

---

**mujer y desarrollo**

**P**ension legislation and  
gender equity in Latin America

Laura C. Pautassi

**Women and Development Unit**

Project between ECLAC and the Government of the Netherlands "Changes in pensions systems and their impact on overcoming inequalities between men and women"



UNITED NATIONS



Santiago, Chile, October 2004

This document was prepared by Laura C. Pautassi, a consultant with the ECLAC Women and Development Unit, in the framework of the project entitled “Changes in pensions systems and their impact on overcoming inequalities between men and women”, with the financial support of the Government of the Netherlands.

The opinions expressed in this document, which has not undergone formal editing, are the sole responsibility of the author and do not necessarily coincide with those of the Organization

---

United Nations Publication

ISSN printed version 1564-4170

ISSN online version 1680-8967

ISBN: 92-1-121523-4

LC/L.1803-P

Sales No.: E.02.II.G.116

Copyright © Naciones Unidas, October 2004. All rights reserved

Printed in United Nations, Santiago, Chile

---

Applications for the rights to reproduce all or part of this work are welcomed and should be sent to the Secretary of the Publications Board, United Nations Headquarters, New York, N.Y. 10017, U.S.A. Member States and their governmental institutions may reproduce this work without prior authorization, but are requested to mention the source and inform the United Nations of such reproduction

## Contents

---

<b>Abstract</b> .....	5
<b>Introduction</b> .....	7
<b>I. Social security in Latin America: a reading from the gender perspective</b> .....	11
A. Introduction .....	11
B. Conceptual considerations on social security .....	12
C. Historical perspective .....	15
D. Social security coverage .....	18
E. Pension reform in Latin America .....	20
F. Social security and the scope of public measures and of the labour market .....	24
<b>II. Pension reform in five selected countries</b> .....	27
A. The missing perspective: gender and pension reform .....	30
B. Chile: the advantages of being first .....	33
C. Argentina: the new paradigm <i>par excellence</i> .....	37
D. Bolivia: The lowest cost .....	42
E. Colombia: a parallel regime .....	44
F. El Salvador: a substitution regime .....	49
<b>III. The new pension paradigm</b> .....	53
A. The labour market and pension reform: some of the evidence .....	53
B. Unpaid labour: the outstanding issue .....	55
C. Mechanisms for reform oversight .....	57
1. Pension reforms and national constitution .....	61
2. Equality plans initiated by the women's offices .....	63
D. Gender and pension reform: lessons learned .....	64

E. Recommendations.....	68
1. Recommendations for public policy-making which incorporates gender equity into gender issues .....	68
2. Research agenda.....	75
<b>Bibliography</b> .....	77
<b>Serie Mujer y desarrollo: Issues published</b> .....	81

## Tables

Table 1	Entitlement conditions for old-age pensions.....	31
Table 2	Contributors to the integrated retirement and pension system.....	41

---

## Abstract

---

The problem of social security for women in Latin America has not yet been resolved. The recent pension reforms have not contributed to solving it but have, in fact, made individuals more vulnerable in terms of social safety nets. In other words, the inequity typical of the region's social security systems has been compounded by new forms of inequity that have emerged along with the reforms.

The specific objective of this study is to analyze ways in which the principles of obligatory affiliation to the system enshrined in the pension legislation may be reconciled with inequalities inherent in labour segmentation and the resulting access to social security in Latin America. From a gender perspective, it is important to identify the changes that have occurred with the shift from an unfunded system to an individual capitalization scheme.

A comparative analysis was conducted of the conceptual and legal frameworks of legislation on pension reform, with particular emphasis on their explicit and implicit suppositions regarding women as beneficiaries within such systems. Pension legislation was examined in the cases of Chile, Argentina, Bolivia, Colombia and El Salvador, identifying the gender-differentiated effects of the reforms in each country.

In a context defined by greater socioeconomic uncertainty and population ageing, in which women's increased participation in the labour market contrasts with their increased exclusion from the benefits of social security, it is essential to include gender equity in the design and implementation of economic and social policies, in order to secure certain standards of living for everyone, especially for adults and older adults. This study therefore contains recommendations for policies and lines of research covering dimensions such as reproductive labour, wage discrimination, changes in the mechanisms used for operational oversight of the new systems and public policy options that take account of gender equity in pension matters.

## Introduction

---

This work forms part of the project “Gendered impact of pension reform in Latin America”, whose overarching objective is to systematize the knowledge that is available on gender gaps in the pension systems in selected countries of the region. It also seeks to document and evaluate the effects of changes in the pension systems, including specific attempts to eradicate inequalities between men and women, and to prepare, in a participatory manner, public policy recommendations to help correct gender inequalities.

The pension reforms in Latin America are more than simple alterations within a “range of possibilities” offered by the principles of organization of existing social security systems. Rather, they imply the imposition of a new model in the form of individually capitalized savings systems, which are privately administered and either totally replace the previous regime or complement it with other pay-as-you-go schemes. These reforms affect the fundamental objectives of the institutions, yet experience of them is very limited and their effects are long-term.

Existing assessments of the reformed systems focus mainly on the fiscal costs, the financial benefits and drawbacks of capitalization, the consolidation of a capital market and the profitability of fund managers. Analysis of the impact of the reforms on individuals are few and far between, and little has been said –or learned– about the real coverage of the system, the size of pensions and, in particular, the quality of life of its beneficiaries, men and women alike.

It has been shown that the most conspicuous gender inequalities in the existing pension systems arise in terms of coverage, age of retirement, use of actuarial tables to calculate benefits and the size of women's pensions. This inequity is all the more worrying since demographic trends show that, in Latin America, elderly women outnumber elderly men.

Given that women's participation in the labour market has also risen in recent years, especially in precarious segments without pension coverage, the overall result is that fewer women are benefiting from pension systems.<sup>1</sup>

Standards of living among the Latin American population have deteriorated rapidly in recent years, and the number of elderly people living in poverty has risen. This not only affects the quality of life of older persons, but it worsens generational conflict, since the prevailing technical and political criterion is that the future of active persons and children is more important than the present circumstances of individuals who have reached the passive stage of life.<sup>2</sup> That is to say, the elderly are not considered to be "the most vulnerable of the vulnerable" and priority is therefore given to measures directed at young people and adults. As a result, a minimum of resources is left over to "assist" the elderly population without pension coverage, either through targeted welfare programmes or through a vague guarantee of a minimum pension. Combined with the fact that the ratio of active contributors has dropped over the last few years, to an average of between 50% and 60% in most of the countries, it is clear that more and more people are being excluded from the benefits of the pension system.<sup>3</sup>

With respect to the gendered impact of reform, in order to evaluate a process of this magnitude, it is essential to consider the principle of equality, which requires, first, the same legal status and, second, actual life opportunities. Although the first *de jure* principle is guaranteed in the countries' constitutions and through their adherence to international covenants and treaties, this is not true of living conditions, which are not the same for everyone, nor are there any guaranteed minimum standards for each individual.<sup>4</sup>

Pension legislation is found to be lacking in specific promotion of opportunities to accede to the system, expand coverage, increase the number of contributors, lower risk and even out the actuarial calculations. All these factors differ considerably between men and women and, ultimately, translate into inequity for women. Once again, the discrimination consists mainly of gender-differentiated opportunities in the labour market.

The problems evidenced in the labour market necessarily call for a discussion on the rationality of the system of social policies as a whole, and not merely the particular group of social security policies. In Latin America in general, and in the structural reforms of the 1990s, the overriding tendency has been to attempt to strengthen contributory systems, even though the economies actually lack the capacity to provide work with a sufficient and stable income. Argentina is a case in point. Where systems of individual capitalization have been imposed, individuals who have an irregular income or no income at all (from reproductive labour, for example) are prevented from accessing and sustaining an individual capitalization account.

---

<sup>1</sup> In countries where the demographic transition is more advanced—such as Argentina—the group of people over 60 includes 30% more women than men, while the percentage falls as low as 15% in the other countries, except Bolivia and Brazil (both around 20%). In ten countries of the region, the social security system covers less than 25% of the population aged 60 or over (ECLAC, 2000).

<sup>2</sup> This is the gist of the World Bank report (1994), which may be considered an obligatory point of reference with regard to pension reform.

<sup>3</sup> The percentage of participants who are active contributors in the new pension systems is no more than between 48% and 53% in Argentina, Colombia and Chile, 67% in El Salvador and 82% in Mexico and Uruguay. In Chile the percentage has declined constantly from 76% in 1981 to 53% in 1998 (Mesa Lago, 2000. 25).

<sup>4</sup> Sen (1985) defines life opportunities as the individual's capacity to function within his or her social system - what a person can "do" or "be".



By the same token, the many and varied forms of labour instability and social exclusion in the region mean that citizens tend to become more and more uncertain of their life opportunities, and run a high risk of becoming entrapped in trajectories that lead to poverty and social exclusion.

Recent pension reforms have not addressed situations of discrimination. Neither have they been directed at increasing the vertical or horizontal coverage of social safety nets, but have instead shifted to citizens much of the responsibility for their own coverage against social risk. As a result, social responsibility and universal coverage are diluted, depositing with the interested party the responsibility for his/her future well-being.

It is therefore necessary to understand that social security is not merely an economic question, but also a political and cultural one. It is linked to economic growth, certainly, but also to the definition of the population's overall life opportunities and to forms of social integration. Current economic trends lead to the following questions: Is "security" of income more important than "profitability"? Should priority be given to what is the most "basic" and "necessary", or to what is "best"? To the highest level of "coverage", or to the highest level of fund capitalization?

Individual capitalization is based on the assumption that individuals have a regular and sufficient income throughout their cycle of active life, but the Latin American experience falls far short of this, for men and women alike. Although no system completely eliminates risk, it is desirable, at least, for the risk to be evenly distributed. In other words, it is not a question of establishing how to extract obligatory savings from workers, but of how to generate capacity for saving – which can only come from higher income from labour and other sources.

Furthermore, the intermittent nature of female labour, owing mainly to reproductive tasks, makes the situation even more complex. It is not a question of discriminating between those who accede to the pension system through their "own income" and those who do so through marriage (widowhood) or have no coverage and must be guaranteed some kind of minimum income. It is necessary to ensure greater equality, which is a far cry from reducing social security to an expenditure "targeted" on indigents. In this regard, as members of a disadvantaged group, women lose out in many ways.

This situation is the result of many factors, but one main cause of insecurity is the loss of the network of labour security that traditionally opened up access to economic and social rights. How, then, may the basic conditions of an autonomous existence be guaranteed in contexts which are dominated by discrimination and lack of opportunities for a large number of men and women? This is a key question for examining pension reform from a gender perspective.

For demonstrative purposes, this research sets out a conceptualization of social security from a gender perspective, delineating its scope and taking its historical dimension into account. It seeks to develop an overview of the whole process of social security systems from their inception, through their development and into crisis. This is crucial to understand the reforms implemented since the 1980s because, among other reasons, the results of that transformation depend on the dynamics of the previous model and are more significant when the gender perspective is taken into account.

Old age is one of the most difficult hazards to define and it is therefore important to delineate its scope, since it has gender-specific features that no analysis of social security may disregard. With this in mind, this work will set out to examine social security coverage and identify risks.

The second chapter seeks to demonstrate how the reform processes in each of the countries actually worsened the inequality that already existed, by generating exclusive pension systems not

only for workers, but for a large number of citizens in general. In most of the reformed legislations, the conditions under which pension rights are acquired follow a common pattern, in general terms. Each has, however, specific provisions manifesting gender neutrality. In this respect, an analysis is conducted of the legislation of each of the five countries selected: Chile, Argentina, Bolivia, Colombia and El Salvador.

The third chapter explores the new pension paradigm, drawing a link between the labour market, the care economy and the pension system. Particular attention is paid to oversight mechanisms established in the reforms, including both the creation of new institutions (pension fund administrators and superintendencies) and the adaptation of pension legislation to the Constitution of each country and to international covenants.

Lastly, the conclusions and recommendations attempt to identify the lessons that may be drawn from the processes of reform in the five selected countries, with regard to the status of women and all those who do not “qualify” for accessing to a pension system. They also examine the problems created by countless vicious circles that prevent the development of integrated pension policies and more effective social rights.

# **I. Social security in Latin America: a reading from the gender perspective**

---

## **A. Introduction**

The idea of “social security” is closely associated with the restructuring of the relationship between the State and the economy in modern capitalist societies. Modern states –whether they are of the liberal type or what are known as welfare states– have attempted in different ways to legally guarantee the security or “well-being” of their citizens through public policies.

Such policies involve large-scale transfers of income to social groups, physical infrastructure, social services, and social policies in education, housing and health, as well as regulations regarding the economy, the role of the State, the distribution of power and the organization of social control.

Security, as an objective of government policy, seeks to protect the individual from material risks and typical individual material insecurities (related to disease; incapacity to continue working or to find employment due to a loss of skills; the lack of income to deal with maternity and the rearing and/or education of children; the need to guarantee an income during retirement or in the event of the loss of a breadwinner).

These situations, which are termed “contingencies”, should not be addressed through public charity or forms of mutualism or cooperation, but should be provided for through *collective arrangements*.

Social security translates into state measures based on formal legislation, guaranteed through social rights through the intermediary of the technical and administrative action of the state apparatus.<sup>5</sup>

Together with the legislative aspect, there is an operational supposition referring to the need to define and delineate the scope of social security. In other words “how much”, “what type of measures”, “in benefit of what category of persons” and, naturally, “who will pay”. This definition is crucial in terms of gender.

The individual conditions which prevent the satisfaction of needs, are recognized, for the effects of social security, as being caused by processes that are beyond the control of the individual. These processes have consequences of a collective nature which imply externalities that are also collective (such as destructive social conflict), arising from situations of insecurity and poverty, all of which affects collective interests and goods (Offe, 1995).

The right to social security cannot properly be understood, therefore, without a close examination of the range of concerns and pressures that caused it to be necessary in the first place. Still less can social security be understood from a gender perspective unless we are familiar with the suppositions used in dealing with population groups and the prevailing power structure.

## **B. Conceptual considerations on social security**

The term social security is generally used to refer to formal schemes covering the basic contingencies established by the International Labour Organization (ILO) in convention 102 on social security (minimum standards) of 1952. These include: healthcare, inability to work through sickness, employment injury, unemployment, maternity, maintenance of children, invalidity, old age, and death of a breadwinner. Access to these forms of social security can be provided through a combination of contributions from the workers themselves, employers and governments.

This broad concept of social security includes the following programmes: (1) *social insurance*: (i) pensions for old age (or retirement), invalidity and death, or for survivors; (ii) medical and hospital treatment and monetary benefits for occupational hazards (accidents at work and occupational diseases); (iii) medical and hospital treatment and monetary transfers for maternity or common illness; (iv) monetary benefits or indemnity for unemployment; (2) *family benefits or subsidies*; (3) *social assistance*, including non-contributory pensions or free medical or hospital treatment for people lacking resources, and (4) *national health systems*, most of which are administered by national ministries of health.

Generally a distinction is made between *social security*, to which the beneficiaries, employers and the State contribute, and *social assistance*, which does not work on the insurance principle. In other words, governments determine that certain groups of citizens need assistance and that the government will pay for it, through a variety of taxation mechanisms.

An additional distinction is that social security usually refers to collective forms of protection; nevertheless, it is useful to include under the term “social security”, in the broad sense, those individuals who take responsibility for covering their own risks in the form of private retirement savings or life insurance policies, for example.

---

<sup>5</sup> Offe (1995) adds that none of these questions has been established in a simple and unquestionable manner, hence the ambiguous and “obscure” nature of social security.

In a generic sense, the right to social security has been accessed through gainful employment, and includes benefits that form part of the total salary or wage package – this is often termed the “social wage”. The most common benefits are: (i) compensation for invalidity caused by work; (ii) retirement benefits or pension; (iii) unemployment and maternity benefits; and (iv) death benefits. The members of the worker’s household – spouse and children – gained access to social security by means of trickle-down effects, i.e. by extension of the benefits accruing to the paid worker. In some countries, the bulk of trade union conflicts have been over the range or coverage of components of the social wage, lobbying for, for example, maternity leave, education grants for children or nursery schools.

Schemes of social security based on the category of wage earner grew up in parallel with the expansion of public health systems in industrialized countries and in pioneer countries in Latin America. Other countries, too, have increased the pillars of social security, to include state social assistance (non-contributory), contributory social security schemes, a private savings sector, and others.

The pay-as-you-go system, or what is generally known as the public system, has one of two types of financial regime: (i) funded: where there is a small or no reserve, and annual revenues are used to pay the benefits due that same year, and (ii) collective partial capitalization (CPC) which builds up a reserve which may or may not keep the programme on an even keel during a time, though not indefinitely.<sup>6</sup>

Contributions to this system are not defined, since it is not fixed but uncertain and tends to increase in the long term due to a number of factors: maturing of the programme, ageing of the population and changes in benefits. Benefits are defined, however, since the way they are calculated is established by law. Pensions that are nominally defined, however, often are not in practice, because they are not financially sustainable and their real value may deteriorate. In pay-as-you-go systems there is an explicit link between the benefits paid out and the contributions received, and in itself the system is basically redistributive. The question is whether revenues are always redistributed in a progressive manner.<sup>7</sup>

The pay-as-you-go system introduces an element of security by establishing an implicit covenant of solidarity, through which workers undertake to maintain pensioners and retirees, thus eliminating the risk inherent in capitalization systems with regard to maintaining a reasonable financial profitability in the long term. In other words, the capitalization system defines the benefit as a function of the contribution made, whereas the pay-as-you-go system admits mechanisms that enable progressive processes of redistribution. For this reason, a financial crisis in the system affects everyone equally.

Accordingly, pay-as-you-go systems are based on an extensive legal doctrine that establishes the principles of universality, integrity, solidarity and unity as basic to social security. These principles are also found in the prevailing approaches to social security policy, which does not mean, however, that they are materialized in practice, or that they have similar implications for men and women. In fact, pay-as-you-go systems displayed clear and determining features of discrimination towards women (Marco, 2002).

By contrast, the systems of individual capitalization built into the reforms of the 1990s moved away from the social and legal doctrine towards a purely economic one, based on the criteria of free choice and competition, efficiency and equivalence. The basis for equivalence was the

<sup>6</sup> Mesa Lago (1999) notes that this is normally termed a public regime to differentiate it from what is known as private capitalization, but in fact both are public because of the high transition cost borne by the State.

<sup>7</sup> A social security system may be considered redistributive when it distributes from high-income sectors to medium or low-income sectors. In the Latin American countries, it was argued that in pay-as-you-go systems the redistribution took place from middle-income to high-income sectors. This happened in two ways: special legislation (exceptions which afforded benefits to certain special groups, such as military personnel, legislators, etc.) and in lawsuits against the State.

principle of inherent justice, establishing that individuals would receive benefits in accordance with their contributions, thus excluding any pretension at solidarity (Marco, 2002).

ILO has identified a number of necessary and indispensable rights from among the universe of human rights, which it sets out in its *Declaration on Fundamental Principles and Rights at Work (1998)*. Taking the view that social justice is essential to guarantee universal peace, ILO considers that economic growth is a necessary but not a sufficient condition to ensure equity, social advancement and the eradication of poverty. For this reason, it propounds the need to promote solid *social policies* that guarantee fundamental rights: (a) freedom of association and the right to organize, and effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or obligatory labour; (c) effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation. In virtue of their membership alone of ILO, member States are bound to respect, promote and realize in good faith and in accordance with their national constitutions, the principles relating to those fundamental rights set out in the international agreements, even if they have not ratified the agreements that specifically set them out.

At the same time, the Committee on Economic, Social and Cultural Rights –the organ that monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR)– guarantees the recognition by States parties to the Covenant of all economic, social and cultural rights. Article 7 recognizes the right of all persons to the enjoyment of just and favourable conditions of work. In this regard, the Committee on Economic, Social and Cultural Rights has consistently interpreted the prohibition of discrimination in an inverse manner as an obligation on the part of States to guarantee special protection for the most vulnerable social groups. The Committee has insisted, “even in times of severe resources constraints, whether caused by a process of adjustment, of economic recession, or by other factors, the vulnerable members of society can and indeed must be protected” (CESCR, 1999, General Comment 3, paragraph 12).

Older persons figure among the most vulnerable groups. In its General Comment 6 on the economic, social and cultural rights of older persons, the Committee took the view that “States parties to the Covenant are obligated to pay particular attention to promoting and protecting the economic, social and cultural rights of older persons. The Committee's own role in this regard is rendered all the more important by the fact that, unlike the case of other population groups such as women and children, no comprehensive international convention yet exists in relation to the rights of older persons and no binding supervisory arrangements attach to the various sets of United Nations principles in this area” (CESCR, 1999, General Comment 6, paragraph 13).

The Committee added that “side by side with older persons who are in good health and whose financial situation is acceptable, there are many who do not have adequate means of support, even in developed countries, and who feature prominently among the most vulnerable, marginal and unprotected groups. In times of recession and of restructuring of the economy, older persons are particularly at risk. As the Committee has previously stressed (General Comment No. 3 (1990), paragraph. 12), even in times of severe resource constraints, States parties have the duty to protect the vulnerable members of society” (CESCR, 1999, General Comment 6, paragraph 17).

Lastly, the use of the term “social protection” has begun to replace the concept of social security, which signals a clear backslide. The term “social security” referred to a broad package of provisions, with a strong State role not only in protection, but also in regulation and financing. By contrast, the idea of social protection suggests a much more limited model, marking a shift from broad State action to a scheme in which individuals, households and communities play a much more active role.

## **C. Historical perspective**

In the early days of European social security systems, women still lacked access to the rights of “political” citizenship and participated very little in the labour market, where their wages were lower than men’s. As a result, they were not even considered as potential beneficiaries of social rights, except for specific benefits for cases of poverty, handicap and maternity.<sup>8</sup> Although the concept of equality of rights for individuals of different sexes is an old one, it was not enshrined in legal terms until the early twentieth century.<sup>9</sup>

The claims of women’s movements in the late nineteenth century fell into two groups: middle class women who sought an income of their own for their work, sustaining that employment and motherhood were not compatible, and working class women who were obliged by economic necessity to combine the two. The proponents of what was known as “maternalist feminism” focused their attention on poor women, single mothers, working class wives (both employed and not employed), factory workers, widows and abandoned wives. They sought to vindicate motherhood itself, regardless of women’s occupation, marital status or socioeconomic situation. Motherhood was, for this branch of feminism, the unifying condition of the female sex; by vindicating the rights of poor mothers, it vindicated all mothers.

