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Between Aspiration and Reality: The Effect of the French Colonial Legacy on Old-Age Pension Coverage in Africa

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1 Introduction

For a long time, the labour question and the associated demands for social protection were not on France's colonial agenda. But starting in the 1930s, peasants' and workers' strikes, especially in the railway sector, gained momentum in French colonies, culminating in the famously known general strike of Dakar in 1946 (Cooper 1990, 166). Amid these domestic struggles, international pressure on colonial powers increased, too. In the Declaration of Philadelphia, the International Labour Organization (ILO) noted that all human beings "have the right to pursue both their material well-being and their spiritual development" (ILO 1944, Chapter II (a)) and included a catalogue of social policy measures that should be promoted in its member states to meet these ends. Most remarkably, the ILO argued that these measures could also be applied to "peoples that are still dependent" (ILO 1944, Chapter V) and thus made

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colonial powers accountable for providing social protection in their colonised territories. Subsequently, the Universal Declaration of Human Rights finally codified “the right to social security” in 1948 (UN 1948, Article 22). This combination of both external and domestic pressures, as well as France’s own aspirations to reduce its World War II debt by implementing new economic initiatives in her colonies, culminated in the promulgation of the French Labour Code for Overseas Territories (LCOT) in 1952 (Act No. 52-1322). It was expected that the expansion of the imperial economy could only be achieved with improved welfare conditions in the colonies (Cooper 1990, 166). While the French Labour Code defined the rights and duties of workers, regulated the activities of trade unions and determined wages, it also defined social security rights comprising “a medical or health service for the workers employed” (Act No. 52-1322, Article 138), maternity benefits (Act No. 52-1322, Article 117) or payments in case of sickness (Act No. 52-1322, Article 48). In consequence, French colonies saw a rapid increase in social security legislation after 1952 (Schmitt 2015, 336). However, the Labour Code did not include an explicit regulation of social protection for the elderly. Old-age pensions were only mentioned in relation to trade unions. They were given the opportunity to establish pension funds “if they comply with the laws in force” (Act No. 52-1322, Article 21). Only after their independence did former French colonies implement their first public and statutory old-age protection schemes, which were nevertheless modelled after French social insurance (Schmitt 2015, 335). But to what extent did the French colonial legacy also affect other dimensions of old-age pension programmes?

This chapter takes a closer look at the legal pension coverage rates of the first pension systems that were implemented in all former French colonies in Africa after their independence. Particular attention is paid to the underlying wording of the respective laws to disentangle the mechanisms by which French colonial legacies prevailed and shaped the legal definitions of pension beneficiaries. Additionally, the performance of these pension systems is assessed in light of labour market structures and current pension developments.

This chapter shows that legal pension coverage rates can only be understood by examining the national labour codes that were implemented

shortly after independence and generally preceded pension legislation. These labour codes copied most of the regulations and definitions of the colonial LCOT from 1952, including the definition of a wage worker, which was later used to define pension beneficiaries in an attempt to close existing social protection gaps of the LCOT and to foster modernisation. However, targeting pension benefits on wage workers largely ignored the labour market structures of these countries as wage workers only constituted a negligible part of the workforce (Martens 1979). To this day there has been no significant change.

2 Legal Pension Coverage Rates in Former French Colonies in Africa

Figure 9.1 maps legal pension coverage rates of the first old-age pension programmes implemented in the former French colonies in Africa. Data have been derived from the novel PENLEG dataset (Grünwald 2021a), which defines a programme that covers at least one out of eleven predefined occupational groups¹ outside of the public sector as the first pension scheme. Additionally, the pension programme must either be defined as a mandatory insurance scheme or must offer benefits as a matter of social rights (Grünwald 2021b, 94). To code legal pension coverage rates, the original pension laws were consulted. The constructed indicator, thereby, merges information on horizontal and vertical coverage.

To code the horizontal dimension of the indicator, the number of occupational groups covered by a pension law are counted. Subsequently, the percentage share in relation to the total number of predefined occupational groups is calculated. The vertical coverage dimension, by contrast, “estimates the extent to which each occupational group (...) is covered and assigns values from 0 (not covered at all) to 5 (completely covered)” (Grünwald 2021b, 97) to all of the eleven occupational

¹ These occupational groups comprise: (1) agriculture, (2) extractive and manufacturing industry, (3) commerce and finance, (4) students and apprentices, (5) domestic and family workers, (6) home workers, (7) employers, (8) self-employed, (9) temporary and seasonal workers, (10) foreign workers, and (11) all citizens.

