19.
[122] ILO date unknown https://www.ilo.org/global/standards/introduction-to-international-labourstandards/conventions-and-recommendations/lang--en/index.htm.
[123] ILO date unknown https://www.ilo.org/global/standards/introduction-to-international-labourstandards/conventions-and-recommendations/lang--en/index.htm.
[124] ILO Rules of the Game 10-11.
[125] Smit and Van Eck 2010 CILSA 46.

1993[126] Constitution of South Africa, which recognised international law for the first time in the nation's history encouraged the use of international law.[127] Olivier believed that by taking this action, South Africa showed the world that after the apartheid legal system was abolished, it would follow international laws and conventions.[128] To put things in perspective, it's crucial to remember that international agreements are not incorporated into our nation's domestic law and are not upholdable in court by private parties unless they are enacted as city ordinances.[129] These interpretations are supported by several parts of the Constitution that expressly refer to international law and international agreements. Any court, tribunal, or forum must therefore take into account both international law and foreign law when interpreting the Bill of Rights.

According to Section 231(3) of the Constitution, an international agreement can only become a component of domestic law if it is explicitly stated as such by Parliament and does not conflict with the Constitution. This is true even if Parliament approves its ratification or accession.[130] It is clear from the aforementioned clause that a Parliamentary Act can supersede any conflicting rights or responsibilities arising from foreign agreements signed before the Constitution took effect. A self-executing provision of an agreement that has been approved by parliament is law in the Republic unless it is in conflict with the Constitution or an Act of Parliament, according to section 231(4) of the Constitution, which states that any international agreement becomes a law in the Republic when it is enacted into law by national legislation.[131]

South Africa is in favour of the idea that common law can directly apply customary international law.[132] Additionally, these results are entirely consistent with section 35(1) of the Constitution. It states that in interpreting this chapter's provisions, courts must uphold the principles of a free and equal society and when appropriate, must take public international law into account in order to protect the rights enshrined in

[126] The Constitution of the Republic of South Africa Act 200 of 1993.
[127] Smit and Van Eck 2010 CILSA 46.
[128] Olivier et al Introduction to Social Security 163-164.
[129] Dugard International Law 339-446.
[130] Section 39(1) (b) and (c) of the Constitution.
[131] Section 234(4) of the Constitution.
[132] Gericke 2014 PELJ 2601-2604.

this chapter. They may also take into account relevant foreign case law.[133] In terms of how international law should be interpreted, section 35(1) of the 1993 Constitution stated that: "A court of law shall promote the values which underlie an open and democratic society based on freedom and equality and shall, where applicable, have regard to public international law when interpreting the provisions of this chapter".[134]

According to the section 233 of the Constitution, every court must favour any reasonable interpretation of the law that is consistent with international law over any alternative meaning that is in conflict with international law when interpreting any legislation.[135] According to the Universal Declaration of Human Rights everyone has a right to social security as a member of society. The right to social security in the event of unemployment, disease, disability, widowhood, old age or other absence of income in circumstances beyond his/her control is spelled out in more detail in Article 25.[136]

Major international human rights documents like the Universal Declaration of Human Rights (UDHR)[137] and the International Covenant on Economic, Social and Cultural Rights (ICESCR)[138] include the right to social security as a human right. It has also been acknowledged by the world community as a fundamental human right.[139] As a result, the international community as a whole is responsible for ensuring that social security and labour law norms are implemented globally, in addition to individual member states' responsibilities to ensure proper application of the laws inside their own national borders.[140] In 2001, the ILO General Conference declared that the social security is crucial for the welfare of employees, their families and the entire community.

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[133] Tshoose CI, 'Appraisal of selected themes on the impact of International Standards on Labour and Social Security Law in South Africa, p 6.
[134] Constitution Act of 1993.
[135] National Union of Metal Workers of South Africa v Bader Bop (Pty) Ltd 2003 3 SA 513 (CC) para 37.
[136] Article 22 of the Universal Declaration of Human Rights of 1948.
[137] Article 22 of the UDHR.
[138] Article 9 of the International Covenant on Economic, Social and Cultural Rights of 1996.
[139] The Right to Social Security UN Doc E/C.12/GC/19 (2008) (art 9).
[140] Tshoose CL, 'Appraisal of selected themes on the impact of International Standards on Labour and Social Security Law in South Africa, p 6.