In other words, the objective was the acknowledgement of motherhood as a “social” –rather than an individual or a family– function, which therefore warranted payment. In this regard, the women’s movement fought for institutional changes that would recognize needs and rights not only in relation to the “risks” to which female workers were exposed, but also with respect to mothers, with or without wages. Out of this came a major body of social legislation which, in general terms, led to reforms instituted more as “protection” (in the paternalist sense) than as a means to extend rights of citizenship. There was no widespread and systematic recognition of the economic, social and political condition of motherhood; instead a piecemeal body of laws for groups “with special problems” was incorporated into isolated branches of legislation (labour law, family law, health insurance). The most “institutionalized” and visible policies were family benefit programmes.<sup>10</sup>

In 1919 the International Labour Organization (ILO) adopted the Washington Convention which provided for six weeks of maternity leave before and after childbirth for all women workers, a guaranteed income in lieu of wages and free medical attention. Germany became the first country to implement the Washington Convention. Initially, Great Britain provided family benefit only from the second child on, and it was paid not to the mother, but to the head of household. Following strong protests on the part of women, it was decided to pay the benefit directly to mothers. Given the high rate of female participation in the French work force, in general benefits were paid to women directly. Sweden, Norway and Great Britain implemented family benefit after the Second World War. In the 1950s maternity benefit was also extended to the wives of independent workers, particularly in the agricultural sector. Later, the payment of maternity benefit reverted to men (Bock, 1993).

After the post-war period came a time of consolidation of what are known as welfare states,<sup>11</sup> which were established on the basis of a distributive agreement which revolved around the labour relationship, based on an insurance system that guaranteed certain individuals coverage against social contingencies (old age, illness, unemployment), which worked on the logic of a capitalist system of production rooted in the Keynesian concept of “full employment”.

<sup>8</sup> See the analysis set out in Bock (1993) and in Pautassi (2000).

<sup>9</sup> The principle of equality of the sexes under the law was not a new idea in the West at the beginning of the twentieth century. The first legal steps towards the recognition of rights were taken during the French Revolution. The Universal Declaration of Human Rights (1948) does not fail to mention equality between men and women. Most of the European constitutions written after the Second World War included the principle of equality of the sexes prominently among their declarations. By contrast, the United States constitution did not incorporate this principle until 1990 (Sineau, 1993).

<sup>10</sup> The family benefit regime was not implemented until after the Second World War, and then in a manner that diverged widely from the feminist proposals.

<sup>11</sup> The main names used are *welfare state*, *Wohlfahrtsstaat* or *Sozialstaat* (welfare or social state in German), or the French *provident state* (*Etat-providence*).

The first point to mention is that the principle of “full employment” was a male-orientated one. There was never, even at the start, any possibility of considering the inclusion of women in the labour force. Basically, this was an attempt to reverse the low birth rates being recorded after two armed conflicts, by providing specific services and benefits to ensure that women would stay at home.

At the same time, the main objective of the modern welfare state, particularly in the case of the post-war European states –which served as a direct reference for Latin American welfare states– was to legally guarantee social security, by means of monetary transfers, services, physical infrastructure and regulatory policies in the areas of health, education, housing, social insurance, labour protection and family assistance.

In this context, the lack of work was seen as the main culprit in problems arising from insufficient income, even cases where any type of well-being was lacking. In turn, this situation – given the existence of a labour security network– was explained as circumstantial. As modern welfare states developed, the approach to women was adapted to the type of regime they established.

In general terms, there is a certain ambiguity in the approach to women within the different welfare state regimes. On the one hand, they figure as the main beneficiaries or “clients” yet their benefits are conditioned to certain situations: features of the family group, lifestyle, degree of poverty. Schematically speaking, Sweden promotes a certain “State feminism”, while the United States displays a greater “feminization of poverty” and corporative regimes are in an intermediate position.

From the late 1950s, the different welfare state regimes brought about a transformation in the family universe and in the conditions of domestic work. The entry of domestic appliances into the household simplified tasks and encouraged women to leave the home. Facilities grew up for the primary socialization of children and for care of children and invalids, which had previously been the exclusive responsibility of women and had kept them at home. This change enabled women to maintain a more continuous presence in the labour market and opened up new jobs and careers. The link between reproductive tasks and the development of female employment prompted claims that women were “married to the welfare state” or that women “*were* welfare, as providers of services and as beneficiaries of social aids” (Lefaucheur, 1993). Although this idea of marriage with a provident state may be exaggerated, women did achieve greater autonomy with respect to the conjugal and family bond. However, even though social services were beneficial in achieving greater emancipation for women, they also imposed behavioural stereotypes, in the sense that “the State provides but it also controls”. In other words, the welfare state provided women with assistance at the price of consolidating their dependence.

In legal terms, the legal relationship underlying modern welfare states consists of what are known as citizens’ rights, which guarantee the citizens of a state a set of social rights that arise as a product of labour rights.<sup>12</sup>

With regard to social and economic rights, the first right to be recognized was the right to work, i.e. the right to choose an occupation in a particular place of the individual’s choice and in any branch of activity which might legitimately require technical capacities. The acknowledgement of work as a right meant the formal acceptance of a fundamental change in attitudes, as well as having specific legal implications. In the words of Marshall, “the basic civil right is the right to work”, or “the first historical expression of social right” (Ewald, 1985).

Citizen’s rights meant, however, that property rights had to be given a legal and practical status, as constitutional rights granted by virtue of citizenship and not in accordance with a specific

---

<sup>12</sup> See the classic analysis of T.H. Marshall (1996), which distinguishes three types of rights: civil, political and social.



behaviour or a quid pro quo. Notwithstanding the centrality of citizen's rights, this "institutional alteration" required an ethnical, political and economic effort to rebuild a Europe devastated by two world wars, by trying out similar measures in different national contexts. In order to understand the complexity of this, it is necessary to complement the normative analysis of citizen's rights with an examination of interactions between the roles of the State, the market and individuals and households.

Welfare states organized under both the social insurance scheme (such as Germany and France) and the social security model (Great Britain) are based on similar suppositions with respect to the functioning of the economic and social system. In both cases, nets of protection or social security depend basically on the machinery of labour security, which is build up through an institutional complex that encompasses all spheres of labour (Standing, 1992: 47-48).

This machinery implied: (a) labour market security, through public policies to sustain effective demand, complemented with absorption through public employment (covert unemployment); (b) security of labour income, through minimum wage policies, "equal wage for equal work" legislation and social security schemes; (c) job security, through legislation on work contract stability, dismissal, advance notice, mandatory leave; (d) safety of working conditions, by means of hygiene and health measures, limitations of working hours and legislation on accidents at work that included the concept of blame or misconduct on the part of the employer and admitted legal action to recompense the damage incurred; (e) security of representation of interests at work, particularly through the definition of areas of professional competence and the practice of collective bargaining, including trade union organization by branch of activity.

Experience has shown that, through this machinery of labour security, the legal system often allowed pressure from certain corporate groups to filter their privileges, which resulted in fewer obligations and greater benefits. Women were left in a clearly disadvantaged position, achieving the inclusion of a few protective standards, but not the principle of equality. Instead of a legal foundation that provided the opportunity for real social solidarity, the result was a fragmented and unfairly biased system based essentially on the differences evident in the labour market.<sup>13</sup>

From these observations, it is clear that the welfare state is not neutral, since it constitutes not only a set of services and benefits, and certain rules for the regulation of labour relations, but also a group of ideas with respect to the significance of society, the family, the economy, equity, and the gender perspective. The traditional ideology on which this type of institutional arrangement was based –solidarity and citizenship– began to disintegrate, at the same time as changes occurred in the international economic and political context, which led to a reformulation of its principles of operational logic.

Unpaid but socially useful work was not taken into consideration at all, and the economy was considered to be neutral in terms of gender. Thus, a dialectic between the particular and the universal grew up, in which the particular predominated heavily over the universal, thus diluting the supposed universalist contents of social security policy. This trend was even sharper in the context of the Latin American labour market. Segmentation and lack of coverage are the chief causes of the delegitimization of social security in Latin America.

Analysts thus began to speak of a "crisis" in the welfare state, alongside "processes that call into question the structure of a social system" (Offe, 1990: 43). In other words, it was not a question of finding a way to relegitimize the welfare state, but of rethinking its founding principles –as a result of the "attacks" that were made on it, especially from neoliberal circles– and devising possible ways out of the crisis.

---

<sup>13</sup> Giménez (2002) sets out a historical analysis of the acquisition of citizenship of women in Chile and the subsequent social security benefits.

This crisis also led to “solutions” or processes of reform in the systems that varied from one model to another in both the European and the Latin American contexts. Before examining the processes of crisis and reform, however, it is necessary to look at the coverage of the system – a fundamental aspect of social security.

## D. Social security coverage

The historical and institutional development described above led to the design of different types of social security systems. The legal relationship through which such systems are implemented is a relationship of protection, in which one party (the managing entity) provides legally established benefits to another (the beneficiary) in order to alleviate a need the beneficiary experiences at a given time.

The starting point for social security legislation is the concept of *contingency*.<sup>14</sup> This refers to a future event or situation, which, should it occur, will have harmful effect on the individual. It is therefore an event that is future and uncertain –but which has a high probability of occurring– that makes it necessary to protect the individual, or a group of individuals, from such an eventuality.<sup>15</sup>

The protection of the social security system comes into effect once the contingency has arisen, having caused an individual, or members of the individual’s family, or both, to be negatively affected in terms of standard of living, as a consequence of either increased consumption, or decreased or suppressed income.

Most bodies of legislation classify contingencies in three categories:

- *Pathological contingencies*: situations where protection is required against the eventuality of disease (health insurance), accident or occupational illness (pensions for invalidity or ill-health).
- *Socioeconomic contingencies*: this refers to security against the eventuality of loss of income (retirement or pension), lack of work (unemployment insurance) or due to “expansion of the family” as a result of a birth or dependent spouse (family benefits).
- *Biological contingencies*: precautions taken in active life in order to ensure the protection of rightful claimants (pension for surviving spouse or children who are minors), in the event of death (burial costs), or a pension for non-workers who lack resources (ex-gratia or non-contributory pensions).

In all these cases what is “protected” is that which, if absent, is understood to constitute a lack or deprivation. Contingency is therefore indissolubly linked to lack, in the most traditional concept of social security, or to the state of need of the person, in the more modern vision. In either of these two cases, the protection must be linked to the coverage, that is, to what is needed to make up for the lack.

Old age is one of the most difficult contingencies to determine, since in itself it encompasses the largest number of social risks: loss of income, biological disease, invalidity or loss of faculties. In addition, its gender-specific nature is not taken into account in legislation or in the extension of

---

<sup>14</sup> The concept of contingency supersedes that of “social” risk, which presumed the origin of the apprehended risk to lie not in the particular characteristics of the individual but in the social conditions in which individuals performed their activities. Social security systems were originally structured on the basis of this concept of social risk.

<sup>15</sup> Paganini (1983:11) argued that the meaning of the term “contingency” has effectively shifted as a result of the development of social security. Before, contingency referred to a risk, as a future and uncertain event, which would cause harmful consequences for the individual. This concept of harm has been gradually replaced by the concept of need, on the understanding that what is being covered is not the harm that would be caused but the need or state of necessity. As a result, Paganini defines contingency as “the occurrence in the situation of the individual, of a group or collectivity, of conditions that will, through a chain of events and consequences, very probably generate needs whose satisfaction requires the same profile of humanity involved previously.”

benefits. Old age has gender specificities because older women may be considered one of the most vulnerable sectors of society, in both physical and economic terms, first because of their higher morbidity, which is attributable to physiological differences aggravated by the cumulative effects of malnutrition, continual pregnancies, the physical and psychological attrition of a double working day and social and economic subordination. Second, their vulnerability is multiplied by lower protection from benefits, as a result of their disadvantageous position in the labour market at younger stages of life (Gómez Gómez, 1997).

Originally, social security law was differentiated from labour law in that it did not seek to protect the wage earner as such, but the individual in his/her entirety. As the system developed, and mechanisms were designed to ensure that benefits were effectively received, dependent workers and in some cases their family group were included, although in general, the receiver of the benefits was the dependent worker and not the person that justified the claim.<sup>16</sup> Coverage for the unwaged was limited to a number of well-defined contingencies, although in most cases protection was a consequence of voluntary adherence. In other words, the principle of universality has not been sufficiently developed, and it is still a requirement to demonstrate certain circumstances in order to accede to protection.

Another of the principles of the social security system is solidarity, since the community as a whole helps to finance the system in accordance with their possibilities –general or vertical solidarity– and, in particular, active members of the community or younger generations and those with a higher income-earning capacity maintain the older members –generational solidarity– which is typically the case of pay-as-you-go pension systems. Like universality, however, solidarity has come under the spotlight as a basis for coverage.

In short, protected individuals are all those who are included in the system's field of application, or in special regimes (professionals, armed forces). They are potential claimants of the benefits established, which will come into effect when the contingency occurs, provided that they meet the required conditions (age, illness). In order to be a beneficiary, however, it is not enough to come within the field of application of these regimes; it is always necessary to meet legal requirements to accede to the status of beneficiary. These requirements may refer to the objectivization of the contingency (degree of invalidity, for example) or to legal conditions (married status) or be related to the administrative and financial authority of the regime in question (length of membership or minimum contribution). Clearly, the system is not unconditionally accessible to all citizens.

The State plays a dual role in the system: first, it recognizes the right to social security of all inhabitants, legislating and making rules accordingly and, second, it undertakes the responsibility of providing benefits directly to the beneficiaries.

Another system of classification that has been used to refer to coverage is the following: (Mesa Lago and Bertranou, 1998): (i) *Legal coverage*: a country's legislation or constitution may declare that all citizens or residents in a country have the right to coverage, but in practice only a small group accedes to them. In the Latin American context this difference is quite important, since large groups of the population are, *de facto*, excluded from the benefits of the system, even though the respective constitutions contain broad guarantees of social rights; (ii) *Statistical coverage*: refers to the number of members or active contributors registered in the system. This comes closer to the reality than legal coverage, but in many countries the statistical systems fall short and it is uncertain how many individuals are actually covered by social security; (iii) *Real coverage*: this can be

---

<sup>16</sup> This is the typical case of child benefits, in which the entitlement is generated by the child, but the benefit is received by the father, or in some cases the mother, and not always used in benefit of the entitled person (child). Another typical example is the receipt of family benefit for a dependent wife.

ascertained by means of censuses or surveys and tends to give more specific figures regarding the numbers effectively covered.

It will be noted that no consideration is given to the gender perspective in defining contingencies. The state of need is viewed as the same for men and women, with no determination of specific gender-related contingencies of any kind. Unpaid work receives no consideration either.

In this regard, although the justifications for new pension legislation mention the need for “strong legislative and institutional development” in order to implement the new systems, no new system of pension law has been developed. Serious questions therefore arise over the legal nature of many institutions, which reflect economic principles (principle of equivalence, actuarial rules, free choice and competition) more than social security.

Thus, in some cases new institutions were created (pension fund administrators, superintendencies of fund administrators) and in others existing institutions, such as life insurance companies and pension firms, were adapted. However, work on regulations and institutional adaptation may not be considered complete, since “all normative frameworks are dynamic”, and there is evidence of an “enormous effort to adapt to the needs of the new system”.<sup>17</sup> What is curious is that the needs of women have been left out of the new systems.

## **E. Pension reform in Latin America**

The possibilities of maintaining a system such as the one described became exhausted during the decade of the 1980s. In a number of ways and at varying rates particular to each specific context, from the early 1980s on the crisis in the welfare state began to break out in the form of what was known as “the fiscal crisis of the State” (O’Connor, 1973). The exclusion of large groups of the population continued and increased, at the same time as the international division of labour shifted –due to transnational corporations moving to countries with a lower cost of labour– which changed the determinants of competitiveness and heightened the trend towards increased productivity and decline in industrial employment, making family relationships ever more diverse. These changes in turn gradually eroded the “social consensus” that sustained the old social security model based on labour security.

The crisis of legitimacy regarding the traditional welfare state paved the way for the progress of neoliberal theories and, particularly in Latin America, for the emergence of a new consensus, known as the “Washington Consensus”.<sup>18</sup> Proposals for social security reform were thus polarized between the World Bank and the International Monetary Fund (IMF), on the one hand, and the International Labour Organization (ILO) and the International Social Security Association (ISSA), on the other.<sup>19</sup>

In general terms, the deterioration in Latin America’s social security systems, which began in the mid-1970s, may be attributed to the following causes: (i) decline in the revenues of the system and drop in coverage of the population, as a consequence of increased unemployment and the expansion of informal labour; (ii) hyperinflation, which caused a decline in real wages and a negative return on investments, since capital and interest were not indexed; (iii) increased evasion and public-sector debt, resulting in non-payment of employer contributions by the State; (iv) increased expenditure, causing a sharp drop in the real value of pensions, which were then adjusted by judicial means.

---

<sup>17</sup> Schultess and Demarco (1996), on the Argentine case.

<sup>18</sup> Lo Vuolo (1997) defines these theories in terms of a new social security orthodoxy, comprising the different agencies of loan assistance. The World Bank (1994), for example, uses a kind of manual of analysis and procedure for social security reform, which also operates as a manual of “conditions” required to accede to loans from the Bank, which is no small matter in countries that have large borrowing requirements in the wake of the external debt crisis.

<sup>19</sup> Birgin and Pautassi (2000) developed these lines of argument.

Eight Latin American countries reformed their pension systems: Chile, Argentina, Peru, Colombia, Bolivia, Mexico, Panama and Costa Rica. This instituted a new paradigm, whereby individually capitalized savings systems were given over to private management under State guarantee, either totally replacing the public systems, or complementing them with other pay-as-you-go pillars. This meant changes not only in the operation of the systems but also in the principles and values that underlay them.

The types of regimes implemented in these countries were (Mesa Lago and Bertranou, 1998): (i) *Substitutive*: these cancelled the public systems by prohibiting new memberships and replaced them with new systems of full and individual capitalization. This is the case of Chile, which reformed its system in 1981, Bolivia and Mexico, which followed suit in 1997, and El Salvador, which reformed in 1998; (ii) *Mixed*: although the public system is not shut down, it is reformed into a basic, social aid type component, alongside a new individual capitalization component. Such reforms were implemented in Argentina in 1994 and in Uruguay in 1996; and (iii) *Parallel*: again, the public system is not shut down, but in this case is partially or totally reformed and its monopoly ended, creating a new full and individual capitalization system that competes with the public regime. This was the case of Peru, in 1993, and Colombia, with the reform of 1994.

From a macroeconomic perspective, the impacts of a pay-as-you-go and a capitalization system are diametrically different. A pay-as-you-go system is a simple distribution of revenues from active contributors among current expenses, and may be compared with a mechanism of maintenance of effective demand and increase in consumption. A capitalization system corresponds to an accumulation of savings and an increase in the propensity to save of the contributors (labour force). The impacts of the two systems are undervalued, since the specific contribution of unpaid domestic work, which is performed mainly by women, is not considered.

The social security reforms conducted in the Latin American countries were not the outcome of a careful scientific process, but were implanted in the framework of specific political processes. In fact, a series of modifications were necessary after the reforms had come into effect in order to compensate for and/or correct mistakes. In practice, not only has the real and statistical coverage of social security systems narrowed, but indices of poverty and socioeconomic insecurity have increased constantly, even as the health and the standards of living of the population have deteriorated at a faster rate.

Uthoff (2001) argues that the issues of coverage and insufficiency of financing, as well as the growth of unemployment and the informal sector, all figured in the debate prior to the reforms, yet no consideration was given to how the new regulatory framework would deal with them. Clearly, financial criteria were all important in the reforms – increasing national saving and investment and boosting the capital market. At no time were social aspects taken into account since, in this case, a redistribution of income in line with the principle of solidarity would affect the achievement of economic objectives. By the same token, the new pension systems reduced political intervention in the use of the funds in the capitalization system, ruling out policies of redistribution using the members' contributions.

The *freedom of choice* to choose between the old regime and the new capitalization system is heralded as a benefit of the new systems. Once inside the capitalization system, contributors also have the freedom to change agencies. This “freedom” is not the same in all the countries, however. Colombia grants broad freedom and Peru, for example, allowed a lot of freedom when the system first started, but later prohibited transfers. Chile, Uruguay and El Salvador have intermediate degrees of freedom of choice, whereby new entrants to the labour market must join the full and individual capitalization system, while people who were already working at the time of the reform can choose to stay in the old system or move to the new. In Uruguay and El Salvador, new entrants to the labour market must join the full and individual capitalization system, while only some of

those who were insured at the time of the reform may choose, depending on age. Lastly, Bolivia and Mexico grant no freedom at all in this regard.

The choice of type of administrator of individual capitalization funds is tightly regulated. Chile, Bolivia, El Salvador and Peru allow the constitution of private corporations with a single line of business only, while other countries permit multiple administrators (public, private, cooperative). Chile and Peru place no restrictions on changes from one administrator to another but, in practice, since the switch-over procedure takes a year to complete, changes are restricted to one per year, whereas Argentina, Colombia, Uruguay and El Salvador allow two changes per year, Mexico one and Bolivia allowed none at all before 2001.

Freedom of choice is therefore a euphemism, while the underlying principle is that membership of the system is obligatory for all active workers. In turn, the possibility of choosing freely between capitalization account administrators is limited to those that have been approved to operate. In other words, competition and free choice are really myths, since the contribution is obligatory and the yield is practically the same, though there is a not inconsiderable variation in the commissions.

The *privatization* of the system is another euphemism of the reform, because even in the purest cases of privatization, such as Chile or Bolivia, the State plays a key role: it tightly regulates the systems, enforces membership, finances the agencies responsible for oversight and inspection of the system (superintendencies in most of the countries), assumes the triple cost of the transition (the deficit of the old system, the minimum pension under the new system and the recognition bond) and guarantees a minimum yield of investment funds and the amount of benefits in the event of bankruptcy of any of the administrators.

If private administration of pension funds is to be effective and efficient, the State must conduct rigorous inspections to avoid fraud and misappropriation of funds. The State therefore needs to have a powerful capacity for oversight, which is a particularly difficult proposition in Latin America: States that have been unable to control trade union pressure, for example, are not well placed to control economic groups that administer pension funds and survivor's insurance.

Another main argument used by apologists of the capitalization system is that the establishment of a direct relationship between contributions and benefits rewards the effort to save and discourages evasion. In macroeconomic terms, it increases national saving and strengthens the capital market, while alleviating the problems of population growth that beleaguer pay-as-you-go systems. From this perspective, women lose out *per se*, since they always manage to "save" less. For this reason, the Argentine experience shows that evasion is not a direct function of the stimulus to save, but evidently of position in the labour market and level of income. In this regard, gender inequalities and general inequalities in income combine to generate even larger disadvantages for women.