Fig. 9.1 Legal pension coverage rates of the first pension systems in French Africa. (Morocco and Tunisia were protectorates of France. Cameroon was colonised by France and Great Britain)

groups. If an occupational segment (e.g. industrial workers in the steel industry) of an occupational group (extractive and manufacturing industry) is excluded, one point is subtracted. A vertical score of 1 corresponds with the coverage of a single occupational segment. Subsequently, the vertical scores are summed and the percentage share in relation to the total vertical coverage that the covered occupational groups can achieve, is calculated (Grünewald 2021b, 97). Finally, both dimensions are merged to a single legal pension coverage indicator (see footnote for precise calculation).²

While the legal pension coverage rates of the first pension systems around the world were highest in Europe (Grünewald 2021b, 106), the

² Example: A pension law covers commercial and industrial workers, which corresponds to a horizontal coverage rate of 2, or 18.18 percent $[(100/11) \times 2]$. While the commercial sector is covered completely, the pension law excludes industrial workers in the steel industry from the pension system, which results in a vertical coverage of 9 (5 + 4), or 90 percent $[(100/10) \times 9]$. By merging both dimensions, we arrive at a legal pension coverage rate of 16.36 percent $[(18.18/100) \times 90]$.

legal pension coverage rates of the first pension systems in former French colonies in Africa were only 3.07 percentage points lower than the European ones and covered 53.37 percent of the predefined occupational groups on average. A closer look at the exact wording of the first pension laws reveals that twelve³ out of seventeen former colonies adopted the French definition of a worker enshrined in the colonial LCOT from 1952 to define the beneficiaries of their first pension programmes. The LCOT defined a worker as

any person, irrespective of sex or nationality, who has undertaken to place his gainful activity, in return for remuneration, under the direction and control of another person (including a public or private corporation) called the “employer”. For the purpose of determining whether or not a person is to be regarded as a worker, no account shall be taken of the legal position of the employer or of the employee (Act No. 52-1322, Article 1).

This broad and unspecific definition of a worker is the root cause for the high legal pension coverage rates in many former French colonies (Grünewald 2021b, 106). However, all countries adopting this definition also excluded specific occupational groups or delayed their access to the pension system, so that variance can still be observed (see Fig. 9.1). The first pension laws enacted by Benin (Dahomey), Niger, Togo and Mauritania, for example, stated that apprentices and trainees were generally allowed to join the pension system, but that the precise conditions for their inclusion would be specified in the future (Grünewald 2021a). The Cameroon pension system, by contrast, excluded all people “subject to customary law and (who) work (...) within the traditional framework of the family” (Law No. 67-LF-6, Article 1).

But why did former French colonies adopt this legal provision to define pension beneficiaries?

³Mali (1962), Senegal (1975), Benin (1970), Mauritania (1965), Niger (1965), Togo (1965), Gabon (1963), the Central African Republic (1962), Chad (1977), Cameroon (1969), Congo, Brazzaville (1962) and Madagascar (1969) referred to the Labour Code. Since for some countries such as Benin and the Ivory Coast only secondary information on their legal pension coverage rates was available, conclusions about the impact of the French colonial legacy cannot be drawn, yet.

3 The Persistence of French Legislation

In the following, I argue that the persistence of the LCOT's definition of a worker can only be understood in the light of the national labour codes enacted shortly after independence, which emulated the legal provisions of the LCOT, including the definition of a wage worker. Using the LCOT's definition to define pension beneficiaries mainly reflected (1) bureaucratic pragmatism of the newly independent states, (2) attempts to close existing social protection gaps among the emerging working class, and (3) efforts to promote industrialisation.

As Table 9.1 depicts, the first pension laws were often passed immediately after the adoption of the first national labour codes. Only in Togo and Congo (Brazzaville) had the colonial LCOT not yet been replaced by a national labour code when the first pension laws were passed. The Malian labour code of 1962, for example, was strongly connected to the first pension law that was enacted ten days earlier. In Article 118 on wages, the Malian labour code mentioned deductions of a "social nature" (Act No. 62-67 A.N.-R.M., Article 118) instituted to finance the public pension system. This temporal coincidence in legislation suggests that both laws affected each other with regard to the choice of legal provisions.