It is a fundamental human right and a crucial tool for fostering social cohesiveness, which promotes social inclusion and social harmony. It is a crucial component of governmental social policy and a crucial instrument for preventing and eradicating poverty. It can support social justice, equity and human dignity through fair burden sharing and national unity. Furthermore, it is crucial for the growth of democracy, political empowerment and inclusion.[141] For individuals in need, especially the precariat, the constitutional approach to social security as a human right is particularly a useful weapon (workers excluded by labour and social security law partly because of the nature of their employment, for example, a typical or non-standard workers and workers engaged in the gig economy).[142]

3.3. International instruments

The International Labour Organisation (ILO) is the leading organisation regarding the adoption of social security and labour law conventions that should be domesticated in the form of policies and legislation in state members of the organisation. The ILO determines international labour standards on social security that state members should ensure that their laws conform with them and in relation to pension funds, it has adopted Social Security (Minimum Standards) Convention,[143] Invalidity, Old-Age and Survivors' Benefits Convention[144] and Social Protection Floors Recommendation[158] to regulate relations for administration and management of pension funds.

ILO has regarded social security as a fundamental human right which should be universally protected, respected, promoted and handled in equitable and dignified manner. As pension funds form part of social security rights, the above-mentioned conventions were also purported to achieve establishment of effective retirement social schemes that stipulate an ensured income security and therefore eradicate

[141] ILO Resolution and Conclusions Concerning Social Security.
[142] Krennerich 2014 VRÜ 105-122.
[143] Convention 102 of 1952.
[144] Convention 128 of 1967.

poverty.[145] The stated conventions will be concisely discussed on the below subheadings.

3.4. Social Security Convention 102 of 1952

The Social Security (Minimum Standards) Convention (Social Security Convention) was adopted in 1952 and sets international minimum standards for social security, including the retirement funds provided in the form of pension schemes.[146] This Convention determines the minimum standard for pension benefits and conditions that every member state is bound to ratify in their respective national laws to reduce poverty among elderly people who have reached the retirement age.

According to Article 25 of the Social Security Convention, every state which is a member of the ILO and which forms part of the Social Security Convention, is bound to establish a retirement fund system that will ensure that pensioners have access to basic income sourced from their wages during their employment period. Article 26 of the same convention requires that the age of pension or receiving pension funds should not be more than 65 years and the national laws of every state should determine a fixed age with which an employee will be required to retire and receive pension benefits. The Social Security Conventions makes recommendations that member states of the ILO had to report to the General Secretary of the ILO with their standards of their social security framework and "they should set out minimum standards of protection to guide the development of benefit schemes and national social security systems, based on good practices from all regions of the world".[147]

3.5. Invalidity, Old-Age and Survivors' Benefits Convention 128 of 1967

The Invalidity, Old-Age and Survivors' Benefits Convention regulates pension benefits in terms of its part III and does not significantly entrench provisions that essentially

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[145] https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/socialhttps://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang--en/index.htmsecurity/lang--en/index.htm accessed on 24 August 2022.
[146] Preamble of the Social Security Convention. "It covers the nine principal branches of social security, namely medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefits."
[147] https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/socialhttps://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang--en/index.htmsecurity/lang--en/index.htm. Accessed on 08 August 2022.

differ with the Social Security Convection discussed above. According to Article 14 of the Invalidity, Old-Age and Survivors' Benefits Convention, it is mandatory for every state that is a member of this Convention to ensure that it has domestic laws and practices for mandatory pension fund preservation for social security reasons.