The *employer's contribution* is another of the features that vary under the new systems. At one extreme, Chile, Bolivia and Peru eliminated contributions from employers altogether. El Salvador and Mexico made no changes in this regard; Uruguay and Argentina (by means of subsequent legislation) decreased the employer's contribution and Colombia raised it. The insured party's own contribution decreased in Chile (but only for the individual capitalization system), remained unchanged in Mexico and increased in all the other countries. In practice, the reduction in the employer's contribution translated into an increase in the member's own payments, except in Chile, where the fiscal subsidy rose, and Mexico, where the State had to increase its contribution to the system in order to maintain the percentages that workers paid in premiums (Mesa Lago, 2000).

Reforms have often been justified on the basis that they boost the capital market. Where it has been possible to assess such a claim, the expectation is not borne out by experience, with Chile offering the most striking example. Another argument used to justify pension reforms is the long-

term increase in national savings, yet capital accumulated in workers' accounts must be offset by the fiscal cost of transition. Certain Latin American countries have high levels of implicit social security debt.

Under the pay-as-you-go system, men and women are guaranteed to receive a pension benefit, as it is based on an intergenerational pact rather than individual contributions. The pay-as-you-go system offers women higher pensions than individual capitalization because calculations are based on the final level of wages (generally the highest of people's careers) and take account of time dedicated to reproductive tasks on a pro rata basis. These benefits can only exist if they are financially sustainable and in the absence of the non-payment of contributions and problems relating to a low support rate (workers/retirees ratio) that require workers to make considerable contributions for retirees. These are the main reasons behind the reform.

A fundamental aspect of these models is the fiscal costs, which depend on factors including: (i) age of population; (ii) percentage of coverage of the workforce and time passed since establishment of the pension programme; (iii) number of contributors who have remained in the public programme and who have changed to a mixed or individual capitalization system; (iv) responsibilities assumed by the State during and after the transition; (v) wage contributions to the public programme and its financial situation; and (vi) conditions of entitlement within the public programme (Mesa Lago, 1999).

This means that the reforms carry a triple fiscal cost: the deficit generated in the old public programme, which is immediate and explicit; the value of the contributions paid into the old programme by insured individuals who transfer to the new programme, which is deferred; and the guaranteed minimum pension under the new system, which is also deferred. The State can also grant a pension or social benefit to poor workers who are not covered by the social security system; adjust pensions to inflation (including the minimum under the individual capitalization system), extend guarantees to contributors in the new programme and cover other fiscal costs (Mesa Lago, 1999).

In short, the problems that arise with these new regimes are: coexistence of multiple regimes with privileges and low coverage for the poorest groups; a drop in the ratio of contributors to beneficiaries; evasion of contribution payments; low returns in investment; a weak link between contributions and benefits; excessive administrative costs and poor efficiency; procyclical financial systems with social burdens on the payroll that affect corporate competitiveness; absence of any consideration of gender differences; and the increase in precarious employment with no social security coverage of any kind.

## **F. Social security and the scope of public measures and of the labour market**

The analysis set out thus far has shown how social security guarantees an income to substitute a decline in earnings caused by the materialization of a social risk. This does not refer to provision of a minimum living wage, but to restoration of the standard of living enjoyed before the social contingency occurred. This benefit is based on a fundamental social right, which is guaranteed by the State, and not a welfare-type policy.

Another aspect highlighted in the analysis was that social security, like all social rights, became one of the keystones of the modern welfare State and an important factor in political legitimacy and social cohesion in societies marked by major inequalities. This does not mean, of

course, that its coverage encompassed all those in a state of necessity or facing a contingency, but the prevailing paradigm consisted of expanding coverage consistently with the principles of universality and solidarity.

A central point is the fact that social insecurity is the result of various factors. The situation of individuals and their position in the family group, the economic and, particularly, the labour environment and the design of social protection institutions all play a part. The objective of social security cannot, therefore, be met by any single institution, but needs to be achieved by means of a complex system. This complexity is consistent with the varied nature of the phenomena dealt with by public policy institutions.

Clearly, what has been imposed in the countries is a *new social security paradigm*, which affects men and women in a differentiated manner.

The idea of privatizing the system in order to resolve the fiscal crisis and the administrative “inefficiency” of the State found its way onto the public agenda in Latin American countries as a socially problematical issue. States thus encouraged the consolidation of capital markets, but were not able to solve the deficit of the system, while the stimulus to personal saving did not serve to reduce evasion. Privatization did not relieve the State of responsibility, since it had to assume the financing of the system’s oversight and inspection agencies (superintendencies in most of the countries); the transition cost (deficit of the old system and minimum pension under the new system); the guarantee of a minimum yield for investment funds and the amount of benefits (pensions) in the event of administrator bankruptcy.

Meanwhile, social security is financed through a tax on income, without any type of coverage for informal workers, unpaid agricultural workers, unemployed and domestic workers, the overwhelming majority of whom are women. Also, no consideration is given to the unpaid work performed by women.

This means that the reforms implemented in the 1990s were not mere technical measures, but implied a *shift in the paradigm of social security*. This shift is manifested in the close link between contributions and benefits, a drop in levels of coverage, the exclusion of large groups of the population, mainly as a result of the growth in informal employment, gender neutrality and the privatization of the administration of the system, with State guarantees.

In view of the signs of deterioration evident in the reformed systems, the debate now under way among the mentors of reform has been formulated as an issue of boundaries. Efforts are being made to establish a division in the universe of individuals and social situations, between cases which are properly collective responsibilities, on the one hand, and contingencies which are properly an individual and private responsibility –though the medium of the market– or imputable to the family and other types of community and voluntary arrangement, on the other.

This means that the prevailing trend is not to extend coverage but, clearly, to transfer more risk to the individual sphere. In the traditional language of social security, policy makers are interested in the extent to which –but not beyond which– a risk may be considered social, and the limits of responsibility in dealing with the respective problem. In Marco’s (2002) terms, the dichotomy between social contract and charity has deepened, but not so criteria of citizenship.

Although the current debate on the boundaries of the existing models of social security is seen as a merely operational question, it also conceals a definition of values. In other words, the operational arrangements define levels of inequality, social needs, insecurity and categories of individuals at risk. The gender neutrality of the debate is even more obvious. Examples of questions of substance that must be asked are:



1. Who should meet the costs (through taxes and contributions) and how much of these costs can be covered without running the risk of inadvertently causing more harm than good to the economy overall or to the moral fabric of society?
2. Who should assume the cost of evening out the inequalities that the labour market generates in pensions?
3. How can the discrimination implicit in the pension systems themselves be resolved?
4. How may the principle of universality be translated into practice? Are men and women evenly balanced?
5. Are we in fact contributing to a “public good”, or to a “private gain”?
6. How does the principle of solidarity work in practice?
7. Can the reformed systems counteract sexual segmentation in the labour market?
8. Does each individual in fact pay what can be considered to be “fair”?
9. Are the existing programmes sufficiently effective and efficient or are there better and less onerous ways to achieve the desired objectives?
10. How can the issue of unpaid work be dealt with? Who will assume the lack of income from domestic and voluntary work?
11. How do population dynamics interact in the process? Are demographic patterns taken into account to determine the type of transfers for men and women?
12. Who will guarantee quality of life for older adults?

As the analysis shows, the response given by the traditional system of social insurance arose out of a network of social security which was dependent in turn on labour security, in which the bearer of the right was basically the person who met the conditions of a formal worker. The weak point of social insurance is that people are not the same, except in an abstract manner (which translates into individual rights) that operates without regard to particularities. Not only are people’s talents different; the conditions and possibilities provided by society are also unequally distributed and gender-biased.

The equality of treatment promulgated by social rights, though expressed in the form of parity or equivalence, can therefore actually heighten the inequalities people experience in practice. The problem of the legitimacy of social security consists in establishing the extent to which it reverts these inequalities. The challenge today is to interpret this situation in the light of the fact that inequalities –which deepened with the processes of structural adjustment– are reflected basically in unequal access to the labour market and inequitable opportunities to accumulate wealth.

In the terms of Uthoff (2002), it is necessary to recoup the “social function” of social security and develop a new perspective on it. It is necessary to consider not only rules to define how institutions will function, but also the economic, political and cultural context in which those institutions interact. This will provide an insight into the nature of the resources people have to accede to those institutions. Here, resources are understood in a broad sense, as similar to the notion of the capacities that individuals have at their disposal which, in any case, are subject to gender-differentiated constraints. An analysis of pension reform in each of the selected countries will help to show how those suppositions operate.



## **II. Pension reform in five selected countries**

---

Pension reform in Latin America has involved a complete overhaul of the pension system. The processes initiated in Chile in 1981, and continued in the other countries during the 1990s, imposed a new system that replaced pay-as-you-go systems with individual retirement-savings schemes. These countries reformed their pensions systems in the following order: Chile, Peru, Argentina, Colombia, Uruguay, Bolivia, Mexico, El Salvador and Costa Rica. Ecuador, Nicaragua and Venezuela are in the process of adopting or amending their respective legislations.

Various points should be considered in relation to the change in the pension systems in Latin America. Strictly speaking, such a fundamental change in the pensions system should have generated much more discussion than it did. Indeed, the speed at which reforms were implemented is striking. This assessment is not unrelated to the competing interests of those involved and the political and institutional context of the reforms in each country.

Pension reforms were actually the result of widening generation gaps. The countries' ruling coalitions negotiated the reform with the relevant sectors: unions, enterprises, banks, political parties and the State itself.<sup>20</sup> In some countries, such as Argentina, retiree and pensioners' organizations demonstrated against individual pension funds and suggested continuing with the pay-as-you-go system that would be administered by the State in conjunction with retired people and pensioners themselves. What is noticeable is the low or, in most cases, non-existent representation of the women's movement in the context of the reforms.

One of the reasons for the absence of representation is the very speed with which the measures were introduced. The fact that there was no time or opportunity for opposition (apart from a few isolated actions) indicates that they were inequitable. The institutions were limited in their analysis of the planned reform and this worked against the results of the reform. Another possible explanation is that talk of its merits went a long way towards legitimizing the new system. Apart from statements concerning the increased retirement age for women, there were no other grievances expressed in terms of gender.

In the case of Chile, the explanation might have to do with the fact that the reforms were introduced during the military dictatorship, whereas they were implemented in democracies in the other countries. The differences between democratic and authoritarian regimes certainly influence the structure and continuity of reformist coalitions, given the varied interests and demands at stake and the variables that affect both types of regime. Both systems of government have applied adjustment programmes with varying results in terms of "tolerance" to the measures introduced (Navarro, 1995).

In principle, adjustments would be incompatible with the preferences of a democratic majority, who would not be inclined to support economic programmes involving unemployment, income concentration and the reduction of State welfare. From this point of view, it should be borne in mind that adjustment is a process that invalidates collectively binding decisions as it transfers them to the market. On the one hand, adjustment is a "political" process in that it responds to certain interests and is enforced by public entities, which is a local or clientalist aspect of politics. The cultural aspect of this change, on the other hand, points to politics as a collective project, as a skilful mechanism for allocating social resources and forging a joint future. Lastly, having favourable votes overall does not explain passivity in a sector that is meant to be dominated by individual interests. What would result in a lack of response or tolerance to adjustment processes is not consensus, patience, conviction or resignation but incompetence (Navarro, 1995). This has clearly been the case for pension reforms.

It should be pointed out that these reforms were implemented as part of severe structural adjustment processes in all of the countries concerned. Contrary to the forecasts and predictions made mainly by international credit agencies, the modest economic recovery in the region – with a few exceptions – failed to generate productive employment as expected. What is more, the rate of open unemployment has been high and reached record levels in most countries (such as Argentina) at a time when working conditions and job security deteriorated and impoverishment increased.

These consequences have a direct impact on the functioning of the pensions system, insofar as the latter is financed by worker contributions and taxes. Although the processes of adjustment and structural reform were all based on the same guidelines, established mainly by the credit

---

<sup>20</sup> One example is Argentina, where the government negotiated the reform with the most powerful unions and involved them in the pension funds administrators, thereby building alliances with contributing workers as opposed to beneficiaries. Indeed, the measures introduced before and especially after the reform (reduced employer contribution, takeover of provincial funds, unadjusted pensions and reduced transfers of national revenues) tend to aggravate the problems of financing current retirements and pensions while profiting the pension fund administrators. These measures contributed to the decline in the real value of pension benefits and the growing fiscal deficit of the public system (Lo Vuolo, 1997).

agencies, the outcome (including social impact) varied according to the country and the relationship between each society's institutions and the economic context.

The option that was most widely accepted by governing coalitions was one put forward by neoliberal economists and institutions such as the World Bank and the International Monetary Fund (IMF). This option is based on the premise that the public sector is intrinsically less efficient than the free market at allocating resources and that State participation in all areas of the economy should therefore be minimized. This includes the field of welfare, which should be limited to those in extreme necessity, with the rest of society being covered by the gradual increase of wealth resulting from economic growth. The neoliberal approach also emphasizes direct intervention by the private sector and voluntarism in the provision of welfare (World Bank, 1991: 65-69).<sup>21</sup> The World Bank has therefore presented new models of social security administration based on what is known as the three-pillar model. The aim is to substantially increase the role of private enterprises and limit State involvement to providing a minimum social security network (World Bank, 1994: 12-48).

Secondly, those who have led the reforms and subsequently managed the new systems are economists. This constituted an important change in the running of the systems, which were previously managed by labour lawyers linked to the ministry of labour in most countries.

Despite this new approach, however, all analyses prior to reform and every subsequent system failed to take into account the implications of gender relations and gender inequality for macroeconomic analysis and the results of policy options. This means that there was no consideration of the gender-based division of labour, income and responsibilities and no reference to women supplying goods and services in non-existent or weak markets. Specifically in macroeconomic terms, the reforms failed to consider that the distribution between contributing workers and beneficiaries has clear and significant effects on gender relations, which are in turn determining factors in the organization and functioning of a pension system.<sup>22</sup>

Some explanations partly attribute the lack of gender perspective to the fact that, at the time of the reforms, the idea of gender gaps was not an established "issue". This would be the reason why studies did not take account of the impact of gender on pension systems. In 1999, the International Labour Organization (ILO) and the World Bank began to analyze the impact of gender on pension systems.<sup>23</sup>

Independently of whether there were studies on the gender impact of the reforms when the pension laws were enacted, what is clear is that there has been no assessment of the potential -and then actual- effects of the change from one system to another. This shows that the gender issue is invisible in matters of a legislative, technical and macroeconomic nature.

In this context, according to ECLAC (2000), the lack of equity that characterized Latin America's pension systems is compounded by new inequities introduced by the reforms. There is a clear need to consider women's participation in the labour market and determine how they are affected in terms of social and gender equity. This means that, in order to relate the issue to the

---

<sup>21</sup> Since the beginning of the 1990s, neoliberals have paid special attention to care programmes for older adults on the basis that the public sector is simply unable to handle the imminent "crisis" of population aging and that existing social welfare programmes need to be replaced with emergence care programmes that have more strictly defined aims and that are targeted at those in extreme poverty (Lloyd-Sherlock, 1999).

<sup>22</sup> Those who designed the reforms and the political coalitions that implemented them were unaware of the large amount of empirical research carried out over the last few decades that shows women's disadvantaged position in social structures and the differences in the impact that social legislation and institutions have on the daily lives of men and women. These include: Pearson and Jackson (1998); Palmer (1998) and ECLAC (1997 and 2000).

<sup>23</sup> The study by Bertranou (2000) leaves aside the extensive literature on the impact of structural adjustment on women and studies on gender and macroeconomics. In the 1980s, the feminist movement had stated that the effects of the macroeconomic policies implemented as part of adjustment were not neutral in terms of gender (Elson, 1991 and 1992; Cagatay et al (1995); Birgin (1992); Montaña (1997) and Rico (1997).

pension systems in an appropriate way, attention must be given to women's pension benefits and their form of participation in the labour market.

Analysis of the parliamentary debates prior to adoption of the pension laws, especially in Argentina, shows that they were focused on the change from a pay-as-you-go system to one of individual savings funds. The effect of this was to weaken the specific analysis of the system's impact on its beneficiaries. Apart from the position of the government, parliamentary statements reflected a particular fear of individual savings funds and questioned the nature of the system in an attempt to dissociate it from social security principles. Although the various factions of deputies analyzed the bill from their particular point of view, criticisms were focused on the risks of the new system, the trend towards privatization, high administrative costs and the difficulty the State would have in adequately supervising the private entities. In this sense, the only gender considerations refer to the increase of retirement age for both men and women.<sup>24</sup> The wide debate on age in El Salvador was one such example.

Although there are undoubtedly major similarities in the way the systems function in the various countries, a closer analysis also shows many differences in terms of functioning and structure. For the purposes of this study, five countries were chosen (Argentina, Bolivia, Chile, Colombia and El Salvador) to represent the three types of system (substitution, mixed and parallel). The characteristics of each country, each system and the varying amounts of time they have been in force urge caution in making comparisons.

## **A. The missing perspective: gender and pension reform**

Assessing the performance of a type of pensions system, be it a pay-as-you-go system or individual savings, must be based on identifying its fundamental aims. This serves to define the scope of analysis by separating the institution's claims as expressed in its objectives from the effectiveness of the operative rules for achieving said objectives. If the objective of the pension system is to provide cover in the event of aging, illness or death, it is essential to be familiar with the mechanisms designed for that purpose and with the conditions of entitlement, in this case the right to a retirement or pension.

Pay-as-you-go systems are based on a patriarchal notion of society, focused around the nuclear family and with women as dependents. This therefore established a system whereby a woman's right to pension benefits was not based on her status as a citizen but in some cases as a worker and mostly as a result of her legal relationship with a wage earner (recipient), i.e. her dependent status. On the other hand, the legally defined contribution means that women can receive state pensions after contributing for less time than men.

The reforms changed the conditions of entitlement, especially for old-age pensions. This is due to the fact that fiscal costs increase or decrease in direct proportion to those conditions. As will be expanded on below, the countries selected introduced restrictions that prioritized cost analysis over guaranteed rights.

Above all, these restrictions serve to maintain the same cover as pay-as-you-go schemes, i.e. cover for formal workers plus minimum pensions or concepts such as solidarity bonds and, occasionally, optional schemes for special groups such as homemakers. Insofar as the contribution is linked to the benefit, restriction takes the form of selecting those who can pay. The rest: informal, reproductive and voluntary workers have no way of receiving an old age pension.

---

<sup>24</sup> Although not all of the parliamentary debates from the selected countries were available, many studies show a similar line of argument.

Similarly, limiting the number of beneficiaries of survivor's pensions, funeral costs, or grounds for disability or imposing conditions (not remarrying) is to the detriment of the cover and quality of the benefit.

The individual savings system has widened the gender gap and aggravated the inequalities that existed under the pay-as-you-go system. Nor has the new system increased cover, which is gradually decreasing as shown in the analysis below.

The second factor is retirement age. Before the reforms, retirement age in most of the countries was 60 for men and 55 for women, except for Chile (which had a variety of ages) and Bolivia (where the age was 50 for women and 55 for men). Following the reforms, retirement age increased in all countries except El Salvador.

In the pay-as-you-go system, the difference in retirement age between men and women did not mean that women received a lower pension because the benefit was a fixed amount. In a system based on individual savings accounts, on the other hand, given that the pension depends on a woman's total individual contribution and life expectancy at retirement, the pension will be lower than for men.

The increase in retirement age is justifiable in all countries as life expectancy rises. The retirement age of 65 for both sexes in Bolivia is the highest and, although it reduces fiscal costs, is excessive given the country's low life expectancy.<sup>25</sup>

**Table 1**  
**ENTITLEMENT CONDITIONS FOR OLD-AGE PENSIONS**

Countries	Reform models	Retirement age (individual capitalization)		Life expectancy upon retirement		Required years of contributions	
		Women	Men	Women	Men	Public system	Individual capitalization
Chile	Substitution	60	65	21.8	14.5	10-12	Requirement in terms of amount accumulated, not number of years
Bolivia	Substitution	65	65	16.8	12.1	15	Requirement in terms of amount accumulated, not number of years
El Salvador	Substitution	55	60	23.9	18.1	30	Thirty years
Colombia	Parallel	57	62	21.7	16.2	20	Requirement in terms of amount accumulated, not number of years
Argentina	Mixed	60	65	21.3	16.8	30	Requirement in terms of amount accumulated, not number of years

**Source:** Based on Carmelo Mesa Lago, comparative study of fiscal costs in pension reforms in eight Latin American countries, presentation given at the seminar organized by ECLAC and the Chilean Ministry of Finance (Santiago, Chile, 2–3 September 1999).

Limiting the restrictions on entitlements and benefits therefore considerably reduces or eliminates fiscal costs, yet socially it may be at the expense of nothing less than the welfare of the

<sup>25</sup> Eliminating employer contributions should therefore be studied very seriously as it could either increase fiscal costs or worker contributions. Reducing worker contributions could increase fiscal costs and reduce the pension (Mesa Lago: 1999).

insured. Chile is the most extreme case in that it offered the most liberal conditions with no concern for the costs, and Bolivia prioritized the reduction of fiscal costs to the detriment of contributor welfare (Mesa Lago, 1999).

Adopting a fully funded system involves wagering on an economically stable future, and Argentina is the perfect example of how risky that can be. The yields must therefore be extremely high for a pension to be in keeping with what the worker earned as salary. The exceptions to this are unskilled workers (mainly women) whose pensions are the same as their wages. Achieving impressive yields is difficult unless there is a very high return on investment and many years of contributions accumulated.

If an individually funded system is compulsory, as is the case in substitution systems such as Bolivia, El Salvador and, to a lesser extent, Chile, the State should assume the cost of possible administrator bankruptcy. Such an eventuality should be covered in addition to the cost of transition because the State cannot decline responsibility if it has obliged people to contribute. The most extreme case, which might apply to Argentina in the medium term, would be an economic crisis in which the State has to bail out various fund administrators without being able to take on those debts. In other words, contributors would lose their life savings and the State would not have the funds to be able to honor its own guarantee. Indeed, all countries have rules that limit vested rights to the budget capacity of the State.

Above and beyond the unfavourable urban employment market, the fact that the individually funded system links benefits to contributions disadvantages women more than men. Discriminatory factors such as the wage gap, intermittent work and the burden of reproductive work have a negative effect and prevent women from accumulating sufficient funds to support themselves upon retirement.

In terms of freedom of choice, contributing to a pension fund is mandatory for employees, whereas it is optional for self-employed workers (except in Argentina, where it is compulsory for both categories). Again it is the labour market that determines the effective conditions of entitlement.

