



Gender Equality Observatory for Latin America and the Caribbean

CHILEAN PENSION REFORM. Advances in ensuring women's economic autonomy



UNITED NATIONS



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October 2012

Name of policy analysed:

Law 20.255 of 11 March 2008 establishing pension reform in Chile.

Policy objective:

To help build a social protection system that guarantees social security in old age for all Chilean men and women, while contributing to a reduction in poverty and the eradication of extreme poverty among older adults and the disabled.

A. Identification and definition of public problems

A.1 Frameworks of meaning

How did the policy originate?

Pension reform was a key issue in the Presidential campaign of Michelle Bachelet and was an important part of the social protection component of her government plan. When she took office as President in March 2006, she set up a Presidential advisory council for pension system reform, which gathered information, opinions and proposals from various political, academic and social actors, professional and business associations, trade unions, non-governmental organizations (NGOs) and representatives from international agencies and the pensions industry. The resulting report was used as the basis for an inter-ministerial committee to draft a bill that, in December 2006, was submitted to Congress for discussion. The law was eventually enacted in March 2008.

A.2 Identification of the problem

What is the problem?

The Chilean pension system, which had been in place since the early 1980s and was based on a compulsory privately administrated system of full individual capitalization, had proved to be a source of deep social inequality. In addition, data showed three factors that confirmed the need for change: insufficient coverage, low level of benefits and considerable fiscal effects.

For instance, only an average of 5 years of contributions were recorded for every 10 years worked. This was even more serious for women, whose average contribution density was lower than men during their working lives: 43.8% versus 59.8%. According to estimates, the benefits for over 50% of pensioners amount to the equivalent of 40% or less of their final income (which is the case for 65% of female pensioners and 33% of male pensioners). This led to one in every two affiliates requiring some kind of public financing, which had significant fiscal implications (Arenas, 2008).

How will the problem develop if steps are not taken to deal with it?

According to the information available, failure to implement a reform will result in over half of pensioners covered by pension fund administrators not having a minimum pension, and that the same proportion of the population would require some form of public financing. Furthermore in the case of women, the figure rose to 75% (Yáñez, 2010).

What specific injustices are tackled by this public policy?

The reform considers three main elements that aim to resolve the various difficulties.

1. Reincorporate the State into the pension system by creating the Solidarity Pensions System, new public institutions and guaranteed resources, so as to establish universal rights in terms of social security.
2. Increase pension coverage for vulnerable groups: young people, women and own-account workers.
 - For young people this could be via the Pension Subsidy for Young Workers to promote entry into the labour market by providing a State contribution to companies that hire them and a contribution to the pension account of the young worker.
 - For women, the reform is a step forward compared with the injustices arising from the previous system. The creation of the Child Credits, separation by gender of the disability and survivors' insurance and the division of the individual account's cumulative balance in the event of divorce/annulment increase pension coverage and narrow the pension gap between men and women.
 - Incentives for own-account workers.
3. Enhance the individual capitalization system (Arenas, 2010, p. 90).

A.3 Identification of gender injustices

What specific injustices affect women in the sphere of action of this public policy?

Two sets of factors have a negative effect on Chilean women's pensions: labour market factors (lower participation in employment, more frequent and longer breaks from employment, vertical and horizontal labour segregation, higher rates of informal or temporary work, higher rates of unemployment and wage discrimination), and pension system factors (individual capitalization, increase in required number of contribution years and application of life expectancy tables differentiated by sex). All this results in women having a low percentage of pension coverage and very low replacement rates compared with men (Yáñez, 2010).

Furthermore, owing to the system of life expectancy tables differentiated by sex, as women have longer life expectancy, dividing accumulated funds in this way (even with an equal amount of capitalization to a man) meant that women received a lower pension.

Lastly, it should be considered that two thirds of women in Chile dedicate themselves to unpaid domestic work.

Which injustices – redistribution, recognition, representation – have promoted the consideration of action?

As far as women are concerned, pension reform seeks to correct injustices of redistribution that lead to a smaller accumulation of pension funds for those women in paid work and a lack of protection in old age for those who have dedicated themselves to unpaid domestic work. Intervening in both aspects will also mitigate an injustice by recognizing the value of women's contribution to reproductive work.