Table 9.1 First pension laws and adoption of national labour codes in French Africa after independence

Country	Year: Labour code	Year: Pension law
Benin	1967	1970
Cameroon	1967	1969
Central African Republic	1961	1962
Chad	1966	1977
Congo, Brazzaville	LCOT 1952	1962
Gabon	1962	1963
Madagascar	1960	1969
Mali	1962	1962
Mauritania	1963	1965
Niger	1962	1965
Senegal	1961 and 1975	1975
Togo	LCOT 1952	1968

This table only includes those countries whose definition of pension beneficiaries refers to the 1952 LCOT's definition of a worker

Source: ILO Legislative Series (2020a), own compilation

In sum, the first national labour codes in Francophone African countries were strongly inspired by the LCOT of 1952. With the exception of some local adaptations, the labour codes relied on identical definitions and regulations (Florkowski 2006, 26), including the definition of a worker. It therefore comes as no surprise that pension laws, which were typically passed shortly after the introduction of the national labour codes, emulated these provisions for defining pension beneficiaries.

In countries such as Gabon, the imposition of French legislation during colonial times was not even seriously questioned after independence. The first president, Léon Mba, often praised the colonial legacy by arguing that France paved the way for Gabon's future prosperity and independence (Kombila-Iboanga 1985, 33). Gabon therefore saw no reason to repeal the existing laws but retained the French legislation, including the LCOT's definition of a worker (Emane 2005, 200). However, some legislation was adapted to national requirements.

Retaining the definition of a wage worker stipulated in the 1952 LCOT also fostered legal coherence with regard to existing welfare commitments that originated from the LCOT. By tailoring pension benefits to wage workers, the provision of old-age protection that was originally missing in the LCOT finally complemented existing social rights. As early as 1947, a meeting hosted by the Ministry of Overseas France was held in Dakar to address the problem of old-age security in Francophone Africa. The officials argued that it would be illusory to expect that in old age an emerging working class could rely on its customary milieu, with which it most probably would have lost all its ties (Cooper 1996, 281). Thus, offering old-age protection to the working class defined in the LCOT after independence was just a next step to closing this social protection gap.

Why the LCOT's definition of a worker survived colonial times and thus inspired the definition of pension beneficiaries cannot solely be attributed to bureaucratic pragmatism or attempts to close existing social protection gaps for the new working class. In pre-colonial societies, in which the family constituted the nucleus of productivity, the category of a "wage worker" was largely unknown (Pougoue 1987, 5). Often interpreted as "part of the civilising mission of the imperialist powers" (Auvergnon 2005, 119, own translation), the legal codification of wage

work fostered a change in mentalities and social order, which prepared African societies for industrialisation (Pougoue 1987, 14). As the Senegalese case shows, the move towards a legally identifiable working class was perceived as a modernisation. Using the LCOT as a blueprint for the national labour code was a logical consequence of this line of thought (Auvergnon 2005, 126). Moreover, as an elected member of the French National Assembly during colonial times, the first President of independent Senegal, Léopold Sédar Senghor, played an active role in the legislative process of the LCOT. He vigorously promoted a definition of a wage worker that did not explicitly exclude customary work, which was later codified in the LCOT of 1952 (Cooper 1996, 294, 296). Thus, legislation tailoring pension benefits to groups other than wage workers was not likely to emerge.

While most Francophone African states feared their independence would spark an economic decline that could endanger political stability (Auvergnon 2005, 128), many countries were keen to maintain or foster their economic ties with France. Instead of shaping their economies to be more responsive to social needs, Senegal, for example, attracted French investors with liberal foreign investment laws (Abdelal 2005, 188). In the Central African Republic, France became the most dominant foreign investor, holding central positions in domains like telecommunications or oil and timber distribution (Bagayoko 2018, 26). In light of the industrialisation that was expected to accompany these policies, it is no surprise that welfare commitments were centred on the newly defined working class. But to what extent did and do these pension systems correspond with the social and economic realities in these countries?

4 Between Aspiration and Reality

Since 1957, the number of wage workers in the nine West African countries—Mauritania, Senegal, Guinea, Mali, Ivory Coast, Burkina Faso, Niger, Togo and Benin—has increased slowly. In 1974 they only constituted 5 percent of the (potential) working population (Martens 1979, 22). Even though the economies in Francophone Africa expanded during the 1950s, this process stagnated soon after independence due to the

persistence of colonial trade patterns. With France retaining a monopoly for exported goods, former French colonies mainly served as providers of raw materials (Martens 1979, 23–24). There were some exceptions such as Senegal, which possessed mineral resources and an established industrial base, but in total the potential for economic development and industrialisation was rather weak (Martens 1979, 25). Thus, more than ten years after decolonisation the hopes for an industrialised economy had not materialised in most Francophone African countries.