In countries with a capitalization system, many middle-aged men were seen to choose individual savings accounts over the public system. The high number of young contributors and male workers opting for individual savings accounts is due to the relatively high benefits the system offers to those sectors of the population. Many young people transferred to individual savings accounts because a longer period of capitalization makes them more likely to receive the desired level of pension and benefits. The system attracted more male than female workers because women's higher life expectancy results in lower entitlements for the same amount of capital accumulated (Demarco, 1997). The situation of those who change jobs often is uncertain and they eventually retire through old age rather than length of service.

Another significant aspect in terms of gender is the use of actuarial tables for calculating the amount of benefit. In the individual capitalization system, contributors who meet the requirements for retirement may choose to: (i) transfer the balance of their individual capitalization account to a retirement insurance company that pays the regular annuities while the beneficiary receives the life annuity; or (ii) make monthly withdrawals from their individual capitalization account until no balance remains (scheduled withdrawals). It is up to pension fund administrators to take out collective insurance to cover the risks of disability and death of its members, whose insured capital is based on the annuity to be paid to them.

In any event, benefits should be calculated using "actuarial tables", which are a combination of financial and demographic elements, i.e. a financial table and a table of mortality, which measures the probability of life and death according to age (Grushka, 1996).



Each country decides which type of table to use. Chile uses mortality and life expectancy tables from the national institute of statistics and applies the interest and discount rates of Chile's central bank (article 55(b), Law 3500/80).

Argentina, on the other hand, uses the group annuity mortality tables from 1971 (GAM-1971), which are significantly different from the tables estimated by the national institute for statistics and censuses (INDEC) for 1990 and 1991 (ARG-91). The problem is that mortality in the GAM tables is based on the experience of contributors in the United States at a certain point in time, which does not reflect mortality of the insured in Argentina. This means, for instance, that the monthly benefits estimated in the INDEC tables are approximately 7% higher than those in the GAM table. The INDEC tables are therefore much more likely to reflect the mortality of those contributing to individual capitalization in Argentina. In the case of women, the GAM-71 values are significantly lower than the ARG-91 ones up to the age of 10, around 50% less between the ages of 10 and 55, 70% lower between 55 and 85 and then more similar from the age of 85 upwards (Grushka, 1996). The current trend is to use unisex tables to reduce the gap between men and women.

Along the same lines, there is no mention of gender difference in terms of physical disability or in the composition of medical commissions to determine disability as both sexes are treated in the same way.

If the conditions of entitlement to a pension are linked to women's lesser participation in the labour market and differences in income, the capitalized account balances will be even lower for women and gender gaps will widen even more.

Unlike the principle of solidarity inherent in pay-as-you-go systems, capitalization schemes do not seek to incorporate redistribution mechanisms to reduce income differences between social sectors or between men and women. This means that the capitalization system cannot be expected to operate equitably because that would be impossible. The governing principle of the system is that contributions equal benefits.

This is not to say that the functioning of the pay-as-you-go system was equitable, and it certainly does not mean that there were no gender gaps. Despite what is usually stated, guarantees of minimum income or basic benefits do not have redistribution effects but equal the minimum pension.

Analysis of each country's experience shows how these points were dealt with in the relevant legislation.

## **B. Chile: the advantages of being first**

Chilean reform offers the most empirical evidence because it was introduced over 20 years ago and many studies have been carried out into the evolution of its pension system.<sup>26</sup> As a result of this, and the fact that the Chilean system was considered a reform model, little was learned from the experience and virtually identical systems were implemented in the other countries of the region.<sup>27</sup>

---

<sup>26</sup> Most analyses assess the reforms in relation to fiscal costs, macroeconomic projections, capital market trends and system efficiency: James (1997), Uthoff (1997 and 2001) and Lorenzetti (1999). Far fewer measure impact in terms of gender: Barrientos (1998); Cox (1999); Arenas and Montecinos (1999); Arenas and Gana (2001); Bertranou (2000) and Marco (2002).

<sup>27</sup> Urriza (1996) quotes ILO rulings stating that the Chilean model is not part of social security but is simply an individual savings mechanism that could be considered to be voluntary and complementary but that is not a compulsory substitution system.

The Chilean experience shows the discrimination inherent in the system and the lack of gender perspective in legislation.<sup>28</sup>

Chile established a substitution scheme, whereby the public pay-as-you-go system (which was in deficit) was abolished and replaced<sup>29</sup> by a compulsory system of full individual capitalization run by pension fund administrators. The State runs the outgoing pay-as-you-go system through the Social Security Institute.

There is freedom of choice for selecting a pension fund administrator, and members may also change at any time according to the principle of guaranteeing competency and member freedom. The benefits available are old age, disability and survivor's pensions. In the case of old age pensions, benefits depend on the level of contributions and the returns on pension funds. The only exceptions to benefits being in proportion to contributions are those people who receive the State-guaranteed minimum pension.<sup>30</sup>

The system is compulsory for employees and optional for self-employed or freelance workers. The exceptions are members of the armed forces, police and uniformed prison staff who have their own pension systems. In addition to the contributions system, there is an assistance scheme for those without resources who are unable to receive benefits through a pension system.

The conditions of entitlement for public system benefits were standardized and made stricter. In the private sector, contributions are fixed but the benefits are undefined. Both systems eliminated employer contributions so that only employees contribute. Worker contributions were reduced in the private system to encourage transfers.

Article 17 of Law 3500 stipulates that working plan members below a certain age (65 for men and 60 for women) shall be obliged to pay 10% of their taxable remuneration and income into their individual capitalization accounts, plus an additional and possibly voluntary contribution.

Plan members of the capitalization system contribute 13.1% of their salary (or income if self-employed) that is deducted by the employer and transferred to the pension fund administrator of the contributor's choice. Out of this contribution, 10% is deposited in the member's account (minus the fund administrator's fixed commission) and the remaining 3% is the fund administrator's percentage commission plus a premium (Mesa Lago and Bertranou, 1998).

In December 2001, there were 6,427,656 plan members, of whom 3,685,739 were men and 2,741,728 were women. The percentage of the active work force being contributors was 75% (Superintendency of Retirement and Pension Fund Administrators (SAFJP), 2002).<sup>31</sup> In December 2001, women represented a third of the Chilean work force, i.e. two million out of six million. Between 1986 and 2001, the number of women contributors grew at an annual rate of 5.4%, compared with 3.8% for men. The proportion of the female work force making contributions was 54% in 2001 (Ferreiro Yazigi, 2002).

However, these data overestimate cover for women. Arenas (2000) shows that there is a considerable gap in coverage owing to the difference between the total number of plan members

---

<sup>28</sup> Arenas and Gana (2001) point out that the absence of gender perspective in the region's social security systems is due to the public's lack of knowledge about how the reformed system works and the lesser coverage given to gender equity in studies of reformed gender systems.

<sup>29</sup> This was achieved by allowing no new members and giving current members the option of remaining in the public system or transferring to a capitalization scheme. This option expired in 1986, leaving the way free for transferring to the private system. It is estimated that the public system will disappear in approximately 40 years when all its benefit recipients are deceased (Mesa Lago and Bertranou, 1998).

<sup>30</sup> Ferreiro Yazigi (2002) states that, in the case of defined benefits for disability and survivor's pensions (calculated as percentages of the worker's average taxable remuneration over the last decade), individual savings are supplemented by collective survival and disability insurance.

<sup>31</sup> According to information from the International Association of Pension Funds' Supervisory Organizations (2000), women contributors represented 31.5% of total contributors in 1986, 36.1% in 1999 but only 31% in 2000.

(6.1 million) and the number of contributors (3.2 million in 1999). This discrepancy is due to the high degree of overcoverage and the resulting insolvency of the system in the form of arrears or defaults in employer contributions, fraudulent registration and membership of multiple pension plans. Membership is high because it is compulsory for employees, who are not permitted to cancel their membership in the event of redundancy or intermittent work (factors that determine the low proportion of contributors). The best indicator of overcoverage is the statistical membership of women, which was 126.5% in 1999, i.e. the number of women members is higher than the total female population (Marco, 2002).

However, women continue to be underrepresented in the pension system. Although women's participation in the pensions system has risen, effective cover for women increased from 37% to 48% between 1986 and 1999, whereas it increased from 34% to 44% for men.<sup>32</sup> However, this increase hides a coverage gap between women according to income quintile, which is not as significant among men. Nor does the increase take account of women who carry out reproductive work and who have no cover (Gana, 2002).

In March 2002, the private pensions system was paying out 410,981 pensions, 37.5% of which were early retirement pensions (mainly men) and 25.6% were old age pensions. Disability pensions only represented 7.2% of the total, surviving spouses' and orphans' pensions 14.1% each and other pensions 1.5% (Ferreiro Yazigi, 2002).

The requirement for entitlement to the State-guaranteed minimum pension is 20 years of contributions for men and women, with the possibility of supplementing them if they continue working when they reach retirement age. Establishing such conditions as if they were gender neutral again puts women at a disadvantage, given that seasonal work and their shorter careers mean they are unable to reach the required number of years of contributions.

Old age pensions are for members who have reached the age of 65 for men and 60 for women (article 3), and the amount of the pension depends on the contributions made and the returns on the pension fund.<sup>33</sup> Upon retirement, plan members may choose between scheduled withdrawals through the pension fund administrator or an annuity paid by an insurance company or a combination of both (deferred life annuity). These annuities are calculated on the basis of the value accumulated in the individual savings account, the life expectancy of the insured and those family members who will receive the death annuity once the insured is deceased. Contributors may also decide to take early retirement if their savings amount to 50% of their average income over the past 10 years, and if this average is worth over 110% of the minimum pension. Out of the three options, old age pensions accounted for 62.7% of the benefits paid out by fund administrators in June 2001 (International Association of Pension Funds' Supervisory Organizations).

An essential aspect of measuring the system's impact on gender is analyzing the benefit calculation mechanisms. In the case of survivor's pensions, the calculation is based on sex-differentiated mortality tables. This method of calculation results in different pensions for men and women, even when the amounts accumulated in individual savings accounts are the same. The

---

<sup>32</sup> On the basis of information published by the Superintendency of retirement and pension fund management companies and the national institute of statistics, Arenas (2000: 27) adds that female participation in the labour market also grew from 42% to 54% between 1986 and 1999, whereas male participation only grew from 37% to 48% over the same period.

<sup>33</sup> Prior to reform, the retirement age varied according to the many pension funds. In 1979, however, the age was standardized to 60 for women and 65 for men, both for the public system and the individual capitalization scheme. According to the current Superintendent, the difference in retirement age is a public policy problem that is difficult to resolve given that, from a strictly actuarial point of view and in the light of the different life expectancy for men and women, the retirement age for women should be increased. Increasing the retirement age (considering cost effectiveness) and improving pensions for women would depend on the employment opportunities for women over the age of 60 (Ferreiro Yazigi: 2002).

difference is due to women's higher life expectancy, but is because the system is one of individual rather than social insurance (Marco, 2002).<sup>34</sup>

According to Arenas and Gana (2001), there were no inequalities in the calculation of benefits for men and women under the previous public system. Indeed they go further by pointing out that women used to receive higher benefits because, for the same amount of contributions, they would receive a higher total pension. This is due to the fact that women retire earlier and live longer. Also, women only needed to have 10 years of contributions, thereby reducing the effects of intermittent work and, if they were registered, enabling them to receive the minimum State pension. This implies that, under the universal pay-as-you-go system, differences between pensions were exclusively due to differences in the labour market.

Recipients of the survivor's pension are: the surviving spouse; the legitimate, illegitimate and adoptive children of the deceased who are aged under 18 (or 24 if studying); the parents of the deceased and the mother of the deceased's illegitimate children. Article 6 of Law 3500 stipulates that, in order to receive the benefit, the surviving spouse must have married the insured at least six months before his death or three years if the insured was receiving an old age or disability pension when the marriage took place. These restrictions do not apply if the spouse is pregnant or if they have minor children. A surviving male spouse is entitled to the survivor's pension provided he is partially or totally disabled or provided they have minor children together (article 7).

The explicit discrimination of these articles is surprising in that it establishes the woman as a dependant of her husband, obviously as long as they are legally married. A man, on the other hand, may only receive the surviving spouse pension if he is disabled. Yet this legislative discrimination goes further: article 9<sup>35</sup> stipulates that the mother(s) of the insured's illegitimate children shall be entitled to the survivor's pension if, at the time of his death, she is unmarried or widowed and economically dependent on the insured. This means that entitlement depends on motherhood and not on cohabitation. The reactionary vision of these articles is striking, as befits a civil legislation that does not provide for divorce.<sup>36</sup>

These discriminatory concepts were also part of the former pay-as-you-go system since, in other situations, women had to choose between their work pension and a widow's pension. The widow's pension was naturally higher than women's own work pension, which discouraged female participation in the labour market (Marco, 2002).

The reference pension for recipients of a survivor's pension stipulated in article 58 corresponds to the following differentiated percentages of the insured's pension: (a) 60% for a totally disabled spouse and 43% if partially disabled; (b) 50% for a totally disabled spouse and 36% if partially disabled with children who are entitled to receive the pension. When said children cease to be entitled, the percentages under (a) shall apply; (c) 36% for the mother of illegitimate children recognized by the insured; (d) 30% for the mother of illegitimate children recognized by the insured, with children who are entitled to receive the pension. When said children cease to be entitled, the mother shall receive 36%. The rest is divided among other beneficiaries. If two or more people claim to be spouses, or mothers of the insured's illegitimate children, the percentage for each

---

<sup>34</sup> There is no consensus on estimating calculations of women's pensions. According to Cox (1999), a 5% rate of return on savings accumulated by women in 1994 amounts to between 33% and 46% of men's savings. If they retire at the age of 65 with a 5% rate of return and a monthly wage increase of between 1% and 2%, their funds will grow between 9 and 13 percentage points. According to Arenas (2000), estimates suggest that, with a real annual wage increase of 2% (constant since the age of 50) and a rate of return of 4%, the increased retirement age of women affects their wage-replacement ratio by 19 percentage points. Even in this latter case, a women's pension would only amount to 87% of the man's. Added to this is the intermittent nature of women's work, which also affects contributions.

<sup>35</sup> This article was replaced by Decree-Law 3626/81.

<sup>36</sup> The only provision in such cases is annulment of marriage. The high cost of the procedure means that it is little used and most couples decide to cohabit. In this case, the woman (or man) does not benefit from the survivor's pension unless they have children together. According to Giménez (2002), benefits for widows generate a third category of citizen as entitlement depends on the marital link and women are considered dependants rather than citizens with entitlement.

one is divided by the number of claimants. In June 2001, survivor's pensions represented 30.1% of benefits paid out by pension fund administrators (International Association of Pension Funds' Supervisory Organizations, 2001).

Workers are entitled to a disability pension provided that the partial or total disability has been duly established as such, that they are below retirement age and that their individual account has the funds to cover the pension or, where appropriate, that the disability insurance contracted by the pension fund administrator to cover insufficient funds is applicable. Workers who receive a permanent disability pension have the same options as those who receive old age pensions. In June 2001, disability pensions represented 7.1% of benefits paid out by pension fund administrators (International Association of Pension Funds' Supervisory Organizations, 2001).

The Chilean reform made it clear that such a system is private in name only, given that the State plays a vital role in financing the transition, regulating and controlling the system (Superintendency of retirement and pension fund management companies) and the guarantees to members (minimum yield on investment, pensions in the event of the pension fund administrator or insurance company going bankrupt). In this way, the State guarantees a minimum pension for members who have not accumulated enough money but who have contributed for 20 years. There are also recognition bonds for contributions made to the public system by contributors who changed to a private scheme. The Chilean reform also shows the problems of treating the reform as being gender neutral.

### **C. Argentina: the new paradigm *par excellence***

The pension reform of 1993 (entered into force in 1994) created the Integrated Retirement and Pension System (Law 24241/93). It is integrated in the sense that one legal structure encompasses the following two systems: the public pension system based on pay-as-you-go principles and a privately run scheme of individual capitalization that generates a form of captive savings to shore up the domestic capital market. The two systems are financed in different ways.

Generally speaking, the new system is based on the two pillars of capitalization and pay as you go. The public pay-as-you-go system is financed by the contributions of self-employed workers and with budgetary and extrabudgetary resources. The State pays out five kinds of benefits: (i) basic universal benefit paid to all members of the Comprehensive Retirement and Pension System, regardless of the scheme chosen; (ii) compensatory benefit for those who were members of the old pensions system; (iii) additional service benefit for those who choose to stay in the pay-as-you-go system; (iv) old age benefit for those who are not entitled to any of the above-mentioned benefits; and (v) disability and death annuity.

The mixed capitalization scheme is run by private entities known as pension fund administrators that are financed by member contributions. In this system, contributions are closely linked to benefits, income is redistributed among members and controlled by means of a standard benefit, and the requirements in terms of years of contributions are strictly applied. Benefits payable under the capitalization scheme are: (i) regular retirement pension<sup>37</sup> financed from the individual account balance and paid out in the way chosen by the beneficiary (scheduled withdrawal, retirement annuity or fractional withdrawal); (ii) disability pension and; (iii) pension for death of working member or recipient of retirement pension or temporary disability pension.

---

<sup>37</sup> Regular retirement is financed with the funds accumulated in the individual accounts managed by pension fund administrators. The value of the retirement depends on many variables but should be similar to the additional service benefit. According to Rofman (1999), a married man with 35 years of continuous contributions and an annual wage increase of 2% will receive about 26.5% of his last wage as an additional service benefit. Under the capitalization system with an annual fund yield of 4%, the same man would receive a regular retirement pension of 26.6% of his last wage.

People aged 18 who are public or private employees or self-employed are automatically enrolled in the system. This does not apply to military personnel in the armed forces, security forces, police and some provincial funds, which have their own special schemes. In practice, the pension system excludes seasonal workers (unregistered employment), rural workers (low incomes), domestic service workers (partially) and any kind of unpaid work. Over 1.9 million of those aged over 60 receive no benefit from the pension system in Argentina: they are neither retired nor pensioners because, during their working lives, they were unable to meet the relevant requirements. The figure of 1.9 million corresponds to 37.5% of that age group in Argentina.

The State guarantees: (i) minimum returns on pension funds; (ii) incorporating additional returns or ones that result from changes, and temporary disability pension, into individual capitalization accounts in the event of bankruptcy of a pension fund administrator; (iii) payment of retirement, disability pension and survivor benefit to those who opt for a life annuity or in the event of bankruptcy or liquidation of retirement insurance companies; (iv) a minimum benefit once the requirements are fulfilled, the amount fixed and retirees have expressed a willingness to claim the benefit, which will increase their basic universal benefit and; (v) payment of the additional service benefit.

The system is financed through employer contributions and the personal direct contributions of workers: employees contribute 11% of their remuneration and employers contribute 16% of their workers' remuneration. From 1993, a series of decrees reduced employer contributions, which stood at an average of 10.9% in 1998. Self-employed workers have to contribute 27% of their assessed income, with 11 points going to the scheme chosen by the worker and the other 16 points being used to finance the pay-as-you-go system.<sup>38</sup>

The conditions of entitlement to the regular retirement pension are as follows: age 65 for men and 60 for women, 30 years of service and 22 years of contributions. Article 19 stipulates that, in any of the systems, women may choose to continue working until the age of 65. Missing years of service may be compensated by working beyond retirement age (two years of age after retirement for one year of service).<sup>39</sup> Article 111 states that workers may, with the employer's agreement, continue working beyond that age and postpone receiving their retirement pension.

Disability pensions require a certificate of disability if the disability is total (loss of 66% of work capacity) or partial (loss of between 50% and 66% of work capacity). The State covers disability pensions and survivor's pensions associated with the pay-as-you-go system. Pension fund administrators deduct a premium for disability and survivor insurance from regular retirement contributions. The survivor's pension is for the surviving spouse; children under 18 (21 if studying and regardless of age if disabled) and the common-law wife if she is widowed, separated or unmarried and had cohabited with the insured for five years (two years if they have children together). There is also an old age pension, with lower contribution requirements but a higher minimum age, which is completely financed by the public system.

Article 53 stipulates that, in the event of death of the recipient of a retirement/disability pension or a working plan member, the following people shall receive the benefit: widow/widower, common-law wife/husband; unmarried sons and daughters and widowed daughters.<sup>40</sup> A widower or

<sup>38</sup> Argentina is the most striking case of reduced employer contributions. Contributions plunged between 1995 and 1999, at a cost of over 19 billion dollars (Argentina, Ministry of Labour and Social Security, 1999, table 4). Results indicate that formal employment in industry declined by almost 6%. Also, there was no reduction in contributions for self-employed workers. The reduction of employer contributions failed to create jobs or improve the labour market and also affected the financing of the Comprehensive Retirement and Pension System.

<sup>39</sup> If a woman enters the labour market at the age of 25 following university, she can only work 15 years without making contributions. However, she can always opt to continue working until the age of 65. In this case, she can substitute age for service, with two years of age equaling one year of service. A man who enters the labour market at the same age can work for 20 years without making contributions.

<sup>40</sup> Only until the age of 18 and provided they do not receive a non-contributory retirement or other pension/benefit, unless they register for that pension.

common-law husband has to show that he was a dependent of the insured, although the same is not true of widows and common-law wives.

In order for a common-law spouse or husband to receive the pension, the insured must have been separated (legal or de facto separation), single, widowed or divorced and must have been publicly cohabiting in a marriage-like relationship for at least five years prior to death. The minimum cohabitation period is reduced to two years when they have children recognized by both parents. The common-law spouse's entitlement to the pension excludes the surviving spouse if the latter was declared culpable in the legal separation or divorce. If this is not the case and if the insured had been paying/ordered to pay alimony or had given rise to the legal separation or divorce, the benefit will be paid equally between the spouse and the common-law spouse. The percentages for a survivor's pension are as follows (article 98): (a) 70% for the widow, widower or common-law spouse, if there are no children eligible to receive the pension; (b) 50% for the widow, widower or common-law spouse, when there are eligible children and; (c) 20% for each child.

Various complementary measures were introduced after Law 24241. In March 1995, for instance, the Pension Solidarity Act was approved to authorize retirees to continue working. It stipulates that the State only guarantees payment of benefits up to the value of budget provisions and recognizes the mobility of the national budget and states that it shall under no circumstances be in relation to remunerations. The basis, which would be unthinkable in any other political context, is that no citizen may claim "vested rights" against the State. This rule sweeps aside two basic principles of social security: the substitution principle of benefits and the redistribution of national income. The Pension Solidarity Act eliminated fixed benefits and resulted in uncertainty in the public and private systems about the benefits to which recipients are entitled. This means that nobody knows which benefits they will receive and how much. The Legislature is responsible for deciding the amount and authorizing benefits, and it is up to the Executive Branch to decide whether to allocate budget resources to that end.