B. Formulation and Design

B.1 Aim of State action

What is the effect targeted by the policy and how is this made explicit?

Pension reform is part of efforts to strengthen the role of the State in protecting the rights of the population in general. In this case, the aim is to eradicate extreme poverty and achieve a substantial reduction in poverty among men and women aged over 65, as well as among disabled people over the age of 18 by awarding pension rights to the poorest 60% of the population (Arenas, 2010).

B.2 Legislative framework

What is the legal framework that supports the policy and that enables its male and female beneficiaries to demand their rights?

Law 20.255 on pension reform, enacted on 11 March 2008 and published on 17 March 2008, establishes pension reform in Chile. It modifies, but does not repeal, the individual capitalization system in force in the country since 1980 (Law 3500).

The new law introduces the following amendments:

1. Creates a system of solidarity pensions.
2. Establishes new institutions for the Chilean pensions system.
3. Considers gender equity.
4. Increases pension coverage for own-account workers and young workers.
5. Introduces ways of increasing competency in the pensions industry and strengthening fiscal discipline (Yáñez, 2010).

Amendments to the non-contributory solidarity system (solidarity pillar)

The substantive element of the reform is the expansion of the non-contributory component of the system to use fiscal resources to guarantee coverage for the population excluded from the private contributory system:

- Solidarity pensions system, which includes the basic solidarity old-age pension and the solidarity pension contribution.
- For women, the Child credit for each live birth or adoption.

Amendments to the compulsory contribution system of pension fund administrators:

Although the new pension law does not replace the individual capitalization system, it does include amendments that affect the compulsory contribution system of pension fund administrators:

- Division of the individual account's cumulative balance in the event of divorce/annulment.
- Separation by gender for the award of disability and survivors' insurance.
- Voluntary affiliation.
- Elimination of commission.

- Minimum taxable income for male and female workers in a private domestic home.
- Survivors' pensions for female workers with a non-disabled spouse.

B.3 Political and social framework

Are partnerships established among various actors for the implementation of fair gender equality policies, so as to assess the capacities for generating social and political consensus?

The process of drafting the pension reform proposal through the creation of the Advisory Council by President Bachelet involved the participation of many actors in the debate. The Council, which was made up of representatives from academia and politics with differing ideological positions, spent its first five weeks gathering information, opinions and diagnostics. For this purpose, meetings were held with 72 organizations represented by over 240 people, including national and international experts, academics, members of social organizations and the pensions industry and business owners.

This was reflected in Law 20.255, and the creation of a Commission of Pension System Users (Art. 43), made up of a representative of workers, one of pensioners, one of public institutions and one of the private pension system entities, and chaired by a university academic. The role of the Commission will be to inform the Department of Social Welfare and other public agencies from the sector about the assessments that its members carry out of the functioning of the pensions system, as well as to propose education and dissemination strategies relating to the system.

C. Implementation

C.1 General description

Who are responsible for policy implementation?

Those mainly responsible for the social welfare system are the following public bodies:

1. Ministry of Labour and Social Welfare.
2. Department of Social Welfare.
3. Superintendency of Pensions.
4. Institute for Social Welfare.
5. Superintendency of Social Security.
6. Institute for Labour Security.

While all of the above-mentioned bodies are responsible for the functioning of the system, each one has a specific political, normative or administrative function.

Political function: the Ministry of Labour and Social Welfare and the Department of Social Welfare are in charge of policy design and leading the system. The Department of Social Welfare is the closest collaborative body to the Ministry of Labour and coordinates the actions of public services in the relevant area.

Normative and regulatory function: the Superintendency of Pensions is the entity responsible for regulating and auditing the general contributory system and solidarity pensions, as well as ensuring the correct functioning of the system. It has the power to intervene in the system of pension fund administrators by designating a delegated inspector to protect the security of pension funds.

Administrative function and delivery of benefits: the Institute for Social Welfare is responsible for system administration and delivery of benefits (along with the private pension fund administrators).

C.2 Mainstreaming

Are there any changes in the organization of work or underlying culture that are being considered or are required?