This convention also requires that the age of retirement should not be more than 65 years and employees should be entitled to their pension funds upon retirement although exceptions are permitted but any exception should be fair and justifiable.[148] In terms of article 16 of this convention it requires that only employees' salaries should be deducted for the purposes of saving for pension.[149] In some cases, other categories of people who are not employees but willing to save for the purpose of securing their funds at certain age or upon occurrence of certain incident, their category and conditions should be specifically stated without vague and ambiguous terms.[150]

3.6. Social Protection Floors Recommendation 202 of 2012

The Social Protection Floors Recommendation serves as a supplementary regulatory framework and guidance for maintaining social protection floors and advancing all forms, even new forms of social security rights in order to meet the emerging needs of societies. Part III of this convention develops strategies that member States are required to implement on national level to extend social security rights and ensure that even the most marginalised and vulnerable communities have access to social security.

According to article 13(1) of the Social Protection Floors Recommendation all the states members are required to develop and put to action the social security extension strategies on national level subject to their available resources and after social participations for public view.[151] This instrument requires states that have not yet adhered to implementation of the minimum standards for social security on their states

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[148] Article 15 of the Invalidity, Old-Age and Survivors' Benefits Convention.
[149] Article 16(2) states that "where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise (a) prescribed classes of employees, constituting not less than 25 per cent of all employees, or (b) prescribed classes of employees in industrial undertakings, constituting not less than 50 percent of all employees in industrial undertakings."
[150] Article 16(1) (b) and (c) of the Invalidity, Old-Age and Survivors' Benefits Convention.
[151] Article 13(2) of the Social Protection Floors Recommendation convention.

to start by providing implementation of basic social and economic needs. Such social and economic needs comprise of measures that will reduce poverty from young and elderly people through employment and retirement benefits or funds.[152]

Sections 26, 27 and 28 of the 1996 Constitution[153] are the constitutional provisions that provide social security rights in South Africa and therefore meaning that this instrument has been ratified in support of the Constitution.[154]

3.7. South Africa's position in as far as ratification of the ILO instrument's

The step of signing is just one of the steps in the process; it is not the final step. After signing, comes ratification. Ratification is the process in which the parties must ratify the document.[155] Basically, once the document is signed, the parties must take it back to their representatives and then get is signed. The representatives are the one who have the legal authority to approve the document for which the parties have signed. For example, once all the countries sign a treaty, the countries will take the document to their government who then approve the treaty, only after which the treaty will go into effect, and it will be binding to only countries which ratified it.[156]

The ratification instruments are then transferred or informed after the country has approved the document or treaty. After this exchange, which is known as ratification, the nations will take action to create laws or other regulations to make sure they are complying with the terms of the treaty.[157]

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[152] Article 13(1) (a) and (b) of the Social Protection Floors Recommendation convention.

[153] Section 26 and 27 guarantees everyone with various fundamental human needs such as the right to adequate housing, clean water, health care and nutrition on the state's expense provided that the state has sufficient resources to provide the state basic needs. Section 28 apply for children and also confers various right to children and such rights include the right to education, adequate housing, health care, clean water and other basic needs that the government is mandated to provide.

[154] The Child Care Act and the Child's Act are some of the legislations that give effect to section 28 of the Constitution in respect of the rights of children and the LRA and BCEA give effect to section 23 of the Constitution which ensures that everyone is guaranteed to fair employment standards and practices as required by International Labour Standards of the ILO.

[155] Difference between Signing and Ratification Signing vs Ratification Accessed on 11 October 2022.

[156] Difference between Signing and Ratification Signing vs Ratification Accessed on 11 October 2022.

[157] Difference between Signing and Ratification Signing vs Ratification Accessed on 11 October 2022.

Social Security (Minimum Standard) Convention was not ratified by South Africa and therefore there is no binding effect on it. Although lessons can be drawn from this convention it does not mean that South Africa will be obligated to comply with it. Fundamentally, ILO Conventions are regarded as international labour standards because they impose a legal duty on ratifying countries to implement their provisions. Additionally, governments are required to submit reports that include information about how they are adhering to the conventions they have ratified.[158]

Invalidity, Old age, and Supervisor's Benefits Convention is not ratified by South Africa, but it contains useful information that might assist in drawing lessons to improve South Africa's Pension Funds and how preservation of funds should be implemented. Social Protection Floors Recommendation is ratified by South Africa and as such obligations imposed by it must be fulfilled. Failure to comply with obligation imposed by it, sanction will be imposed to those who failed to comply.