Since 1 August 1997, there has been a retirement scheme for homemakers. Under the system, women who have no self-employed activity or who are not employees may voluntarily join a pension fund and pay a contribution of 34 pesos. Joining the scheme is incompatible with carrying out any other self-employed activity or being an employee, as the system is based on exclusive dedication to domestic work.<sup>41</sup>

Because this system is not complementary to the national scheme, if a homemaker was a plan member as a self-employed worker or an employee, she loses all previous contributions by joining the scheme for homemakers. A member of the homemaker scheme also loses all of her contributions if she subsequently becomes an employee or self-employed worker without having 30 years worth of contributions. The scheme therefore has few members and has had practically no impact.

Decree 290/01 established that employers of domestic workers may make a minimum contribution to have those workers covered by the Integrated Retirement and Pension System and basic medical cover. The benefits are: old age pension, disability benefit or survivor's pension and the obligatory medical programme. Contributions made by the employer go to the public pay-as-you-go system and the worker may also make voluntary contributions to the capitalization system. Approximately 800,000 domestic workers are estimated to have joined. However, the effectiveness is not known and it is therefore likely that the capitalization opportunity will have little effect.

In December 2000, an attempt was made to reform the pensions system by means of Decree 1306.<sup>42</sup> The first significant aspect of the reform was replacing the basic universal benefit with an

<sup>41</sup> All of their contributions go to the pension fund administrator that takes 312 pesos per month as a basis for the assessed income. The pension fund administrators charge various fees: some a fixed price and others add a commission.

<sup>42</sup> Application of the Decree was suspended due to a precautionary measure that is still being resolved.

additional benefit for all retirees over the age of 65, guaranteeing them 300 pesos if their remuneration was less than 1,950 pesos. Another benefit established by the Decree was the universal benefit (100 pesos) for anyone who had not entered the formal job market, had low income and had not completed the years of contribution or had not joined the system. The Decree also amended the length of service requirement for regular retirement. The requirements in terms of years of contributions were made more flexible. Those who had not completed the 30 years required by law could retire after 10 years of contributions. Most of this group is made up of women.

The Decree raised the retirement age for women from 60 to 65 and established that women retiring at the age of 60 would receive 85% of their benefit and those retiring at 65 would receive 100%.<sup>43</sup> The basis for this measure was that the average age that women were choosing to retire was 63, and this would enable them to capitalize funds until the age of 65.<sup>44</sup> The measure sparked an ongoing debate. Unisex actuarial tables, which standardize calculations for men and women, are now used to determine benefits.<sup>45</sup> Lastly, limits were also placed on commission for pension fund administrators. It is not yet clear whether this reform will actually be implemented.

It was clear that the driving force behind the reforms in Argentina was “economicist”, as it resulted in the erosion of a social policy but strengthened the financial sector and price stability. There is no doubt that the new pensions system increased uncertainty about future benefits, given that it abolished State-financing of beneficiaries (pay-as-you-go) and benefits paid out by pension fund administrators are undefined by nature. Furthermore, there has been no positive effect on national savings.

One significant aspect is the 4% fixed commission charged by the administrators that run the individual capitalization accounts. Applying this percentage to remuneration probably hits low-income groups (mainly women) the hardest, thereby resulting in a lower accumulated balance and, despite the claims, no incentive for saving.

More serious still is the system’s low coverage, which is worsening due to stricter entitlement conditions and non-payment of contributions by plan members, seriously threatening the continuity of the system.<sup>46</sup> In December 2001, the Integrated Retirement and Pension System only received contributions from 28% of registered workers (pay-as-you-go and capitalization systems combined). This is a record level of non-compliance and confirms the worsening of the social security crisis heralded by rising unemployment, informal employment, defaulting self-employed workers and the increase in improper deductions by employers that see them as a source of financing during the crisis.

According to the Superintendency of retirement and pension fund management companies, only 2.56 million of the 8.84 registered members paid into their individual accounts in December

---

<sup>43</sup> It should be pointed out that, according to the actuarial tables used in Argentina (GAM-71), retiring at the age of 65 instead of aged 60 results in monthly payments that are between 15% and 20% higher (according to the interest rate considered). If a woman retires at the age of 65, she could receive monthly payments of 390 pesos (with an estimated technical rate of 4%) instead of the 338 pesos per month for retiring at the legal retirement age of 60. Given their lower life expectancy, a man can expect to receive between 20% and 26% more than a woman if they both retire at 65. Compared with women, whose legal retirement age is 60, men with the same balance in their individual capitalization accounts receive monthly payments that are between 37% and 52% higher. These differences are the combined effects of higher male mortality, drawing pensions later in life and a higher average monthly payment to be received. With the same accumulated balance of 60,000 pesos, a man aged 65 would receive a monthly payment of 473 pesos versus the 338 pesos received by a woman (Grushka, 1996: 9-10).

<sup>44</sup> For the same reason, there are also calls to increase the retirement age for women to 65, the same as for men. The arguments for this are based on the fact that women live longer. Although the official plan was along those lines, the result was to make it possible to either retire five years later or receive a lower pension at the age of 60, rather than making retirement at 65 compulsory.

<sup>45</sup> On the basis of an annual rate of 4%, a 65-year-old man needs to accumulate 12,700 pesos in his individual capitalization account for every 100 pesos of monthly retirement pension. A woman of the same age would need to accumulate 15,400 pesos (i.e. 21% more) and a woman aged 60 would need 17,800 pesos (40% more) to receive the same pension (Grushka, 1996: 11).

<sup>46</sup> Combating non-payment of contributions was one of the basic elements of the reform. The assumption was that paying individualized contributions into retirement-savings accounts would be a better incentive for people to save. However, the evidence shows that the non-payment of contributions in the private system has not improved the levels of coverage recorded under the previous system (40% to 45% of registered members).



2001. The records of the Federal Administration of Public Revenues show that there was a similar pattern in the pay-as-you-go system: only 500,000 of the 2 million members made contributions. One year previously, there had been 3.5 million contributors to the capitalization system and 700,000 to the state system, i.e. an annual reduction of 27%. In December 2000, the ratio of contributors to members was 39% for both systems. The situation is even worse for self-employed workers, only 10% of whom are contributing towards their retirement.<sup>47</sup>

Given that Argentina currently has an economically active population of 14.2 million, and that the average number of contributors last year was less than 4 million (and falling), approximately three quarters of the economically active population could have problems obtaining a retirement pension that gives them a dignified standard of living. In the pay-as-you-go system, 65% of contributors are men and 35% women. The percentages are 70% and 30% respectively under the individual capitalization system.

Analysis of the number of contributors since the system was launched in 1994 shows that they are in constant decline. In the second half of 1994, 67% of members had made a contribution, compared with only 40.9% in the second half of 2001. It is clear that the gap between members and contributors is continuously widening.

**Table 2**  
**CONTRIBUTORS TO THE INTEGRATED RETIREMENT AND PENSION SYSTEM**

Year	Members	Contributors	Compliance
1999	7 091 478	3 469 913	48.9%
2000	7 885 820	3 446 841	43.7%
2001	8 443 625	3 449 212	40.9%
2002	8 862 435	2 640 261	29.8%

**Source:** Superintendency of retirement and pension fund management companies (monthly statistical bulletin, 2002).

At the end of March 2001, there were 98,265 beneficiaries of the individually funded system: 54% were receiving survivor's pensions, 31% retirement pensions and 15% disability pensions (Superintendency of retirement and pension fund management companies, 2001).

The problems of the retirement system in Argentina do not end there. As a result of the withdrawal from the peso-dollar convertibility plan and the exchange by pension fund administrators of public debt for more than 13.2 billion dollars of holdings, there was a "pesification" of deposits in the individual savings accounts. These measures generated a loss of assets and also reduced confidence in the system. At a rate of 1.40 pesos per dollar, "pesification" of the funds results in a loss of more than 40%. This means that members of the individual capitalization system (96,000 at the end of 2001) who had signed contracts to receive their life annuity with new economic measures will now receive devalued annuities in pesos.

Projections and analyses point to the pension deficit continuing to grow, retirement benefits continuing to fall and the State assuming higher fiscal costs. The lesson to be learned from Argentine reform is the very fact that it is extremely difficult to implement a private capitalization system that provides enough regular income for the rest of somebody's life when that is not in keeping with the country's macroeconomic situation. Following the five-year virtuous circle of adjustment measures and the growth of the first few years of the convertibility plan, the country entered a rapidly deepening recession. Once more, making the step from pure theory to practice, in

<sup>47</sup> There is also a gradual downward trend in the number of actual contributors, particularly among self-employed workers, i.e. those who it was thought would have the most incentive to make contributions to private savings.

a given socioeconomic context with recipients of very different income capacities, can produce distortions that are significant enough to invalidate expected performance.

## **D. Bolivia: the lowest cost**

Bolivia's reform of its pension system took place as recently as 1997 with the entry into force of Law 1732 sanctioned on 29 November 1996. This reform, one of the most radical, abolished the old public system and all of the funds were absorbed by the national treasury.<sup>48</sup> The insured –wage-earners on a mandatory basis and independent workers on an optional basis– had to be transferred to the new programme. The aim was to reduce fiscal costs, as in most countries, although it was more extreme in the case of Bolivia. Although a solidarity bond which does not exist in any other country was introduced, the prospects for extending coverage with this model are extremely limited.

The pension fund administrators (AFP) administer two independent funds: an individual full capitalization system (CPI) and a collective capitalization system (CC). The first functions like other capitalization systems and is referred to as a mandatory long-term pension system, while the second was set up with 50% of the shares of six privatized public companies, transferred for the benefit of Bolivian citizens and intended to finance the payment of a lifetime annuity, termed a “solidarity bond” (BONOSOL) and of funeral expenses. The BONOSOL covers all citizens who were 21 years of age at the end of 1995, irrespective of income and of whether or not they were insured. On reaching retirement age (65 years for both sexes) the bond-holders will receive an annuity (approximately US\$ 248 per year) for the rest of their lives.<sup>49</sup>

The new system did away with the employer's contribution and that of the State as a third party, transferring the greater burden to the insured, whose contribution went up from 3.5% to 12% (10% for the old age pension and 2% (which is increased to 2.5%) for the pension fund manager's commission and the insurance company premium).<sup>50</sup> The insured may on a voluntary basis make an additional contribution of up to 20% of his/her salary (Mesa Lago and Bertranou, 1998).

The AFP Superintendency must be financed by the same companies. Moreover, during the system's first 15 years of operation, 100% of the investment in the AFP should be in long term treasury securities in order to ensure the financing for the payment of pensions and the recognition bond. This means that the return on the investment will depend entirely on the State. It was established that in the first five years of operation, only AFPs appointed by the State would function. Thus, all the insured members were divided into two groups by geographic zone and could not switch until the year 2000 except in the case of a change of domicile. Here, there is clearly no competition between administrators (a pillar of the capitalization system), at least not for the first five years, thus producing a captive clientele for just two administrators. This means that “a duopoly” of administrators was set up (Mesa Lago and Bertranou, 1998).

This duopoly has serious implications for members: not only does it run counter to the intrinsic principle of the capitalization system, which is openness to market competition, but also since it is a mandatory system, the AFPs do not invest resources in communicating to the members their rights and the benefits of the system or how the system functions. Moreover, the transfer from the former pay-as-you-go system to the capitalization system was compulsory and rapid, so that

---

<sup>48</sup> In 1831, a Retirement Fund for civil servants was established. Over a century later, in 1956, the Social Security Code entered into force, based on the principles of universality, distribution and solidarity. It covered illness, maternity, occupational risks, disability, old age, death, family allowances and low-cost housing. The system provided for taxes and contributions from workers, employers and the State.

<sup>49</sup> The 1997 Participation and People's Credit Act replaced the BONOSOL by the BOLIVIDA, valued at US\$ 60 and payable to those 65 years and over (Mesa Lago and Bertranou, 1998).

<sup>50</sup> The commission which is paid to the AFP, while less than in other countries, proves onerous bearing in mind that there is no competition and consequently promotion and publicity expenses are lower.

many years will pass before the “organizational culture” changes, a situation even more difficult if there is a change of paradigm as occurred with the pension system.

In order to cut costs, a limit was set for the recognition bond and no interest is paid. For the same reason, the system does not provide a minimum pension. This means that, unlike other systems, the State does not guarantee a return on the investment (at least not for the first two years), nor does it guarantee pensions in case of bankruptcy of an AFP or insurance company, and it does not provide a minimum pension.

Bolivia is in an incipient phase of demographic transition, so that if steps are not taken to expand coverage, a significant number of workers, especially women from the informal sector will be excluded from the pension system. As the benefit depends on the contribution, and the contribution is in turn contingent on an income, the possibility of access to the system is even more limited.

Since it has only existed for a few years, the system has a limited number of members. In December 2001, there were 675,889 members compared with 633,152 members in December 2000, which include 601,234 dependent workers and only 31,918 own-account workers, although the latter represent 18% of the economically active population (EAP); 67% are men and only 34% women.<sup>51</sup> The average taxable income is US\$ 211 and the system has only 792 beneficiaries: 27.8% received disability pensions and 72.2% death benefits, while there are no old-age benefits recorded (AIOS, 2000).

Article 24 of the Pension Act establishes that persons who obtain employment as dependent workers shall become members of the mandatory long-term social insurance scheme once they have obtained that status. But, in addition, persons who are employed as own-account workers may join the mandatory social insurance scheme by paying their first contribution.

The age for initial receipt of the benefit is set at 65 years of age, irrespective of sex (previously, it was 50 years of age for women and 55 for men) (article 26). Life expectancy at the time of retirement is estimated at 16.8 years for women and 12.1 years for men. No seniority is required but the pension is related to the amount accumulated in the individual capitalization account.<sup>52</sup>

The retirement benefit will be paid to the member, irrespective of age, when the amount standing in his/her account is sufficient to finance a pension equal to or higher than 70% of his/her base salary and the death benefit for his/her qualifying dependents (article 7, Law 1732).

From the age of 65, the member, irrespective of the amount accrued in his/her individual account, will have the right to request voluntarily the retirement benefit in his/her favour and for his/her qualifying dependents. The death benefit comprises survivor benefits to which the qualifying dependents are entitled when the member dies.

The funds in the individual account of a member who dies after the age of 65 without having benefited from the retirement pension and a member who has died without fulfilling the requirements for receiving the common risk or professional risk insurance pensions, will be used to finance pensions for his/her qualifying dependents (article 19).

As regards gender relations, article 5 of the Pension Act states that the surviving spouse or common-law spouse, provided that he/she has not remarried or has not formed a new common-law relationship, is the qualifying dependent of the first degree, followed by the children of the member

<sup>51</sup> The majority of members are between 30 and 44 years of age (45.5%) and these are followed by those of 30 years and under (31.6%). Since the system has only recently been approved, only 2.1% are members of over 60 years of age (SPVS: 2002 (Office of the Superintendent of Pensions, Securities and Insurance)).

<sup>52</sup> It is interesting to note that the bill differentiated between the sexes placing the age of entitlement at 60 for women and 65 for men, but it was rejected owing to strong political opposition, and set at 65 for both sexes (Mesa Lago, 1999).

(provided they are under 18 years of age, under 25 years if they are students, or declared disabled before reaching the age of 25). These are followed by the second degree beneficiaries, namely parents and brothers or sisters under 18 years of age provided they were previously declared by the member; third degree beneficiaries are persons chosen by the member and declared at the time of signing his/her life insurance or joining the AFP.

Clearly, access to the benefit for a qualifying dependent is conditional on the existence of a legal marriage or legitimate common-law relationship and does not constitute a right for the new beneficiary, since by the same token, it means that there is a sort of penalization if he/she lives with another person after the first partner's death. That is, the law makes the payment of a benefit contingent on the choice of a life style by the qualifying dependent.

The above is closely related to the exercise of the right of information by a member. All active workers are obliged to take out an old age insurance policy without the option of choosing the more convenient management company and, furthermore, they do not receive information on the advantages and disadvantages of the system or on key issues, such as ownership of one's individual capitalization in case of death, or even more seriously, the assumed benefits of the capitalization at the time of retirement. The system clearly operates with a captive market.

It is interesting to note that the basis of the Pension Act is article 158 of the Constitution of Bolivia, which states that it is an obligation for the State "to defend human capital", by protecting the health of the population, ensuring the continuity of the means of subsistence and rehabilitation of unemployed persons and by promoting improvements in the family group. To this end, it invokes principles such as universality, solidarity, unity of management, economy, timeliness and effectiveness. This is, once again, a euphemistic decalogue, since, in actual fact, the replacement regime that was applied is absolutely limiting of the coverage, in itself very low and, in addition, the solidarity bond is of limited scope and runs the risk of eroding the assets of the collective capitalization fund (FCC).

In other words, the Pension Act of Bolivia excludes any consideration in relation to women. Not only is there no differentiation based on age in terms of access to the benefit, but also there is no consideration of the gender perspective. Moreover, there is no choice of pension system, since there is only the capitalization system, which is a totally captive system, as there is no option for choosing the administrator (AFP).

## **E. Colombia: a parallel regime**

Colombia's pension reform was adopted by Law 100 of 1993, which established the Integral Social Security System. It became operational at the end of 1994; owing to its complexity, however, its full implementation has been delayed. This law also incorporates reform in the health system (Health Social Security System). Thus, the new system is comprised of the set of public and private entities, rules and procedures and by the general systems established for pensions, health, professional risks and complementary social services.

The pension system was organized on the basis of a pay-as-you-go system and an individual capitalization system. The first is administered by the State (Average Premium with Defined Benefit Solidarity System) and comprises two public programmes: the State-financed government employees' pension programme; and the programme administered by the Social Insurance Institute (ISS). Members' contributions and their returns constitute a public common fund which guarantees payment to the beneficiaries of the old-age, disability or survivor's benefits, or a previously defined replacement compensation.

The management of the private capitalization system or individual saving system with solidarity was delegated to private firms –the pension fund managers– and is based on the savings

that come from the contributions and their respective financial returns and the minimum pension guarantee. The two systems are mutually exclusive.

In terms of rights and guarantees, article 1 of this Colombian legislation expressly recognizes that “the purpose of the integral social security system is to guarantee the non-transferable rights of the individual and the community to enjoy a quality of life in keeping with human dignity through protection against the contingencies that affect it”.

Similarly, article 2 recognizes that the “essential public service of social security will be provided subject to the principles of efficiency, universality, solidarity, comprehensiveness, unity and participation”. Subparagraph 2(c) defines solidarity as “the practice of mutual assistance among persons, generations, economic sectors, regions and communities under the principle of the stronger helping the weaker. It is the State’s duty to guarantee solidarity within the social security system through its participation, control and management of the system. Resources from the public treasury in the security system will in all cases be applied to the most vulnerable population groups.”

Article 3 reinforces the above by stating that “the State guarantees for all inhabitants of the nation the *non-transferable right to social security (author’s italics)*. This service will be provided by the integral social security system in order to extend coverage progressively to all sectors of the population on terms established by the present law”. This guarantee is not established in the other countries.

The role of social security as a public service is established in article 4, which states that “public service is essential for the general social security health system and with respect to the general pension system is essential only in those activities directly linked to the recognition and payment of pensions”. This is based on article 48 of the Colombian Constitution.

Membership in the system is mandatory for dependent workers and optional for own-account workers. The system may be chosen freely but once the initial choice has been made, members can only transfer from one system to another once every three years after the initial choice.

In the same vein, article 6 states that one of the objectives of the system is to guarantee the extension of coverage until the entire population has access to the system “through mechanisms based on development of the constitutional principle of solidarity which provide access to sectors without sufficient economic means, such as peasants, indigenous peoples, own-account workers, artists, sportsmen, community mothers and which grant benefits in a comprehensive manner”.

It will be noted that a very wide spectrum of groups are listed as vulnerable; they range from sportsmen and indigenous peoples, to community mothers, independent workers, peasants and artists. A Solidarity Pension Fund has been set up to incorporate these categories, which are listed under the law as being without economic capacity, by means of a subsidy (article 14). This means that solidarity is aimed not at an intergenerational redistributive commitment as in the former pay-as-you-go systems, but clearly to the granting of an individual subsidy to each person that lacks the capacity to pay. These subsidies are transitory and partial. In this regard, Colombia’s goal was universal coverage in 2000 but already, at the end of 1997 (after three years of functioning), this goal seemed unattainable (Mesa Lago and Bertranou, 1998: 317).

Article 30 establishes that contributions from the national budget will be used to subsidize the contributions of domestic service workers. These should be drawn on the Solidarity Fund, using separate accounts to transfer the corresponding subsidy to the entity selected by the worker.

Under the individual saving scheme, the old-age (retirement) pension is granted to women at age 55 and to men at 60 years (article 33) and is subject to their having contributed for a minimum of one thousand weeks at any time. As of 1 January 2014, the age for entitlement to the old age pension will be adjusted to 57 years for women and 62 years for men (article 36, Law 100).

Male members who are 62 years of age and women members who are 57 years of age but who do not meet the criteria for the minimum pension, will be entitled to have the State make up the part that is missing to obtain that pension, in application of the principle of solidarity provided they have contributed for a minimum of 1,150 weeks, that is, the equivalent of almost 22 years. These proportions are modified if the numbers of beneficiaries are very high and they are governed by both the distribution and the individual capitalization system (article 60).

The advantage of this model is that present and future contributors can choose between the public programme and individual full capitalization (with multiple administrators). This freedom is greater than the substitution model; at the same time, it puts an end to the social security monopoly and stimulates competition.<sup>53</sup>

In the individual savings scheme, both members and employers are free to make voluntary contributions, which can be withdrawn from the individual savings account. For dependent workers, the base income for contribution is the monthly salary and for independent workers, it is the declared income which cannot be below the current legal monthly minimum wage.

In the case of mandatory contributions, currently, the rate of contribution for the general pension system both for members of the Average Premium with Defined Benefit Solidarity System and for the individual savings regime is 13.5% of the base income with the following structure: (i) personal contributions of dependent workers: 25% of total contribution; (ii) employers' contributions: 75% of total contribution and (iii) own account members: 13.5% of base income. This contribution includes the disability and death premium as well as administrative expenses. These expenses, together with social insurance for disability and survivors, must not exceed 3.5% of the base income for contribution. Moreover, members who earn four or more times the minimum wage must contribute an additional 1% to the Pension Solidarity Fund (article 20, Law 100).