Pension reform involved major transformations in the institutional sphere. The new institutions made a distinction between public policymaking functions, on the one hand, and regulatory, normative and administrative functions on the other, as they involve different State bodies (some created by the reform itself). This results in efficient management as it avoids function and skills overlap, in other words unifying control and audit, and providing speedy access to information (Arenas, 2010, p. 106).

Is the mainstreaming of the gender approach institutionalized in the various sector instruments?

The social welfare policy has incorporated the gender approach from the outset, and this has enabled the policy to identify gaps and inequalities in the social welfare and labour systems and formulate an analysis that was used to draft the reform proposal that introduced amendments to the system aimed at resolving the problems detected.

The provisions adopted have been institutionalized insofar as they are an integral part of pension reform. This is the case of the solidarity pensions system, child credits, separation by gender of disability and survivors' insurance, division of the cumulative individual account balance in the event of divorce, introduction of voluntary affiliation, elimination of fixed commission and new minimum taxable income for workers in private domestic homes.

C.3 Relationship between the political system, administrative system and civil society

How do the different systems relate to each other during the public policy implementation process?

At its origins, with the Advisory Commission, during the subsequent coordinated work carried out by the Ministries of Labour and Finance, and during its implementation (and the creation of advisory/auditing teams such as the Consultative Council and the Users Commission), this policy has had a country vision and has involved participation of interested parties.

What is the contribution to the consolidation of democratic processes and gender justice within the public system?

The inclusion of benefits specifically targeted at women is partly based on the recognition of substantial gender gaps in the social welfare sphere (low contribution density, lesser coverage, smaller pension sums), and is also partly based on the recognition of the reproductive and care work traditionally carried out by women in this country. The determination for the State to take active responsibility for resolving these situations through legal, institutional and management changes based on reflection and discussion among stakeholders is in itself a step forward towards democratization and gender justice in the public system.

C.4 Information and dissemination

How are the various institutional and social actors informed about the launch of the policy?

For the institutional actors, the depth of the changes involved means that the implementation of the reform was planned in advance. Training of public officials was also considered in this regard.

In terms of citizens in general, the Government implemented a broad communications policy to announce the new system and disseminate the new benefits clearly. The launch of the reform was presented as part of the country's progress towards valuing the lives of Chileans and their right to age with dignity. At the same time, an information campaign was launched about the more specific scope of the measures.

What information resources does the policy have?

- The Institute for Social Welfare, which is in charge of system administration and delivery of benefits, has various information resources and channels:
 - i) the Institute's gateway on <http://www.ips.gob.cl> ;
 - ii) the Institute's public centres;
 - iii) information, claims and suggestion offices within the Institute's public centres
 - iv) mobile Institute for Social Welfare (public centre in an adapted vehicle to see mainly older or disabled users in rural or urban areas so that they can receive information, guidance and assistance to process the various benefits through the Institute). There are eight mobile offices throughout the country, except in the II, VI, VIII and XII regions, as well as two mobile offices in the Metropolitan Region.
- Gateways of bodies related to the social welfare system.
- Information material specially produced by related public services such as the National Older Adults Service (SENAMA), among others.
- One of the objectives of reform is to ensure standards of care applied where people live. With this in mind, most municipalities in Chile have been incorporated into the scheme, so that they have available information there.
- Furthermore, the reform resulted in the creation of a new institution: the Fund for Social Welfare Education, the purpose of which is to support projects, programmes, activities, promotion, education and dissemination measures relating to the pensions system. First and foremost, this Fund makes it possible to generate and implement initiatives that increase public knowledge of the pensions system. It is also a tool for promoting collaboration among civil society organizations.

C.5 Sustainability

What administrative resources have been allocated?

This reform called for the introduction of new public institutions for the pensions system, and these were designed to provide the administrative capacity to support the policy.

New bodies have been created and existing ones modified, while overlapping functions have been eliminated and the powers of each body have been clearly defined (and they are all accountable to the Department of Social Welfare, which has had its political function strengthened in terms of system design and coordination). The system also comprises the Superintendency of Pensions, the Institute

for Social Welfare, the Superintendency of Social Security and the Institute for Labour Security.