3.8 Conclusion

The international law standards and framework make it mandatory for the member states to ensure that monies are deducted from the member of a particular pension fund scheme so that it could be used as savings for their future livelihood. It then becomes apparent that in order for members to live comfortably, they must save sufficiently towards their pension fund during their employment era and consequently, they will be able to sustain themselves after they have left employment. Compliance with international standards then becomes peremptory in order to deliver preservation and sustain members on social security.

[158] Employer Obligations under the Recently Ratified ILO Conventions No. 167 and No. 176 in Turkey - L&E Global Knowledge Centre (leglobal.org) accessed on 08 October 2022.

CHAPTER FOUR: COMPRATIVE STUDY WITH UNITED KINGDOM

4.1. Introduction

The comparative study between South African and the United Kingdom stands to complement the similarities and the differences between the two legal systems. The laws that govern retirement reforms in United Kingdom, lessons learned from United Kingdom retirement reforms and lessons learned from South African retirement reforms. The chapter also determine the country which have better laws between the two countries. The chapter suggest laws which need to be changed after the lesson would have been drawn.

4.2. The current situation in South Africa

4.2.1. Challenges on retirement reforms and or preservation

Due to a lack of financial literacy, members who change jobs neglect to update their personal information with the fund administrator, even though doing so is vital to maintain the status of their pension funds. They thus forfeit the contributions they have previously contributed.[159] Not just for retirement, but also for unforeseen situations, saving is difficult. Therefore, the National Treasury of South Africa received applause when it published a report in December 2021 outlining its plans for retirement reforms that would allow South Africans to take some of their pension funds prior to retiring. It has the potential to have a considerable impact on the retirement outcomes and savings habits of a sizable portion of the South African population.[160]

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[159] Challenges of preservation of pension fund in South Africa - Search (bing.com) accessed 14 August 2022.

[160] Early access to pension funds – what needs to be decided? | Article (oldmutual.co.za) accessed 14 August 2022.

4.2.2. Lessons learned in South Africa

The South African pension system does not allow employees to get access to their pension's savings before retiring and encourages them to save until resignation or retirement and that is when they can have access to their preserved pension funds. This ensures that they retire with sufficient amount of money to last them few years after retirement.[161] Due to many change of jobs, many people in South Africa do not have enough pension savings as they keep withdrawing after every retrenchment or resignation and they often squander the money they have withdrawn instead of saving it for the future purposes.[162] This is the reason many pensioners in South Africa are poor and rely on government old age grant and thus necessitate the need to improve the South African pension fund system.

Government through its policies encouraged members to save so that they retire comfortably with something to sustain their standard of living. Majority of South Africans do not save adequately for living. Members are not forced to save whereas they are allowed to access their preserved pension. Members when they change jobs can decide to take their money or to transfer it to their pension.

4.3 Regulatory framework in United Kingdom

The regulatory framework for pension fund in United Kingdom have set an objective which are based on creating and finding reforms that require both voluntary and mandatory schemes for preservation of pension funds from employees' salaries and such preservation should be done by employers by deducting a fee that is determined by employees salary.[163] The system was developed so that it ratifies ILO international standards required by various conventions that employees should have retirement social security either in the form of social insurance or social assistance.[164]

Consequently, the United Kingdom pension system is based on the reforms that improved various aspects of pension funds and focused on pensioners receiving

[161] Security in retirement,' towards a new pension system' May 2006, p 31.
[162] Security in retirement,' towards a new pension system' May 2006, p 35.
[163] Recent Pension reforms and their Distributional Impact, p 18.
[164] Invalidity, Old-Age and Survivors' Benefits Convention, 1967.

adequate pensions upon retirement so that they have financial stability and tax policies requires a minimum payment from pensioners.[179] In addition, "it encourages people to work for longer parts of their lifetimes and to save more while in employment, administrative efficiency to minimize pension system running costs and the diversification of retirement income sources across providers, the three pillars, and financing forms".[165]