The contributions of employers and members were increased and approved by the ISS and the AFP Superintendency (SAFP): a total of 13.5% plus the 1% paid by members who earn more than four times the minimum wage to the Solidarity Fund for low-income workers. The Colombia Solidarity Fund was created to extend coverage but the level of 1% of the salary of medium- and high-income members is too low to achieve this objective.<sup>54</sup>

In the case of disability and survivors' pensions, the insurance company must provide the sum necessary to top up the capital for financing the minimum pension. This subsidy is financed through a Pension Solidarity Fund, made up of the 1% contributed by members who earn four or more times the minimum wage, contributions from the national budget and other funds provided for under the law.

The beneficiaries of a survivor's pension are members of the family group of the old age or common risk disability pensioner who is deceased. The surviving spouse or common-law spouse is also considered a beneficiary of this pension. In the latter case, the common-law spouse must have lived with the deceased for at least two consecutive years prior to his/her death, except when they have offspring in common (article 47). Unlike the situation in Bolivia, the new beneficiary is not subject to any conditions for maintaining the right to a pension.

In addition, article 49 states that in the case of a member who has not fulfilled the prerequisites for the survivor's pension at the time of death, members of the family group shall have the right to receive a compensation equivalent to their entitlement in the case of the substitution compensation of the old age pension. That is, just as in the Chilean case, the Colombian State will

---

<sup>53</sup> In addition, it has two advantages over the Peruvian system: conditions for access have been tightened and these and the contributions of both programmes have been approved (Mesa Lago and Bertranou, 1998).

<sup>54</sup> The increase in the contributions and restrictions in the conditions of access strengthened the public regime, with reserves of the Social Insurance Institute (ISS) more than tripling between 1993 and 1995. (Mesa Lago and Bertranou, 1998).

contribute the necessary funds to guarantee payment of minimum pensions when the capitalization of the contributions and their financial returns are insufficient.

The principle of solidarity under the General Pensions System guarantees members recognition and payment of a minimum old age, disability or survivor's pension equivalent to the amount of the current monthly legal minimum wage. The guarantee of the minimum old age pension in the Individual Savings System is applied to men who are 62 years or over and women who are 57 years or over and who have contributed to the system for at least 1,150 weeks but whose account balance is insufficient to generate the minimum pension.

The benefits of the Average Premium with Defined Benefit Solidarity System are old-age, common risk disability and survivor's pensions. In addition, provision is made for assistance with funeral expenses. The old age pension is paid subject to the following conditions: women must be 55 years of age and men, 60 years of age and they must have contributed to the system for at least 1,000 weeks.<sup>55</sup> The amount of this benefit is equivalent to 65% of the base income for assessment purposes. This asset may be raised to a maximum of 85% provided that the member continues contributing to the system.

The guarantee of the minimum old age pension in the Average Premium System means that the member will receive a pension of no less than the current legal monthly minimum wage, provided, in the case of a woman, that she has reached the age of 55 or, in the case of a man, that he has reached the age of 60 and in both cases that he/she has contributed for at least 1,000 weeks at any given time. In the case of the disability and survivor's pension, the prerequisites and amounts are the same as in the individual savings system which will be referred to below.

Before the reform, the retirement age used to vary between the different programmes, but the majority was 55 years for women and 60 for men and they were standardized following the reform and gradually increased to 57 and 60, respectively. Notwithstanding this increase, retired persons have the third highest life expectancy of the eight countries, surpassed only for both sexes by El Salvador, women in Chile and men in Uruguay (Mesa Lago, 1999).

The other criteria for access to the retirement benefit were made much stricter under the public programme: years of contribution and years of wage for calculating the pension were doubled from 10 to 20 years and the replacement rate was reduced, yet interestingly continues to be among the highest. In the individual full capitalization system (CPI), neither a specific age nor years of contribution are required, but rather a specific amount in the individual account, which may be attractive for high-income retirees but not for those of middle and low income, who in addition can withdraw at a relatively early age.<sup>56</sup>

In addition, there is what is known as the return of the balance, which is an arrangement equivalent to the substitutive compensation existing in the Average Premium System. Female members of 57 years of age and male members of 62 years of age who have not contributed 1,150 weeks and do not meet the requirements for receiving a pension at least equal to the minimum legal monthly wage, receive the balance available in their pension account, including interest and the value of the pension bond.

The other benefits covered are: (i) assistance with funeral expenses; (ii) credit guarantee for house purchase : in order to obtain this benefit, the member must have accrued in the individual account a sum that will permit him/her to finance a pension of more than 110% of the minimum old age pension. The surplus on this amount may be used as housing and education credit guarantees;

---

<sup>55</sup> The ages for entitlement to the pension may be adjusted by two years for both sexes with effect from 1 January 2014, if so recommended by the Actuaries' Association or the entity acting on its behalf following a study done on changes in the life expectancy of Colombians. The adjustment will be based on a change in life expectancy.

<sup>56</sup> This is due in part to the fact that 60% of the insured are in the public programme but restrictions on the purchase conditions imposed by the reform should reduce the fiscal cost (Mesa Lago, 1999).

(iii) freely available surplus: the funds that exceed the capital required for entitlement to a pension equal to or greater than 70% of the base assessment income or 110% of the minimum pension are freely available to the member.

The members who take out old-age, disability or death insurance may opt for different payment arrangements: immediate life income, programmed withdrawal and programmed withdrawal with deferred life income.

At the end of the 1990s, 40% of members had switched to the individual full capitalization programme. Restrictions had been placed on the recognition bond and the minimum pension in order to reduce their cost. In Colombia, changes in the administration company are limited to two per year, which should reduce promotion and sales costs.

When the system was implemented (1994), there were nine Superintendencies of AFPs in Colombia and the three major companies accounted for 58% of insured persons (less than in all countries except Argentina). In 2001, only six remained, two of which were established in the last two years and the competition among the Superintendencies and between them and the ISS led to costly publicity campaigns which added to the companies' administration costs. At present, the three main companies account for approximately half of all members of these funds (Uribe, 2001).

The real return on investment is 6.7% lower than in Argentina (16.2%). Only half of members are active contributors, a proportion similar to that of other countries with individual full capitalization, which reinforces the point that effective coverage must be lower (or the cost of the minimum pension will be higher in Colombia). There is the question as to whether the public programme will be balanced (ISS) despite the reform. The ISS reserves have tripled since the reform (Mesa Lago and Bertranou, 1998).

Uribe (2001) points out that the objective of the reform, namely to do away with a multitude of pension funds was fulfilled only partly, since in fact, only the numbers were reduced but they were not unified into a single fund.<sup>57</sup> According to the author, one positive effect of the reform for workers is the possibility of changing a wage-earning job in the public sector for one in the private sector and vice versa without dispersing the contributions in different pension funds or causing discontinuity in the required qualifying time as a contributor for entitlement to a pension. Similarly, she points out that progress was made in setting up minimum pensions and in a system of cross-subsidies through the Pension Solidarity Fund (FSP), which, while it has not produced a major increase in the membership rates of the population excluded from the system, at least is a step forward which is complemented with indigence pensions, which are complemented by the contributory social security.

Now that the new system has been in effect for seven years, the real coverage –that is, excluding members who do not contribute– of the pension system is only one quarter of the economically active population. This is not very different from the coverage of the system prior to reform (Uribe, 2001).

While the number of members in the capitalization system doubled in the reform years, coverage has not expanded because the number of new contributors is not sufficient to offset the increase in the economically active population (EAP) or the increase in the number of unemployed. Of the 8.6 million persons that appeared as members of the social security in mid-2001, less than half were contributors (Uribe, 2001).

---

<sup>57</sup> On the contrary, in 1996, a new fund was set up for employees in the telecommunications sector (Caprecom) and in 2001, one for the territorial entities (Fonpet). In the same year, rules were laid down for consolidating special Police regimes (1995), the Congress (1994 and 2001) and granted pension benefits to new occupational categories, such as culture workers following the establishment of the Ministry of Culture in 1997. (Uribe, 2001).



In terms of growth, membership in the pay-as-you-go system amounted to 2,684,000 in 1991 and in June 2001 had risen to 4,467,000. There were 2,909,000 members in the capitalization system in November 1999, and this had almost doubled to 4,111,000 in June 2001. The members/EAP ratio in June 2001 was 48%, while the contributors/EAP ratio was only 22% (Uribe, 2001).

## F. El Salvador: a substitution regime

The long-standing social security crisis in El Salvador is characterized mainly by: (i) low coverage: only 16% of the population in 1989 and 26% of the EAP; (ii) low payroll taxes (between 14% and 21%); (iii) no unemployment insurance, no family allowances and limited social welfare; (iv) lower life expectancy; (v) the percentage of public spending allocated to pensions –2% between 1989 and 1995– is low compared with the amount spent on health; (vi) the assets/liability ratio and the portion of the administrative cost is the highest –16% between 1989 and 1993; (vii) the percentage of spending on social security in relation to GDP is the lowest, 2% between 1989 and 1995 (Alvarenga, 2002).

El Salvador is one of the last countries to have reformed its pension system. The Pension Savings System Act was adopted by Decree 927/96 and was implemented only in 1998. This act triggered a serious debate within the Legislative Assembly as to whether it should be partially amended or replaced outright; while the most radical proposal was to repeal it. It was clear that the gender perspective was not taken into account during the process of debate and subsequent approval of the pension act.<sup>58</sup>

The pension savings system is mandatory for workers in the private, public and municipal sectors and provides protection against the risks of old age, disability and survival (article 1 and 2 (i); Decree 927). Article 9 states that agricultural and domestic workers will be incorporated into the system subject to the conditions and specific features of their work and that a special set of rules will be established for these groups.

As a substitution system, it differs from the Chilean model in that the “option” for remaining in the old programme or changing to the new one depends on one’s age. Thus, only members aged between 36 and 49/54 years have this prerogative. The retirement ages in the public system were the lowest after Bolivia and in the reform bill, they were increased to 60 and 65 years of age for women and men respectively; following strong political opposition in Parliament, however, this proposal was thrown out and the same age was retained for both programmes: 60 for men and 55 for women<sup>59</sup> and 25 years of contributions or 30 years irrespective of age.

In this regard, article 11 establishes the incompatibility of having a person contribute to the old public pensions system and the pension savings system.

Another special feature of the Salvadoran system is that the employer’s contribution increases and the member’s contribution increases significantly. Article 16 establishes that the rate of contribution will be a maximum of 13% of the base income for contribution purposes and is distributed as follows: (a) 10% of base income will be placed in a member’s individual pension savings account. Of this total 6.75% will be contributed by the employer and 3.25% by the worker;

<sup>58</sup> Alvarenga (2002) states that the capitalization system ignores the structural failures in the Salvadoran labour market, where the informal rate of employment remained high for almost a decade; women are at a disadvantage in the labour market compared with men and poverty is escalating. The author adds that since the act was adopted, 25 articles of law were reformed and that in those cases, the gender perspective was incorporated insofar as they considered issues such as maternity and survivor benefits for the spouse of either sex and the members of the family group.

<sup>59</sup> Life expectancy of retirees in El Salvador is the highest in the eight countries which reformed their systems (Mesa Lago, 1999). Thus, taking into account the five-year period 2000-2005, a woman who retires at 55 years of age has a life expectancy of 25.73 years compared with men who have an expectancy of 22.36 years (Alvarenga: 2002).

(b) 3% maximum of the base income will be set aside for the commission of the pension fund administrator, for arranging the contract for disability and survivor's pension insurance, and the administration of the individual pension account. This percentage is paid by the worker. The option of voluntary contributions of up to 10% still remains.

Clearly the cost of membership for workers is very high, since they end up contributing almost the same amount as the employer. During the 1990s, the total population of the country grew at an average annual rate of 2.4% and the EAP grew by an average rate of 3.9%, but the same did not occur with the membership, which grew by only 6.7% approximately, amounting to 919,805 members.<sup>60</sup>

To give an idea of the scale of the phenomenon, relative poverty among men who are fully integrated in the labour market was 32.1% in 1997 while for women the figure was 25.5%. Extreme poverty among the group of men was 28.9% and among women, it was 33.5%. These figures show that although unemployment remained relatively low, job quality was translated into insufficient income to cover basic needs. The salary gap between the two sexes is 88% for 2000. Urban unemployment in 2000 was 6.6% while for rural unemployment, it was 7.5%. Women accounted for 25% of the urban unemployed and 15.1% of rural unemployed.<sup>61</sup>

The female labour force grew faster than the male labour force. The highest participation by women per branch of activity is in domestic service (approximately 93%), followed by community, social and health services (62%), teaching (61%), commerce, hotels and restaurants (52%) and manufacturing (43%). That is, women are integrated for the most part in the lowest wage and income categories and lack social security protection (domestic services and own-account workers) (Alvarenga, 2002).

El Salvador has minimum levels of pension coverage: in 1993, only 22.2% of the EAP had health coverage and 22.6% were in the pension system. From the implementation of pension reforms, coverage increased from 23.5% to 39.2% as a percentage of the EAP in 2001 (Alvarenga, 2002).

With respect to the amounts of the pensions granted by the public system, in December 2001, the average pension for women was US\$ 209 while for men, it was US\$ 230. The steepest difference between amounts is between widow/widower's pension where women receive US\$ 77 and men US\$ 93. In the capitalization system, the average pension for both sexes is US\$ 198 (Alvarenga, 2002).

The social security system is coordinated by the Salvadoran Social Security Institute (ISSS).<sup>62</sup> For the pension system, the Superintendency of Pensions was created, which will be financed by the pension fund administrators. There are only five such administrators, which, although not a duopoly as in Bolivia, means that competition is limited.

To qualify for the minimum pension, the member must have accumulated 25 years of contributory service. The pension is based on the average wage and the amount will be limited by the fiscal resources available. Thus, article 129 provides for the payment to all pension beneficiaries of a "Christmas pension" equivalent to half of the current pension and payable during the first five days of the year.

---

<sup>60</sup> Alvarenga (2001) and SAP (2001).

<sup>61</sup> The patterns that explain labour trends by sex in rural and urban areas are the employment of boys below the age of 15 in rural areas and the participation of women in the labour market in urban areas with jobs for the most part in commerce, services and in manufacturing and the maquila industry. In the specific case of the maquila, the work is precarious and does not meet the minimum social security criteria, at the same time as the rights and obligations set forth under the law for workers and employers are not respected (Alvarenga, 2001).

<sup>62</sup> The ISSS has been severely criticized for the service's inefficiency due to the shortage of staff and leadership coupled with growing demand by members which is being left unattended (Alvarenga, 2001 and 2002).

The survivor's pension is granted to the spouse provided that the marriage to the member took place at least six months prior to the date of death; in the case of a common-law marriage, the survivor must present proof of three years of cohabitation. If on the date of the member's death, the wife was pregnant, or if they had children in common or if the widow or widower or the surviving partner was disabled, the above conditions do not apply (article 107).

However, insured persons in El Salvador have the right to choose the best pension that is, either that based on the rules of the public programme or that which results from the funds accrued in the individual capitalization account. The recognition bond, which is referred to as a "transfer certificate" is adjusted for inflation but is not interest-bearing and only two changes are allowed between pension fund managers per year.

Clearly, far from "choosing freely", the workers respond to marketing strategies limited to a few managers, do not report their employers when they fail to deposit retained contributions for fear of losing their job and, in many cases, the pension fund administrators do not report delays in the deposit of contributions for fear of losing clients, while the banks that control the AFP pressure their clients to join at the risk of losing their credit lines. This situation is common to all countries.

Article 51 of Decree 927 establishes the pension fund manager's obligation to provide the member with a savings book with the record of all the movements in his/her account and to send a balance of his/her account every six months. While this commitment exists, in most cases, the reports on contributions and profitability of the individual account that the pension fund manager provides are extremely difficult for the worker to comprehend.

The State guarantees the minimum pension when the funding of the individual savings accounts is insufficient and whenever the relevant criteria are met (article 2 (h)). It also guarantees the recognition bond. An important difference compared with other countries is that the State does not guarantee the minimum return on pensions in case of insolvency of a pension fund administrator or an insurance company.

In December 2001, the system had 919,805 members, of whom 895,545 (97%) were dependent workers (40 % being women and 57% men) and 24,260 own-account workers (2.5%) (0.9% being women and 1.6% men). The total membership on that date (919,805) represented an increase of 8.5% (or 72,000 workers) over the December 2000 figure (SAP, 2002).

By the end of 2001, the male population stood at 536,390, exceeding the female population by 152,975 and the female population stood at 385,415, equivalent to 58.3% and 41.7% respectively of the total (SAP, 2002).

According to the age structure, members aged 34 years and under accounted for approximately 66.1% of the total and will probably continue to contribute for 25 or 30 years more, depending on their sex. Within the population aged under 34 years, the group of 25- to 29-year-olds accounts for the largest segment, with 24.3%. Some 80% of members are under the age of 39. In addition, the population aged 40 years or over who account for the remaining 20% includes members who are close to retirement age. Members aged 55 years and over account for 1.3% of the total and probably are workers who are contributing to the system for the first time, retirees under the old system who continue to work or persons who opted to transfer to the pension savings system (SAP, 2002).

In December 2001, dependent members totalled 895,545 (97.4% of total), while own-account workers stood at 24,260 (2.6% of total). In the first category, men accounted for 58.2% of the total and women, for 41.8%. A similar relationship is observed for the category of own-account workers (64.0% male and 36.0% female) (SAP: 2002). For the same year, 365 old age pensions, 416 disability pensions and 5,287 survivor's pensions were paid out; the survivor's pensions were paid as a result of the death of 1,939 members (SAP, 2002).

In December 2001, the total number of active members in the public system stood at 54,840 (29,320 in the National Institute of Public Employees Pensions (INPEP) and 25,520 in the ISSS; the total number of pensioners was 93,866 pensioners: 47,073 female and 46,793 male). At the consolidated level, the Public Pension System (SPP) reports 65,796 old age pensioners; 1,803 disability pensioners; 15,871 widowed pensioners; 9,467 orphan beneficiaries and 929 dependent parents (SAP, 2002).

It is clear that the pension system in El Salvador is facing serious problems. Among the proposals for its reform, Alvarenga (2002) identifies two lines of action in the short and long terms. As a short-term measure, she proposes redesigning the system based on the calculation of transfer certificates when the labour dossiers are incomplete. The measure would be similar to the Chilean recognition bond. For the long term, she proposes the following measures: (i) defining a labour policy that reduces labour market gaps which have an impact on the pension system; (ii) reviewing the pension systems from a gender perspective to guarantee fairer criteria in the benefits and calculation of pensions; (iii) designing compensatory mechanisms to cover the years that women dedicate to reproductive work; (iv) promoting the preparation of actuarial tables that take into account the differences in life expectancy between men and women; and (v) extending the coverage of the system by incorporating informal workers.

From the analysis conducted, there are good grounds for introducing new modifications to pension systems in the five countries with a view to guaranteeing in the first place gender equity, but also for resolving problems inherent to the new systems such as fiscal problems, low coverage, profitability of funds and demographic transition. Public policy proposals and civil society actions examined in the following section contemplate changes in the current dynamic of the pension system.

### **III. The new pension paradigm**

---

#### **A. The labour market and pension reform: some of the evidence**

The pension situation of individuals is certainly defined by their position in the labour market, as pension systems were designed mainly to cover the old age contingencies of waged workers, based on the model of stable occupations, with uniform or at best increasing wages, and without breaks in the labour cycle. As the analysis showed, those models did not consider women in their productive role, but as dependants of waged workers.

The pension reforms of recent years also failed to consider the productive role of women *per se*, focusing rather on the availability of an income. Although in legal terms both women and men are considered holders of capitalization accounts, the basis for such accounts continues to be their contribution from wages. Also, contributions are directly related to benefits, so that without a regular income it is not possible to enter or to remain in the system.

In most Latin American countries, women's positioning in the labour market in the 1990s was a polarized process in which jobs were concentrated at the upper and lower ends of the scale, with the great majority at the lower end. Some opportunities for positioning in highly-skilled jobs (professional and technical) have opened up as a result of modernization of productive structures.

The counterpart to this process has been a growing majority of women in low-skilled or unskilled jobs, in precarious conditions of labour vulnerability. In both cases, wage gaps, undervaluation of female labour and mechanisms of occupational segregation persist.

In all occupational categories women earn a lower income than men. These wage differences increase with age and qualifications, with larger differences at the higher levels of schooling: women earn, on average, about 60% of the income of men with the same level of education, with only small variations among the countries of the region.

While women's economic participation in the labour market is increasing, the corresponding social benefits and allocations are being restricted, making the difference in opportunities, incentives and constraints between men and women even more conspicuous. This means that although the informalization of employment and the severe constraints on social policy institutions (pensions, health, education, family benefits) affect everyone, the impact is different for men and women.

Gender discrimination is really one of many manifestations of an even more complex problem: the social status of individuals and the ways in which cohesion is maintained in profoundly inequitable societies. The problem is exacerbated insofar as no area displays more difficulty for measuring quality of life than the lives and capacities of women (Nussbaum and Sen, 1996).

The neoclassical-style economic policies that have been implemented in Latin America afford no consideration of any kind to the gender dimension at the meso and macro levels. The policy proposals amount to: equal opportunities legislation, education to combat sexist prejudices and "safety nets" for women who are denied full employment, while targeted social programmes are provided only for women living in extreme poverty. There has been no attempt to restructure meso institutions or redesign macroeconomic policies.

In practice, this type of policy seeks to reinforce the role of employment in the societal organization, encouraging an increase in the total volume of employment at the expense of its quality, without differentiating whether the labour force consists of men, women, young or older persons. What is remarkable is that the experience of neither the industrialized nor the Latin American countries bears out the supposition that employment rates rise as a result of such policies which, moreover, are not neutral in gender terms. By contrast, the findings available show that they have led to more precarious conditions for the economically active population, male and female alike, an increase in poverty rates and in vulnerability of labour.

The currents of thinking and of policies described above coincide in their quest for mechanisms by which to maintain paid employment as the lynchpin of economic and social relations. The point that such currents overlook, however, is that employment is not the only binding factor in the social and economic relations of women.

The problem is not simply the issue of increasing women's representation in the economically active population (EAP), therefore, but concerns the ways in which this representation occurs. Individuals can develop their capacity in society only when they are assured of certain basic conditions of autonomous existence and when the objectives of economic and social policy have built-in, fundamental values that also serve as parameters of evaluation. These values are the promotion of equality, equitable treatment with regard to individual characteristics and economic rationality.

## B. Unpaid labour: the outstanding issue

Another crucial issue should be added to the foregoing analysis, which is the distribution of income among the members of society. First, and without detracting from the importance of other elements in the definition of the social position of individuals, it is clear that the availability of income, of the power of demand over certain goods and services, of security against contingencies, is one of the key instruments in defining people's quality of life.