A system of social welfare data has also been created using consolidated information from various databases to: i) predict query and request processes about benefits; ii) provide information on the population to deliver benefits at the point of contact (rather than people having to visit several offices), and; iii) formulate short-, medium- and long-term projections and carry out system monitoring.

What financial resources have been allocated?

As stated above, the Pensions Reserve Fund had already been established under the terms of the Law on Fiscal Responsibility prior to the 2008 pension reform. This Fund supports the pension policy.

The Budgets Directorate of the Ministry of Finance, with technical support from the International Labour Organization (ILO), devised a long-term projections model of the system, so as to provide a suitable reflection of future commitments.

C.6 Competency, capacity and skills development

Does the policy include training plans for public officials directly or indirectly involved in the various aspects of its application?

This reform called for the creation of new institutions and the design of training plans for the public officials of the Institute for Social Welfare. This training was carried out in stages in order to prepare staff to respond to the new demands of users and the requirements of the information systems created. Thousands of public officials from other sectors and from municipalities were also trained, in other words all those who have contact with users and must help clarify their doubts.

D. Assessment, Control and Oversight

D.1 Monitoring

What are the follow-up mechanisms for the policy (impact measurement, indicators and so on)?

The Department of Social Welfare, by means of its Strategic Analysis Unit, has translated the targets defined by the Council into indicators in order to quantify, measure and therefore determine the changes made by implementing the policy. In terms of gender equity, the aims of reform are to increase the level of pensions that women can expect, achieve greater equity between women's and men's pensions, improve women's security in terms of their income in old age and eradicate extreme poverty and reduce poverty among older women.

Have dialogue mechanisms been generated between civil society and the State for the purposes of monitoring compliance with the policy?

The link with civil society operates through bodies set up as part of the reform and other actions undertaken by the Department of Social Welfare.

- Users Commission in its capacity as the body that receives the opinion of the various actors in the system and that is responsible for forwarding this to the Department of Social Welfare.
- The Department of Social Welfare will manage the Fund for Pension Education created by the

reform, the purpose of which is to improve the limited knowledge that affiliates have about the pensions system.

Furthermore, the State of Chile has information and claims offices in each public agency, which provide information on available services and receive complaints about non-compliance.

D.2 Production of information

Is there an institutional mechanism for producing information relating to this policy?

The Strategic Analysis Unit working with pension data provides fundamental support for the management of the Department of Social Welfare¹, particularly in legislative, operational and analytical matters. Its functions include the consolidation of sector data to improve strategies of eligibility and targeting, generate predictions and consolidate citizen information to facilitate the processing of benefits through the use of online channels.

In budgetary matters, it is stipulated that the Budgets Directorate of the Ministry of Finance will produce an annual report containing estimates of the actuarial studies on the contingent liabilities resulting from payment of the basic solidarity pension, the solidarity pension contribution and the State minimum pension guarantee.

Every five years, the Budgets Directorate and the Superintendency of Pensions will request an actuarial study to assess the effect of changes in demographic and financial variables, as well as in the behaviour of affiliates such as replacement rates, so as to review the fiscal commitments.

Are there mechanisms to report non-compliance with the policy?

The law establishes time periods for responding to requests for public information and claims. The law also establishes sanctions in cases where access is denied without good reason or a timely response is not given.

Claims can be made directly with the Institute for Social Welfare through one of its information, claims and suggestion offices, as they gather complaints against public services and institutions from the central State administration (the Government). There is also the option of the Office of the Ombudsman (www.cdc.gob.cl).

D.3 Results in terms of the policy objectives

What results has the policy had in relation to explicit objectives and gender justice objectives?

In terms of women, the pension reform successfully corrects injustices of redistribution that lead to a smaller accumulation of pension funds for women who carry out paid work and a lack of protection in old age for those who have dedicated themselves to unpaid domestic work. The actions covered for both aspects also reduce the injustice of a lack of recognition of the value of women's contribution in the sphere of reproductive work.

¹Law 20.255 assigns the Department of Social Welfare with the function of advising the Ministry of Labour on formulating policies and plans for the social welfare sphere, as well as in the strategic analysis, planning and coordination of the plans of actions of the sector's public services (Art. 42, N°1).