Employers in United Kingdom (UK) are under an obligation to compulsorily deduct fees from the salaries of their employees and preserve such fees as pension savings. This UK system puts employees in the automatic system by virtue of their employment and it in addition created the "National Employment Savings Trust (NEST) and Defined Contribution (DC)" schemes for employers so that they may be able to easily put their employees on pension systems without many challenges.[166]

South Africa is facing the same challenges of people who are not saving enough for retirement. In the UK, workers are permitted to make voluntary contributions to their own retirement savings account.[167] The new saving pension system will increase retirement security.[168] The United Kingdom cannot have half of workforce unable to take low-cost system of retirement saving.[169] UK retirement reform seeks to increase the number of employees who save for retirement.[170] In South Africa members are also allowed to make voluntary contributions straight to their retirement saving account so that they retire with enough fund for living.

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[165] Recent Pension reforms and their Distributional Impact, 18.
[166] HM Treasury December 2014 p 2.
[167] The Retirement security project,' National Retirement Saving System in Australia, Chile, New Zealand and the United Kingdom' David C. John and Ruth Levine, p 5.
[168] The Retirement security project,' National Retirement Saving System in Australia, Chile, New Zealand and the United Kingdom' David C. John and Ruth Levine, p 2.
[169] The Retirement security project,' National Retirement Saving System in Australia, Chile, New Zealand and the United Kingdom' David C. John and Ruth Levine, p 3.
[170] The Retirement security project,' National Retirement Saving System in Australia, Chile, New Zealand and the United Kingdom' David C. John and Ruth Levine, p 3.

4.4. Lessons learned from United Kingdom

The major lesson that can be learnt from the United Kingdom (UK) pension system is that they encourage long-term pension money perseveration through voluntary and mandatory pension schemes. This therefore makes them to have the most flexible pension system that covers a wide range of pension investment products and therefore United Kingdom pensioners are not affected by poverty as much as many South African pensioners are affected. This is achieved through making the pension regulatory system to be less rigid and administered by competent and skilful people with less interventions from politic thus making their pension system much independent and well-integrated.[171]

Since many South Africans are affected by poor literacy and are therefore unaware that there is preservation and investment of pension funds, which makes them to squander all their lump sum pension withdrawals shortly after resignation or retirement, the UK system seem to be better in that regard. The UK pension system committed itself to equipping its employees and pensioners with knowledge and skills about how to manage their pension funds and this was done through public consultation by workshops and use of media to disseminate the right content about management of pension funds.[172] This should also be strategically implemented in South Africa to make sure that all employees and pensioners have access to significant information necessary for them to make astute decisions on how they should manage and squander their pension monies.

The reforms of pension systems in the United Kingdom ensured that pension funds are subjected to minimum tax payments so that the tax system does not heavily contribute to depleting their pension money after resignation or retirement.[173] This ensured that their money lasts them for a long time without getting poor or in need of social assistance from government.[174] This could also be applied in South African system, which is being innovative to aspects that may improve in ensuring that pension

[171] Nest insight, 'Pension Reform in the UK 1997 to 2015' p 44.
[172] Nest insight, 'Pension Reform in the UK 1997 to 2015' p 44.
[173] Pearce N and Massala T, 'Pension Reform in the UK 1997 to 2015' (2019) Institute for Police Research and Nest insight 44.
[174] Pearce N and Massala T, (2019) Institute for Police Research and Nest insight 44.

funds last by getting rid of policies, systems and practices that may cause fast depletion of preserved pension funds.

4.5. Conclusion

Both United Kingdom and South Africa shares similar objectives of encouraging members to save for retirement. South African retirement reforms make it clear when it encourages preservation than retirement reforms of the United Kingdom. The pension fund system in the United Kingdom seems to be very flexible and comprehensive than the South African pension system as there are many lessons to be learnt from United Kingdom system than the South African pension system. Although the system of the latter country is not that bad but only has few inconvenient aspects which seem not favourable to illiterate pensioners.[175] Employers in United Kingdom have been provided with a system that makes them to easily enrol their employees into pension fund preservation and it should ensure that every pensioner is equipped with the right knowledge and skills so to manage their pension funds effectively.[191]

[175] Recent Pension reforms and their Distributional Impact, page 18.

CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

5.1. Conclusion

Based on the conducted desktop research, it was found that majority of the pensioners often squander their lump sum pension fund on their cost of living without even investing their pension funds to ensure that the income stream lasts them for a long period.[176] This is to depict that most of the pensioners live poorly after retirement because they would have exhausted or squandered their lump sum. In addition, this often occur due to lack of investment knowledge and illiteracy and therefore the effect of squandering all their pension funds without investment makes them poor and rely on old age grant for survival.

Consequently, the study had an objective purported to provide regulatory knowledge and investment knowledge to all pensioners, pension trustee and employers in order to encourage employees and retired individual to resort to proper pension investment for social security purposes. The literature has revealed that most of the employees retire poor because they do not save money or reserve their pension or retirement benefits for life after retirement. The South African National Treasury has made averments that there should be mandatory preservation of pension funds that employers must deduct from salaries of their employees for pension purposes so that all employees may retire with peace of mind.[177] The study has depicted that mandatory preservation will ensure that pensioners live comfortably even after retirement because they would still have income stream to depend on.

This came through various statutes such as the Government Employees Pension Law Act,[178] Pension Fund Amendment Act[179] and the Pension Fund Act[180] requiring that employers should mandatorily deduct at specified rate a pension fee from the salaries of their employees. This came as a necessity to conform to the ILO international social security standards for pension schemes provided in terms of the Invalidity, Old-Age

[176] National Treasury Republic of South Africa (2004) "Retirement fund reform: A discussion paper" 8, 9 and 10.
[177] National Treasury Republic of South Africa (2013) South African Government 1 and 2.
[178] Mainly in terms of section 27 of the Act 21 of 1996.
[179] Act 11 of 2007.
[180] Act 24 of 1956.

and Survivors' Benefits Convention, [181] Social Security (Minimum Standards) Convention[182] and Social Protection Floors Recommendation Convention.[183]

This study concurs with the preposition to the extent that if the employees are given the whole lump sum, they will live poorly after retirement. This is necessitated by the fact that pensioners do not save or resort to invest their lump-sum. They resort to spend or squander without reserving such benefits for life after retirement. The basis of assenting to this perception is that compulsory preservation is indeed necessary to meet the basic and dignified standard of living after retirement as pensioners would be having adequate savings and investment plans. The importance of this study is therefore to encourage members to save so that they retire comfortably with something to survive.

5.2. Recommendations

The study therefore recommends as follows:

- That the compulsory preservation must be prioritized and implemented so that the employees or contributors do not live in poverty after retirement.
- Awareness campaign or educational awareness must be prioritized so that employees are informed of the significance of saving for life after retirement.
- The employees must not be allowed to take their retirement saving before they retire if they are not going to use it wisely or intending to multiply it (They must provide business plan with qualified manager).
- Those affected by Covid-19 pandemic in their area of employment must be compensated by the government to avoid withdrawals of the retirement savings (Their payment must not be from their pension but the employer).
- The employees must save early so that they can take advantages of compound earnings.

[181] Convention 128 of 1967.
[182] Convention 102 of 1952.
[183] Convention 202 of 2012.

- The employees must make sure that they contribute 50% or more. The members must also consider establishing an Individual Retirement Account.

- The study further recommends that their retirement contributions must be automatic to potentially grow the nest.
- The employees must be encouraged to have investment policies or annuities to supplement retirement benefits. This will instigate them to retire comfortably with sufficient retirement benefits.
- The employees must be inculcated to invest at least 1/3 of their retirement benefits into interest bearing funds or schemes so that they could reap the rewards of such interest and have something to depend on even after having squandered the portion thereof.
- The legislature must exempt the pensioners from taxation of the benefits. This is necessitated by the fact that when the benefits are tax free, the employees get to receive quite a comfortable lump sum. Taxation of the said benefits reduces the benefits and employees end up receiving a reduced benefit.

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