The point is how that affects people who have no income, or who perform unpaid work which, undoubtedly, takes up most of women's productive time: housewives, mothers, women who care for the elderly and those who work in family businesses. Here –again– a double standard is at play: this work is considered to be “socially useful and worthwhile” but is not paid. This situation confers even more importance on paid work outside the home, which acquires a meaning for women beyond the securing of pay – it enables them to generate new spaces of power and negotiation within the household. Having economic resources, however meagre, is a source of personal independence and is also a way of relating to other people and raising self-esteem (Pautassi, 1995).

If socially useful work is valued, then it should be properly remunerated, but this is not the case. It is remunerated work alone which confers benefits which are of value to the individual, while other members of society are left with the option of economic dependence, which is not only a social phenomenon, but also has legal consequences.

Under these conditions, some groups, especially women, have very limited options. They can hope for a working husband/father with a good income or to qualify for an “assistance” programme that recognizes them as “needy poor”. Accordingly, in addition to socioeconomic changes, consideration should be given to ideological and cultural changes with regard to the role of women in society and work outside the home.

Meanwhile, in terms of family arrangements in Latin America, the former two-parent regime has been changing to a new system in which many children live with just one of their parents because of divorce or voluntary separation. There has also been an increase in the number of persons living alone, which is mainly due to the general breakdown of cohabitation among adult generations, the general increase in life expectancy and the increased longevity of women (older women account for the largest proportion of women who live alone). Partnership without cohabitation has been increasing since the 1980s and there has been an increase in the employment rate of professional women, and in the number of women working full time who have at least one child aged under four years.

The family structure is affected by the level of family income. Setting up a one-person household requires economic resources that are not available to all those who wish to live alone, while at the other extreme, there is a higher percentage of poor families that are extended and complex. In many cases they depend on a single income which is provided by an older adult who receives a retirement or other pension benefit. There are some indications that widowhood is a determining factor for not falling below the poverty line. This means that when a pensioned older member of the household dies, the per capita income of the household increases, without significant differences for men and women.<sup>63</sup> Moreover the number of households headed by women has continued increasing since the beginning of the 1990s, and amounts to between one quarter and one third of households in each country.

---

<sup>63</sup> Sana and Pantelides (1999), in a study of poverty among older persons in Argentina, show that the pension system is in itself an important strategy for combating poverty. The evidence they offer includes the fact that the proportion of older persons who are below the poverty line (PL) who do not have income or depend solely on transfers, is three times as high as the number who receive a pension or other benefit.

Women's mass entry into the labour market has modified the usual patterns of functioning of households throughout Latin America. Despite regional and educational differences, there has been a clear overall increase in the number of persons who contribute economically to the household (women, young people and children), putting an end to the system of sole contributor or provider, both in low-income and medium- and high-income households. In this connection, the traditional intermittency related to reproductive cycles that typified women's work has changed: women with small children are entering paid employment in higher proportions. Moreover, the income of working women is, for a significant proportion of households, a contributory factor in maintaining their position above the poverty line.<sup>64</sup>

To summarize the above, women's living standards are directly related to the following factors: (i) more women are entering the labour market at a younger age and under precarious conditions, and are retiring later; (ii) the existence and level of coverage of social security systems and the availability of income for those needs; (iii) the increasing difficulties in access to health and educational services as working conditions become more precarious; (iv) changes in the composition of households, based on a redefinition of roles within the family and the resulting family arrangements which are emerging as the process of population ageing continues, and women live longer than men.

This is a highly vulnerable situation, as the opportunity cost of work for women in relation to family care is increasing. Once again, there are no policies which give proper consideration to the "economy of care", and it is not even included as a discussion topic on the public agenda. If this reality is not taken into account, there is no way of increasing women's opportunities to make life choices that give priority to individual projects rather than family ones.

In other words, the lack of equity in Latin American social policy systems has been aggravated by new inequities that have come with the reforms. In the context of a higher level of socioeconomic insecurity because of population ageing, an increase in women's participation in the labour market and a higher degree of exclusion of women from social security benefits, it is essential to include gender equity in the design and implementation of economic and social policies, in order to guarantee a certain standard of living for women and men.

According to various estimates, women's employment in Latin America will continue to increase by an annual 3.2%, while men's employment will increase by an annual 2.2% (ECLAC, 1997). This means that not only will there be more women working but that the ratio of women to men will also change. At present the differences between women's and men's employment rates are significant. According to figures from the household surveys of the countries in the region, women's participation rates in urban areas fluctuate between 34% and 50% while men's rates are between 73% and 84%. With the increase in women's participation, the age of the women is relevant, as at present there are two generations of women exhibiting different behaviour patterns. The group of women now aged 25-45 years will probably impose new forms of labour participation in the future (ECLAC, 1997).

The important issue here is to generate a theoretical and methodological debate while policies are implemented which use that focus to expand the degree of gender equity. Throughout this study, an attempt has been made to emphasize that current market-oriented economic processes and the private provision of services are hindered by the sexual division of labour, income and responsibilities, which indicates that market forces modify gender relations and the latter in turn modify market forces. The specific nature of women's employment is determined by a

---

<sup>64</sup> Arriagada (2001) adds that the contribution made by an additional income to the household establishes the difference between the poorest and the richest quintile. Households with more than one economic contributor are more often the households of two-parent families, as well as extended and complex families. Accordingly, the proportion of households with more than one person providing income is less among one-parent families as in this case the second income could only be generated by children entering the labour market.



heterogeneous set of factors such as the size and composition of the labour force, current institutional arrangements, and the role of productive and reproductive work. The distribution of working and non-working men and women has clear and significant effects on gender relations.

### **C. Mechanisms for reform oversight**

One fundamental aspect of pension provision is the mechanisms established by the national legislations in terms of monitoring rights and obligations.

Firstly, the reform brought the creation of superintendencies of pension fund administrators, which in most cases are independent decentralized bodies within the ministry of labour (Argentina, Chile, Colombia, El Salvador) or of economic affairs (Bolivia).

These bodies are responsible for: control and monitoring of the fund administrators in all matters relating to their functioning and coordination of the system (authorizing their establishment, inspecting fund operation and investment, liquidation, applying sanctions); establishing the rules that regulate the insurance contracts providing the pension benefits; carrying out technical studies; and keeping members informed as to the status of their individual accounts.

The operating schemes are similar in the five countries considered. Thus, in Argentina, the control and inspection body that controls and inspects the capitalization system is the Superintendency of Retirement and Pension Fund Administrators (SAFJP) which is a decentralized, independent body of the Ministry of Labour.

Its functions include (art. 119 Law 24241/93): (i) authorizing the functioning of the administrators, inspecting their activity and deciding on their liquidation when necessary; (ii) exercising the power to impose sanctions provided for by law; (iii) passing resolutions on various issues (rules for advertising, membership); and (iv) overseeing issues which include the assignment of contributions and taxes, placement of funds, profit margins of the administrators, commissions, and fluctuation funds.

This regulatory function is carried out in four basic areas of work of the Superintendency:

1. Control of institutions: responsible for the authorization, operation and dissolution of retirement and pension fund administrators. This in turn consists of three areas: (a) authorizations; (b) supervision; and (c) auditing. These are responsible for verifying the performance of the administrators in terms of the investments made, fund fluctuation and advertising.
2. Financial control: this area focuses on analysis of the administrators' investments, the instruments used and the institutions involved.
3. Pension control: this area is responsible for monitoring benefits and insurance. There are three departments: (a) services for members: providing services and channeling concerns, difficulties and complaints lodged by members. In many cases complaints are made concerning the procedures of the administrators or their promoters, which require the intervention of the Legal Department of the Superintendency; (b) benefits: this department carries out controls and follow-up of the procedures relating to the granting and payment of benefits, and solves, together with the retirement and pension fund administrators and the National Social Security Administration (ANSES), the problems arising from the unified payment of benefits to those who have mixed benefits (from the capitalization and pay-as-you-go regimes); and (c) insurance: supervises the contracts for disability and life insurance and for pension annuities, and monitors compliance with the conditions of the respective policies.

4. Medical: establishes patterns and controls for operation of the medical commissions responsible for qualifying the degrees of incapacity of members requesting retirement benefits for disability.

For those working men and women who opted to remain in the state system (pay-as-you-earn) the implementation authority is ANSES.<sup>65</sup> This is a decentralized and independent body of the Ministry of Labour. Prior to the pension reform, this body had exclusive responsibility for the administration of pension benefits and until 1992 was collecting taxes and contributions. The reform reduced the powers of ANSES and it lost its monitoring function to become a state administration entity, but with the capacity to set rules on some specific operational aspects of the Integrated Retirement and Pension System.

Law 24241 establishes in article 124 that the State guarantees a minimum level of profitability on the funds which the members or beneficiaries of the capitalization regime have invested, when an administrator is unable to comply with that obligation; the State also guarantees the payment of retirement and other pensions in the case of bankruptcy or insolvency of a retirement insurance companies.<sup>66</sup>

It also establishes as an obligation of members and beneficiaries to inform the SAFJP of any fact or circumstance that amounts to non-compliance on the part of the employer with the obligations established by the national law on retirement. The SAFJP is obliged to investigate the reported facts within no more than 45 days, and to pass a resolution either rejecting the report or imposing sanctions.

In Bolivia, the controlling body is the Superintendency of Pensions, Securities and Insurance (SPVS) which is part of the Financial Regulation System (SIREFI), internal bodies of the Ministry of Economic Affairs and Economic Development.<sup>67</sup> Its functions and attributions are established in article 49 and are similar to those of Argentina in terms of organization of the system: to regulate, monitor and supervise compulsory social security, supervise the AFP, arrange for intervention and liquidation, among other tasks. The beneficiaries have a “Guide for the Beneficiary” where details can be found of the main aspects to be taken into account (functioning of the SPVS, obligations of the administrators, and advantages of membership).

In the Chilean case, the control body is the Superintendency of Pension Fund Administrators (SAFP) and the management of the old system was the responsibility of the Pension Standardization Institute (INP).

The structure of the SAFP is the same in all the countries, as the Chilean version was taken as a model. According to its Statute, the organizational structure consists of an inspector’s office and five divisions: (i) financial; (ii) institutions control; (iii) benefits and insurance; (iv) internal administration and information; and (v) studies. Moreover the Superintendency interprets the legislation and regulations of the system in a manner that is binding for the administrators and lays down general rules for their implementation (art. 94 D.L.3500/80).

All of the pension laws include articles that incorporate the right to information for the beneficiaries and which guarantee not only the right to be informed prior to choosing the best administrator, but also to be duly informed of movements on their individual account, of the type of investments made by the AFPs with the funds and of all matters relating to their individual

---

<sup>65</sup> In 2001 the National Institute of Social Security Resources (INARSS) was created, which is an independent body in which the Federal Administration of Public Revenue (AFIP), ANSES, AFJPs, the Labour Risks Administrator (ART) and union and management social security funds participate. This centralizing structure has failed to meet its objective of increasing fiscal collection, and it is expected that the new administration will dissolve it.

<sup>66</sup> The maximum amount to be guaranteed on a monthly basis is the amount of each beneficiary’s benefit up to the amount given by five times the equivalent of the maximum universal basic benefit (Law 24241/93, art. 124).

<sup>67</sup> While the former pay-as-you-go system still exists, its designated body is the National Pension Department.

capitalization account. The actions that guarantee this right, however, are limited. This means that the laws do no more than establish administrative mechanisms for claims (reports and complaints).

It is interesting that the Superintendency of Chile recently began an information campaign on a “pension culture”. This appears as a result of various surveys held in the years 2000 and 2001, which demonstrated that Chileans were unaware of basic aspects of the operation of the AFP system, including important questions such as the price (pension cost) and the effects of early retirement. For this purpose a services center was opened to the public, where 52% of the consultations received during the last quarter of 2001 concerned benefits. An Internet consulting line was also opened (SAFP, 2002).

The fact that Chile, after 20 years of implementing the pension reform, with a very intense advertising strategy, perfected over time and with seven competing AFPs, has found it necessary to develop a “pension culture” is yet further confirmation of the difficulties associated with the pension reform. It also shows the lack of information provided to members, which converted the supposed “freedom of choice” into legalized captivity.

At this point, it is appropriate to recall the recommendations of the Committee on Economic, Social and Cultural Rights, which have outlined with great clarity the obligation of the states to carry out effective monitoring or supervision of the degree of effectiveness of economic, social and cultural rights. In this connection, the Committee considers that the production of information is a prerequisite for this monitoring and has imposed on the States the duty to collect information and ensure access to it on various issues. Lastly, it has specified the obligation to formulate a plan of action or strategy for moving forward with the realization of rights. The obligations for monitoring, gathering information and preparation of an action plan for progressive implementation, apply, as immediate measures, to all the rights contained in the International Covenant on Economic, Social and Cultural Rights (General Comment No. 1, paragraphs 3 and 4) (Abramovich and Courtis, 2002). The production of information to evaluate the degree of satisfaction of social rights and the formulation of a plan, according to the Committee, are measures that the State must adopt immediately. Limited resources cannot be used here as an excuse for non-compliance.

In the case of Colombia, the General Pension System is supervised by the Ministry of Labour and Social Security, which is responsible for formulating, adopting, directing and coordinating policies on employment, labour, pensions and social security, within the guidelines approved by the Government. The Ministry of Labour and Social Security is responsible for the Superintendency of Family Subsidies, the Social Security Institute (ISS), the National Social Security Fund, the National Service of Apprenticeship (SENA) and the Social Security Fund of the Congress of the Republic.

The Bank Superintendency is responsible for monitoring and supervision of the administration of each of the regimes of the General Pension System, to ensure the latter’s compliance with their obligations. That is, unlike what happened with the health reform, no specific Superintendency was created for the private providers of pensions funds, but the supervisory tasks of the Bank Superintendency were increased.

Uribe (2001) highlights as a strength of the reform the System of Information and Supervision for which the Bank Superintendency is responsible, although she warns that the Bank Superintendency was designed to supervise banks rather than to monitor the pension system. Consequently, its work has focused on monitoring the profitability of fund investments, their portfolio composition and the administration costs charged to members. She adds that the supervision of control bodies of the public and private system concentrates on monitoring the rules and procedures established, and not the results. Despite the fact that the Pension Law refers to the pension system as “comprehensive”, the result is actually a splintering of the information and of the evaluation of the pension system, and there is no opportunity for carrying out an assessment of the

reformed system as a whole. In order to compensate for these deficiencies, the Bank Superintendency began to publish data on members, active contributors and those receiving pensions from public funds and the ISS, but this is only since the year 2000 and in partial form (for example it does not include minimum pensions). No one body is responsible for the entire system of pensions (Uribe, 2001).

Article 98 of Law 100 establishes that both members and shareholders in pension fund administration companies shall choose the auditor to inspect the administration of individual funds. Members shall also have two representatives, elected by themselves, to attend the board meetings of the administering companies, with a voice but without a vote, who together with the auditor shall protect the interests of members, in accordance with the regulations established by the Government. It has not been possible to determine whether this mechanism has been implemented.

Uribe (2001) emphasizes the importance of strengthening the bodies for complaints and reports on pension matters, both in the inspection entities and in the ombudsmen's offices, as the only authority that has made statements in Colombia on pension matters is the Constitutional Court. The situation is similar in all the countries considered.

The Social Security System in El Salvador is coordinated by the El Salvador Social Security Institute (ISSS). For the Pension System, the Superintendency of Pensions was created, which will be financed by the AFPs. In 1997 five fund administrators were authorized, but following a series of mergers, two administrators have covered the majority of the membership since July 2000, forming a duopoly as in Bolivia.<sup>68</sup>

Article 51 of Decree 927 establishes the obligation for the AFP to provide the member with a savings book with a record of all the movements on his/her account and to send an account statement every six months. Although this commitment exists, in the majority of cases the reports on "contributions" and the profitability of the individual account provided by the AFPs are extremely difficult to understand.

It is clear from this analysis that these agencies have not carried out activities in defence of the rights and interests of members. Imperfect information situations, a lack of complaint bodies and a lack of awareness of the functioning of an individual capitalization account are common to the five countries. There is no systematic record of complaints in this connection, and in some cases they would be made to the ombudsmen and not to the control bodies (superintendencies).

In most cases, the holders of an individual capitalization account meet with "surprises" when they receive their pension fund, because the amount is less than what was promised, remissions and deductions have been made that were not foreseen in the original contract, or the weeks of contribution are less than those actually worked. The mechanism used in these cases is complaint via the court with lawyers, which implies expenses for the member, while some practice is needed in the exercise of rights. If effective complaint mechanisms could be established within the superintendencies or ombudsmen's offices, this would not only be free, but would speed up considerably the procedure for dealing with unfavourable situations, while the scope for making complaints regarding gender gaps in the system could be expanded.

## **1. Pensions reforms and national constitution**

In recent years many Latin American countries have reformed their constitution. For example, Ecuador in 1978, Chile and Brazil in 1989, Colombia in 1991, Paraguay in 1992, Peru and

---

<sup>68</sup> Alvarenga (2002) notes that in the successive reforms of the Pension Law, it was established that if only one AFP remained functioning, the Superintendency would issue a public invitation to tender for authorization for administration of the fund in order to avoid a monopoly.

Bolivia in 1993 and Argentina, Guatemala and Nicaragua in 1994. Most of these reforms were intended to resolve common problems and ultimately the solutions applied were very similar.

Five main areas were modified:<sup>69</sup> (i) reform of justice and the council of the magistrature; (ii) reform of the legislative and executive powers; (iii) inclusion of the “new social rights; (iv) reform of participation mechanisms; and (v) reform of the representation system.

In some cases, the reform of justice and the creation of the council of the magistrature was intended as a way of creating an intermediate body between the judicial and the executive powers, whose main task was to put a limit on the discretion of the political power in the selection of new judges. In practice, this article should be regulated by a special law.

The reforms in the legislative and executive power had the objective of achieving an apparent “restitution” of functions to the legislative, and a reduction in powers for the executive. In other words the reforms sought to remove the powers which, in fact, the executive had tended to appropriate for itself. In this, connection, the duration of presidential mandates was reduced and the mechanisms for controlling parliament were expanded. In parallel, and despite these reductions, constitutional status was given to presidential functions which had not previously been recognized (although at times they were part of judicial practice), as in the case of the executive capacity to dictate decrees by need or urgency or to have partial vetoes in relation to legislative projects.

In short, the growing concentration of regulated and de facto powers in the president, which historically determined a hyper-presidential and corporative configuration throughout Latin America, with the parliament, local governments and even the judicial power, gradually ceding their faculties of control and counterweight to the monocratic organ, does not seem to have changed. Moreover, the hyper-presidential system which exists in most of the countries is presented as a combination of an electoral structure and political parties of the European type, generating dynamics of political interaction which are extremely disruptive of the stability and efficiency of the system. These shortcomings of the system of government have not been remedied by the constitutional reforms attempted.

In relation to the topic of interest here, the incorporation of the social rights referred to as “new rights” or collective rights, all of the Magna Cartas include an extensive list of new rights. That is, they guarantee the full exercise of political rights in accordance with the principle of popular sovereignty, and of the laws which are passed as a result and compulsory universal suffrage. They also guarantee a real equality of opportunities between men and women for elective posts and the democratic nature of political parties.

Rights to collective goods were also established, such as the right to a healthy working environment, suitable for human development, indigenous peoples’ rights, while all countries gave constitutional status to international covenants and treaties. On the basis of that provision, treaties and concordats take precedence over laws.

The American Declaration of the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political rights and its Optional Protocol, the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child, according to their conditions of application, have constitutional status in almost all countries.

---

<sup>69</sup> This classification is taken from Gargarella (1997:971).

In addition to the worthy reasons for including this list of “new rights”, in addition to the enormous quantity of international treaties which acquire constitutional status, there is the question of making those rights effective. This is not a minor consideration, as while the constitutions were being reformed in various countries, the social policy institutions were dismantled. The rights of the citizenship in relation to redistributing welfare were replaced by targeted assistance programmes. In other words, citizens no longer have a right to health, but they need to qualify for a health assistance programme which, *inter alia*, stigmatizes them as poor and beneficiaries.

Clearly the treaties on human rights have been given constitutional status not only for the purpose of serving as a complement to the dogmatic part of the constitution, but also with the implication that they condition the exercise of all public power, including that exercised by the Judicial Power, on the full respect and guarantee of those instruments. As the treaties have constitutional status, their violation is not only a matter of the international responsibility of the State but also a violation of the constitution itself. At the domestic level, the non-application of these treaties by the national tribunals would imply the adoption of arbitrary decisions, dispensing with consideration of rules of constitutional status.

The national tribunals are those which are responsible for ensuring full respect for and guarantee of all the international obligations assumed by the different countries with regard to human rights on the part of the powers of the state. According to the doctrine, “(a) State has a right to delegate to its judicial department the application and interpretation of treaties. If, however, the courts commit errors in that task or decline to give effect to the treaty (...) their judgments involve the state in a breach of treaty”.<sup>70</sup>

The recommendations that the Committee of the International Covenant on Economic, Social and Cultural Rights formulates for the member states are interesting in this connection. Thus, in the case of Argentina, the Committee noted its concern for the extent of the Government’s privatization of the pension programme. In particular, the Committee was concerned by article 16 of Law 24,463 on pensions and solidarity, in which the Government was allowed to reduce and possibly not even pay retirement pensions by invoking economic constraints (paragraph 18). In this connection the Committee urged the State to ensure that its social security system guaranteed workers an adequate minimum retirement pension which should not be unilaterally reduced or deferred, especially in times of economic constraints. Consequently the Committee recommended that the Argentine State repeal article 16 of Law 24,463 of 31 March 1995 in order to guarantee the full payment of all pensions (paragraph 33).<sup>71</sup> This information is extremely important in relation to future reforms.

In the same connection, the Committee was concerned at the privatization of labour inspections and control systems in Argentina (Law on Labour Risks) and noted that public campaigns were not an adequate substitute for efficient inspections carried out by public authorities (CESCR, 1999, paragraph 22). This recommendation is valid for the promotions of fund administrators. The Committee was particularly concerned about the large number of workers who fell within the informal economic sectors, as in 1999 approximately 37% of urban workers in the country were not registered, which, according to the Government’s own estimates, implied that some 3 million workers had no social security coverage (CESCR, 1999, paragraph 13).<sup>72</sup>

The Committee noted with concern the adoption by the Argentine State of legislative reforms that tended to increase the precariousness of work relationships. This was evidenced by permitting the adoption of collective agreements that reduced the legal work standards (Law 24,467, chapter

---

<sup>70</sup> Lord McNair, *The Law of Treaties*, Oxford, 1961, cited by CELS (2002).

<sup>71</sup> CESCR (1999), paragraphs 18 and 33.

<sup>72</sup> The Committee notes with concern the treatment accorded to “temporary” workers in Argentina, as the measures adopted to promote job creation have not guaranteed their economic, social and cultural rights, particularly in times of high unemployment (point 15) (CESCR, 1999, General Observation).