The reform tackled the main gender gaps in terms of pensions resulting from the effects of lower contribution density, low coverage and smaller pension sums.

Progress was made in terms of redistributive gender justice thanks to changes that the reform introduced to the solidarity non-contributory system (solidarity pillar):

- The basic solidarity pension benefitted women who were not affiliated to any pension system or who had made contributions but did not have enough funds to finance a minimum pension.
- Out of all pensioners in the system, 35.2% receive the basic solidarity pension.
- Almost 70% of beneficiaries of the basic solidarity pension are women.
- In terms of the basic solidarity old-age pension, in 2011 it represented 68.5% of the total pension of beneficiaries (23.7% of pensioners in the system receive this benefit). Women account for 58% of recipients of the basic solidarity old-age pension. Furthermore, the basic pension contribution for women is much higher than that for men because they have lower coverage and contribution density in the contributory system.
- The Child credit for each live birth or adoption received by women supplements their pensions to compensate for the time that they were unable to contribute to the system because of staying home to raise children. By June 2011, 144,834 women had received the Credit, which boosts their monthly pension amount.

The benefits of the solidarity pillar apply to the poorest 60%, according to the above-mentioned figures, and mainly to women who have received the basic solidarity pension or have seen their pensions increased. There have also been achievements in terms of redistributive gender justice thanks to changes to the compulsory contributions system of pension fund administrators:

- Division of balances accumulated in individual accounts in the event of divorce/annulment. By June 2011, 165 fund transfers had been carried out among spouses, with the average receipt being 7,942,000 pesos (about 15,000 dollars). Female spouses accounted for 71.5% of those who benefited. The sum corresponds to an average of 33% reduction of the balance of the compensator and an increase of 93% of the balance of the compensated party (in terms of the balance accumulated in the individual capitalization account before the transfer) (Superintendency of Pensions, 2011)
- Separation by gender of the award of disability and survivors' insurance. There is a lower insurance premium for women (their longer life expectancy and lower accident rate reduce their probability of using the insurance). The premium difference between men and women is included in the individual capitalization accounts of women to increase their pensions. According to calculations by Podestá (2007), this results in a 4% increase in women's pensions.
- Voluntary affiliation. In the first half of 2011, 98% of new affiliates were women. Their increased affiliation is largely due to the entry into force of the Child credit.
- Elimination of commission. Commission used to bring down pension savings, and therefore pensions themselves.
- Minimum taxable income for men and women working in private domestic homes. Since 2011, the minimum taxable income has been the same as the minimum income. Before that,

taxable income was a percentage of minimum monthly income, which reduced the amount of pension received by a group made up almost exclusively of women.

According to calculations by Podestá (in Yáñez, 2011), pensions reform represents progress on the way to reducing the gender income gap in old age. The greatest percentage reduction in the gap is recorded among married individuals².

D4. Advances in terms of gender justice

Is this policy universal in terms of women (does it include all of them)?

The only universal benefit is Child credit for each live birth or adoption, which implies that all women receive a contribution to their pension savings equivalent to 18 minimum wage levies for each child. The solidarity pillar, on noncontributory contribution goes to the poorest 60% of the population. Women constitute a significant percentage of this group and are therefore the main beneficiaries. According to projections of the Budget Office of the Ministry of Finance, this is a trend that will increase.

Which gender injustices have been resolved by implementing this policy?

This policy tends to resolve a redistributive injustice, by decreasing the pension gaps between men and women and by contributing to strengthening women's economic autonomy. Furthermore, the implementation of the policy, especially the Child credit and the division of accumulated balances in individual accounts in case of divorce, not only improve the pension every woman will receive, but implies also recognition to the disadvantage of women with men for the responsibilities of parenting and care.

D.5 Issues pending

Are there gender equality issues that have been identified but not tackled by this policy?

The solidarity pillar that is given to the poorest 60% considered the economic situation of the whole household and not the individual income. This should be reconsidered: economic autonomy means that people have their own income to enable them to meet their needs.

² The group of married or cohabiting women with basic or secondary education have smaller self-funded pensions.

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