Recent trends in wage work show that this pattern has not changed tremendously. Table 9.2 depicts the number of wage and salaried workers as a share of total employment during the past three decades, focusing on all former French colonies whose first pension programmes applied the LCOT's definition of a worker to define pension beneficiaries. It must be noted that the definition of wage and salaried workers used below also comprises workers without formal employment contracts, who, therefore, are sometimes exempt from social protection.

Since 1991, the share of wage and salaried workers has, on average, increased by 0.21 percentage points annually. Today, still only about 22 percent of the working populations are wage and salaried workers, which reflects only modest advances in economic development. Their share is lowest in countries like Niger, Chad and the Central African Republic,

Table 9.2 Wage and salaried workers as percentage share of total employment

Country	1991	2001	2011	2019	Average annual growth
Benin	8.47	9.21	9.98	10.96	0.09
Cameroon	14.95	20.36	20.67	23.34	0.29
Central African Republic	6.83	6.97	7.34	7.46	0.02
Chad	5.11	5.44	6.54	6.74	0.06
Congo, Brazzaville	21.13	21.42	22.52	22.95	0.07
Gabon	49.41	58.13	66.08	66.16	0.60
Madagascar	13.43	15.02	10.14	11.10	-0.08
Mali	14.72	16.32	18.09	18.41	0.14
Mauritania	39.51	40.45	42.93	44.85	0.19
Niger	8.57	8.97	9.69	5.65	0.10
Senegal	12.35	21.74	29.65	34.51	0.79
Togo	10.24	10.54	13.97	17.28	0.25
Average	17.06	19.55	21.47	22.45	0.21

Source: World Bank (2020)

while it is highest in Gabon, Mauritania and Senegal. As the case of Senegal reveals, the favourable economic conditions after independence spurred wage work in the long run. In Mauritania, the dominance of the public sector contributes to high shares of salaried workers (Jewell 2015). In contrast to these countries, further industrialisation in Niger was strongly hampered by the country's low electricity production and lack of policies fostering processing industries (African Economic Outlook 2017, 280). Instead of working in the industrial sector, most workers in Niger are predominantly employed in agriculture and artisanal trade (ILO 2020b). In sum, the majority of the labour force in Francophone Africa is self-employed and part of the informal economy (Mbaye and Gueye 2018).

The protracted increase in formal wage work and the dominance of the informal sector are also reflected in low effective pension coverage rates (Fig. 9.2). On average, only 11.87 percent of the population over statutory pensionable age currently benefits from old-age protection. While

Fig. 9.2 Effective pension coverage rates, current years. (Source: ILO World Social Protection Report 2017–19, 2019)

many countries reformed their pension systems in the past decades, social insurance schemes and their connection with the national labour codes are still the guiding principles of French African pension systems (USSSA 2020). Even in countries with high rates of wage workers, such as Gabon or Senegal, the effective pension coverage rates are often much lower than the number of wage workers. Administrative weaknesses associated with the registration and identification of beneficiaries or the transfer of benefits are additional factors that contribute to low coverage rates in many countries (Gillion et al. 2000, 522).

5 Conclusion

When implementing their first old-age protection schemes after independence, former French colonies opted exclusively for social insurance designs following the role model of France (Schmitt 2015). This chapter has taken a closer look at legal pension coverage rates of the first pension systems in Francophone Africa. Legal pension coverage rates were quite high because most former French colonies used the broad definition of a wage worker stipulated in the LCOT from 1952, which served as a blueprint for their national labour codes after independence. However, by restricting pension benefits to wage workers, African leaders strongly ignored the social and economic conditions of their countries. Even ten years after independence the emergence of industrialised societies was far removed from the actual realities as the low rates of wage workers revealed. Their numbers have not even increased substantially over time. The existing pension systems, which are still based on Western social insurance principles and connected to the national labour codes, therefore, fail to provide effective social protection for the elderly. In recent years, many developing countries have moved towards non-contributory financed pension schemes that grant pension benefits as a matter of social right (Schmitt 2020). To address the problem of low effective pension coverage rates and to counter the detrimental effects of informal labour markets, this could be a promising possibility for former French colonies, too.

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