III), an increase in the trial period stipulated in work contracts and the generalization of contracts of limited duration (CESCR, 1999, paragraph 16).

The Committee noted with concern various discriminatory practices against women, particularly in the areas of employment and equal pay (paragraph 17) and called upon the Argentine Government to take steps to guarantee equality in law and in practice between men and women in the enjoyment of economic, social and cultural rights (paragraph 32).

It should once again be recalled that the right to coverage of contingencies belongs to the category of social rights in the international sphere of human rights. Full citizenship requires that rights are indivisible and that the individual is conceived not as an abstraction, but in accordance with his/her various social and economic activities. By conceiving the individual as an abstraction, modern citizenship masked its exclusion of women. This notion of citizenship referred to the public arena and omitted the private sphere and activities that took place there, so that the claimed universality of citizenship was from the outset only relative and narrow. The rights which derived from civil citizenship founded the ideological opposition between contract and charity, which was extended to social citizenship, so that the former manifested in compensation to the worker, while charity manifested in widows' pensions (Marco, 2002).

This analysis clearly demonstrates the necessity and urgency of resolving subsistence problems for a significant sector of older adults, but it is not only a question of including the excluded in a number of institutions, but also of including them in such a way that the result is equity (Marco, 2002).

## **2. Equality plans initiated by the women's offices**

It is interesting that the equal opportunity plans produced by the countries contain merely a generic reference to "guaranteeing women's access to social security".

Although the majority of these plans offer inter-agency mechanisms and agreements for the implementation and follow-up of lines of action, especially those agreed in the Beijing Platform for Action with regard to social security, there are none that focus on pension systems.<sup>73</sup>

Most are oriented to carrying out actions to achieve equality of opportunities in labour market participation for women and men, by eliminating grounds for gender discrimination which lead to wage inequality, and providing access for women to decision-making posts and training of women in different areas of activity.

One example is the case of El Salvador: the national policy on women for 2000-2004 has no reference to the pension system. Although the situation of working women should clearly take priority, in view of unsatisfactory working conditions, especially in sectors such as maquila, this omission of possible coverage for old age is surprising.

In the same connection, as previously indicated, the only consideration in terms of gender in parliamentary debates prior to the approval of the laws on social pensions, especially in the case of Argentina, was the increase in the retirement age for both men and women.

In the cases of El Salvador and Colombia, in view of persistent violations of labour conditions for women workers, the actions focus on achieving an improved quality of employment

---

<sup>73</sup> In this connection, the project "Changes in pension systems and their impact on overcoming inequalities between men and women" is the result of preliminary consultations carried out with the national women's offices in the region in the context of the preparatory activities for the eighth session of the Regional Conference on Women in Latin America and the Caribbean (Lima, Peru, 8-10 February 2000) and for the special session of the United Nations General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century" (New York, 5-10 June 2000). Its preparation also involves interdivisional collaboration of ECLAC in relation to the issue of pension system reforms.

and to ensure that women workers know their rights and have them respected by business authorities. Bolivia is the country with the lowest level of activism in this area by civil society, although apparently –as access to complaints has not been provided- complaint mechanisms are being initiated through the ombudsmen in relation to disadvantageous situations brought about by the reforms.

And here a kind of “waiver” should be noted, which commonly arises in discussions, which refers to giving priority to the labour situation of women, income gaps and situations of occupational discrimination, relegating the old age contingency to a secondary area of grievance. Although it is the labour market situation which determines the right to social security, and there is no right to benefits until this situation is resolved, this aspect cannot be isolated as it is absolutely intrinsic to the rights of a working woman. It is precisely for these reasons that affirmative actions should be taken.

Civil society organizations have also neglected gender equity in pension matters. The women’s movement includes it on the list of labour issues, but it has not been on the agenda, not even when the pension laws were approved. In the case of retirees’ and pensioners’ organizations, the gender perspective was also omitted, although equity was included, as they have frequently made statements concerning the fall in benefits and the lack of medical coverage. They took a clear position in relation to the reform, opposing the capitalization model, among other reasons because it removed financing from the public system (on which they depend).

In Argentina, prior to the reform, when the pension crisis occurred and retirement and other pensions dropped to indecently low levels, retirees were committing suicide. Once again, it is not only a problem of the quality of life of older adults, but their very survival is at stake. This situation should have generated a debate of great magnitude, but after the initial shock to society, the media soon lost interest, and the survival of older persons was left to depend on focused assistance programmes and the help of charity institutions or the family, at a time when employer contributions were being systematically reduced, which has a direct impact on the (loss of) financing for the social security system.

## **D. Gender and pension reform: lessons learned**

As indicated throughout this paper, there are many aspects which must be taken into account when evaluating the impacts of pension reform from a gender perspective. This analysis clearly cannot be merely technical, as this is a much more complex issue which involves a discussion of the values and principles inherent in the objectives to be achieved and in the mechanisms designed for that purpose. Accordingly, many aspects of the pension reforms in the five countries analyzed must be reconsidered.

The first lesson of the process is that a reform cannot be carried out on such a scale in such a short time without impact assessment. The reforms were the result of definite political processes, and not of a detailed scientific process. Priority was given to corporate interests and efficiency of the system rather than to expanding population coverage. Moreover the impacts were different for men and women. In fact, a series of modifications were needed –and continue to be so- following the entry into force of the reforms, to compensate for or correct errors. The most typical case is El Salvador, where 25 modifications have been made to the Pension Law over five years and the difficulties continue.

The following problems are a common feature of the new systems: (i) coexistence of multiple systems with benefits and low coverage of the poorest groups; (ii) decline in the ratio of contributors/beneficiaries; (iii) evasion of payment of contributions; (iv) low investment returns; (v) weak relationship between contributions and benefits; (vi) excessive administrative costs and low



efficiency; (vii) pro-cyclical financial systems and with social charges on the payroll that affect the competitiveness of enterprises (viii) no consideration of differentiated effects in terms of gender; and (ix) increase in precarious employment, without any type of social security coverage.

As this analysis shows, with the reform not only did coverage (real and statistical) of social security systems fall, but the poverty and socioeconomic insecurity indices have risen constantly, while the health and living conditions of the older adult population have deteriorated further. It has been shown that “privatization” of the system was a euphemism, as the triple cost of the transition is taken on by the State, together with the associated financing problems.

In terms of gender, the problems identified are mainly related to the following aspects: (i) retirement age; (ii) formal work and informal work; (iii) unpaid work; (iv) level, nature and changes in remuneration; (v) greater life expectancy of women; (vi) conditions for acquiring pension rights; (vii) high cost of fixed fees of fund administrators; (viii) modalities of withdrawal (old age, invalidity, survival); (ix) actuarial calculations to determine the amount of the pension benefit; (x) conditions for those covered; and (xi) low level of coverage of the system.

The second lesson of the reforms concerns the general framework of structural adjustment policies implemented in Latin America. These policies imposed a new system for distribution of the income-generating capacities of individuals, based on dismantling of the labour security network which had supported social security in the past. Thus, formal employment became rarer and precarious conditions increased.

As was mentioned before, the capacity for generating income is a key determinant of a person’s resources and is a central condition for access to the new pension systems. In general the main source of this capacity is work, and for the majority of individuals and families, the most significant complementary income is provided by the system of social policies. But it is also clear that a large number of persons do not receive any income, even when they do work, such as women who devote themselves to unpaid work, and do not even receive any family benefits in connection with a child or spouse.

Thus, in the absence of public institutions to deal with the problem, in Latin American societies most citizens find themselves obliged to work more hours to maintain a larger number of economical dependents. In view of the conditions of the labour market, it is difficult to achieve a higher income through higher remuneration, and so more members of the family group have to be involved in the search for income. The case of women in Latin America is a good example.

The “economically active” person has reciprocities with those who carry out unremunerated tasks, such as housewives. In addition to these reciprocities, however, there is a twofold correspondence: with the future and with the past, with children and older persons. These reciprocities have historically been a demarcation line between those who are assumed to be economically independent and those who are economically dependent on the former.

In operational terms, social security benefits have become a reason for coverage, based on the assumed head of the family (usually an adult male) on the basis of certain intergenerational and patriarchal contracts. In childhood, there is a kind of investment so that the role will be taken over in the future, guaranteeing the survival of the adult in old age. With older persons, the contract recognizes their maturity and past contributions, using part of the current yield to return the investment made by the adult of the past who is today’s older person. In other words, social security contains an implicit solidarity contract within and between generations. Without these temporal and generational reciprocities, the continuity of the groups breaks down. Previously, these reciprocities were supported in the economy of care provided by women. This means that women

have historically been responsible for the continuity of such contracts through the provision of reproductive care.<sup>74</sup>

The above is related to the principle of equality. This means, in the first place, the same legal status, and secondly, the effective realization of life opportunities. Although the first principle is legally guaranteed, both in the constitutions of the countries and in the adherence to international covenants and treaties, the same does not happen with living conditions, which are not the same for everyone and there are no guaranteed minimum levels for all.<sup>75</sup>

Individuals can develop their capacities in society only when certain basic conditions of autonomous existence are provided and not when they depend on voluntary assistance or on some social welfare programme. The situation in Latin America is that there is support for the concept of equality, and constitutional rights and covenants against discrimination are provided, but in practice opportunities are distributed in an inequitable form in accordance with gender, race, or income differences.

How can the pension reforms be evaluated in terms of distribution of capacities? In brief:

1. Through the privatization of the administration of social insurances (pensions, health insurance) the relationship between institutional access and the labour market situation is reinforced;
2. The dismantling of social institutions eliminates the “unconditional” networks of protection so that the effective level of coverage (both vertical and horizontal);
3. As a result, a large part of the responsibility for coverage of social contingencies is transferred to the citizens themselves, leaving them dependent to a large extent on their capacity to generate their own income;
4. There has been a greater selection and fragmentation of programmes, so that they are designed according to the specific characteristics of the different groups identified as the target population;
5. Women, young people and older people suffer the most under this situation, as the only “solution” offered to them is a targeted assistance programme;
6. This fragmentation leads to increased social division, where the institutions representing “general interests” lose ground to those representing “private interests”;
7. The new scenario modifies the nature of conflicts and thus the role of the political actors. Previously, pressure was applied to extend benefit coverage, whereas now there is a struggle over the purpose of selectivity;
8. In the regulatory area, spaces requiring public supervision and collective actors are being abandoned, transferring total responsibility to individuals, who are made directly responsible for their situation;
9. In parallel, the institutions for inspection and review of the operation of the new systems have been reduced, resulting in a considerable lack of protection for citizens.

The third lesson of the process is related to the type of economic model in which the pensions systems operate and how the labour market is according to that model. First of all, the individual capitalization systems assume regular income throughout the life cycle and they are assumed to be guaranteed by a stable framework that was achieved through the macroeconomic policies

---

<sup>74</sup> Folbre (2001) notes that women have a legacy of responsibilities in care provision which should make them suspicious of the principle “every man for himself”.

<sup>75</sup> Sen (1985) defines life opportunities as the capacity of a person to develop (function) within the social system in which s/he lives, that means, what s/he can do or what s/he can be.

implemented during the 1990s. This situation was achieved only partially, as the “virtuous circle” of those policies was declining by the end of the decade, and in some cases, such as in Argentina, resulted in hyper-recessive situations, with a subsequent increase in unemployment and in contribution evasion.

The fourth lesson relates to safeguarding the right to information. Information issues include not only systematizing the development of coverage and the subsequent registering of members/contributors to the system, incorporating gender indicators and characteristics of the members, but also refers to the right of members of the system to have a complete knowledge of the advantages and disadvantages of their chosen system in order to exercise their “freedom of choice”.

Lastly, another lesson from the reform process refers specifically to pension legislation as there has been a lack of promotion to offer access to the system, to expand coverage, to increase contributions, to diminish the risk and to even out the actuarial calculation. This lack of promotion differs considerably between men and women and ultimately results in inequitable conditions for women. Once again, the main discrimination stems from differential opportunities by gender in the labour market and the lack of consideration of reproductive work.

According to the analysis, the conditions for acquiring pension rights in the reformed legislations generally follow a pattern that is common to all. In each one, however, there are particular regulations which manifest their gender neutrality. There is thus direct discrimination against women, considering them not as citizens with rights or as workers, but as dependent spouses, housewives, and mothers. Domestic work receives an almost negative valuation, as women who dedicate themselves entirely to this kind of work are considered “dependents” and “beneficiaries” of the husband’s pension. This benefit is not available to economically active women, even when they do domestic work. Their paid work and saving does not seem to have value as, in the case of Chile, for example, widowers do not receive pensions (Marco, 2002). Another unfair aspect is the retirement age, which for women is five years earlier than for men. In view of their greater life expectancy, women in an individual capitalization system receive lower pensions (Marco, 2002).

Along the same lines, the new pension systems reproduce the occupational and wage discrimination that affects women. This is a very important point, as it is usually argued that problems intrinsic to the labour market cannot be attributed to the pension system. Although that statement is true, an effort has been made in this study to show that there are also problems which are inherent in the pension system and which reproduce the inequities of the labour market. The reform did not take into account that stable employment was no longer the rule, and that on the contrary, flexible labour, wages and working-hours were predominant, nor were changes in the production systems themselves taken into account.

Hence the need to understand that social security is not only an economic issue, but also a political and cultural one. It is not linked to economic growth alone but to the definition of the set of life opportunities of the population, and to forms of social integration. Accordingly, important questions emerge in the light of current trends: is “security” of income more important than profitability? Should priority be given to what is the most “basic” and “necessary”, or to what is “best”? To the highest level of “coverage”, or to the highest level of fund capitalization?

Lastly, and beyond the specific technical aspects that have been considered in this analysis, there is a real risk that the new pension systems suffer the same kind of deterioration as that of the public distribution systems. More specifically, emphasis must be given to the imminent danger produced by a diminishing of the income of the system and a drop in coverage of the population, as a result of the increase in unemployment and the expansion of informal labour; or a worsening of recessive or inflationary processes that produce a drop in real salaries or that investments and efficiency of the funds are negative, while evasion increases even further (among other reasons

because the system is unattractive for the workers) and the lack of supervision of fund administrators.

From the above it is clear that a lack of clarity in conceptualizing the issues has generated countless vicious circles which prevent the linking of comprehensive social security policies and the effective implementation of social rights. It is a question then of opening new forums which extend the room for maneuver of public policies and which, in turn, would bring gradual changes in the new structure of the post-reform State. A clear reversal of trends is needed, however, in order to consider gender differences and extend the life opportunities of women.

## **E. Recommendations**

The current scenario in the region offers different situations with regard to pensions that require public intervention to tackle errors and/or cover gaps that the reforms have not taken into account. The most obvious case is the gender dimension. At the same time, the conflicts inherent in pension systems have been aggravated by a significant number of unsatisfied demands in relation to citizenship which must be taken into account in future reforms.

Throughout the work there has been an analysis of the main aspects of the critical state of the pension system in each of the countries, which show that if significant changes are not introduced, the trend will be a continuing worsening of the situation. The greater social visibility of the drama of pensioners usually masks the no less dramatic situation of those who have retired from the labour market and do not receive any benefit. Once again, this is the case of women.

There follows a summary of the main reform projects that are currently under debate in each of the countries analyzed. Action proposals are then formulated, in terms of public policies and lines of research, with a view to contributing to some of the questions raised, and incorporating gender equity into pension issues.

### **1. Recommendations for public policy-making which incorporates gender equity into gender issues**

In each of the countries which have reformed their pension systems, various proposals have been formulated and implemented for reform of the current systems. Most of them concentrate on mechanisms to increase coverage, implement minimum pensions, establish limits for the administrators' commissions, improve replacement rates and reduce fiscal costs. They are presented as follows: country-specific proposals are considered first, and subsequently there is consideration of those that take into account some variable relating to equity.

#### **(a) At the country level**

*Argentina:* as indicated above, the last reform in Argentina dates from the year 2000 (Decree 1306), but was not implemented owing to the interposition of a provisional remedy that is pending resolution. This decree caused many disputes and arguments concerning its legitimacy.

Recently (July 2002) a technical commission of ILO, chaired by Carmelo Mesa Lago, produced a report which includes various reform measures. The first recommendation of the study refers to the urgent need to return to the 11% personal contribution. The paper recommends as an alternative to alleviate the social impact of the measure, that the quota be progressively increased,

one point per month, so that the original level would be reached in six months. The problem was that this would reduce take-home pay, at a time when inflation was approximately 35%.<sup>76</sup>

The ILO analysis recommends a revision of Decree 1306 of 2000, in which the Universal Basic Benefit (PBU) paid by the State would be replaced by a proportional benefit which, in many cases, would reduce the pension benefit, as there was no fiscal margin for these measures. Another aspect of the ILO report was that it recommended the unification and simplification of the employer's contribution, eliminating all the regional differences.

*Chile:* as the Chilean pension system is the oldest, it has generated a greater level of evaluation and debate. There is thus a greater consensus on reviewing the assumptions on which the pension systems were based, seeking a reorientation in order to ensure, inter alia, equality of pension treatment for women and men. In order to achieve this it is essential to reconsider the traditional concept of the head of the family and a dependent spouse.

For example, Ferreiro Yazigi (2002) notes that the wage gap between men and women does not have the same effect on replacement rates but does affect the final value of the pension. On the contrary, a shortening of the salary gap between men and women through a faster growth rate in wages for women than for men, would tend to have a negative effect on the replacement rate for women, although it would increase the monetary value of the pensions.

Along the same lines, new occupational profiles must be included, as the pension system was based on a pattern of stable employment of indefinite duration. The system was not designed to include special treatment for temporary, unstable and transitory occupations, which only allow sporadic pension contributions, which are lost when work is intermittent (López, 2002).

The author shows that the idea that it is not the pension system but the labour market that is responsible for the low level of coverage is a fallacy. It is the design of the pension system itself that is inappropriate to guaranteeing old age pensions in accordance with the predominant patterns of work. The current modalities in many sectors do not allow for compliance with the years of contributions or the frequency of contribution, all of which results in a substantial disincentive for pension saving.<sup>77</sup>

He adds that one way of improving the coverage of the capitalization system and increasing the levels of pension saving would be to redesign the requirements for access to minimum pensions, so that the occupational profiles which actually exist would allow access to various levels of old age pension. This would mean updating access requirements in accordance with the new characteristics of labour and making changes in the seniority requirements and the State guarantee of minimum pensions as a means of increasing women's. He also suggests that family income as a whole could contribute to a single fund as a means of including complementary and sporadic remunerations.<sup>78</sup>

According to Flavia Marco's analysis (2002), the reform proposals for the Chilean system which incorporate gender equity are as follows:

- Modify the system's structure of incentives and disincentives, in order to offer incentives for members to maintain their contributions. This proposal is made by Arenas (2000), who considers it necessary to streamline the procedures for declaration and payment of contributions, eliminating bureaucratic requirements. There is emphasis of the need to

<sup>76</sup> The wage contribution to the retirement regime was reduced from 11% to 5%. This reduction of the quota is current only for members of the AFJP and, although it has a favourable effect on the wage received, it also affects the projections of future benefits. The estimates show that if the 5% level is continued, the benefit of a member after 30 years of contribution would be reduced by 65% compared to what s/he would receive if the level was 11%.

<sup>77</sup> In the ideal situation, those sporadic contributors would have access to State-guaranteed minimum pensions, which would involve an increase in public debt with the system of pension fund administration (López, 2002).

<sup>78</sup> With regard to this last point, the distribution of resources within families is usually not equitable (López, 1999 cited by Marco, 2002).

implement measures that change the short-term view that individuals adopt when making a decision on whether or not to participate in the pension system. In the case of independent workers, who make up the larger part of the population without coverage and where women are the majority, the years of contribution as independent workers should be taken into account when calculating the vacation days to which every dependent worker is entitled. It should also be possible to deduct the contributions made to social security from their tax base.

- Uthoff (2001) suggest avoiding the tax discrimination that affects independent workers in order to increase coverage of the population, and to include more severe sanctions for non-compliance with employer obligations. He thus emphasizes the importance of reducing the financial risk of members close to retirement and shows preference for a mixed system which avoids evasion and risk selection and increases efficiency. Accordingly, there is a need to reconsider the participation of the private and public sector in financing the system and in administrating the pension funds. In other words, Uthoff (2002) notes that the current system has favoured individual saving rather than solidarity, leaving the latter to the State but without the corresponding source of financing. It is thus necessary to re-establish financing measures which can compensate for the discriminatory factors in the labour market and the system which prevent mothers and their children from receiving decent pensions. If this situation is not reversed, women will continue to accumulate less funds in their individual capitalization accounts, while their rate of replacement in the system is lower than men's.
- With regard to altering the seniority requirements, Pamela Gana (2002) adds the proviso that this and any other measure intended to increase women's pension coverage will have to take care not to reduce the incentive for their labour participation, as the reduction in the number of contributing years required to gain a minimum pension may be a reason for working only the number of years required. She adds that as access to the pension system in Chile is conditional on labour participation, measures should be taken to improve women's labour integration, such as training and skills updating programmes, and reproductive health services such as child care services.
- Lastly, Pedro Valencia proposes the reform measure of creating an AFP for workers as a non-profit organization and with State support.<sup>79</sup> He also recommends more severe sanctions for employers who retain contributions and payments unduly, and suggests modifying the provision for a ten-day period granted to employers for transferring workers' contributions, in order to avoid the loss this causes to the members' funds. Lastly, he proposes establishing an option for early retirement for those carry out unhealthy or heavy work, including some type of financing to compensate the lesser years of contribution.

In *Colombia*, there is currently a debate on reform of the pension system.<sup>80</sup> The main theme of the discussion is focused on the raising of the retirement age, the increase in the contribution rate and the reduction of the percentage of salary replacement while increasing the number of years over which this percentage is calculated. In addition to a review of the actuarial calculations, the reform project is also evaluating whether the possibility of moving from one system to another should be maintained (Uribe, 2001).

<sup>79</sup> Marco (2002) notes that this general proposal would mean some return to mutualism, although it does not specify the way in which this AFP would be established, or the form of worker participation or for implementing the joint ownership regime.

<sup>80</sup> Uribe (2002) notes that this new reform process is governed by a struggle between different sectors with very different interests. Thus, the Ministry of Economic Affairs makes an economic proposal which would reduce the fiscal deficit and maintain its commitments with the International Monetary Fund, while the union sector struggles to maintain corporate interests and lastly, Congress has to face the Executive, proposing changes to the proposal of an economicist nature, trying to ensure that the reformed system does not harm acquired rights.

Consuelo Uribe (2001) emphatically recommends an elimination of pension assets, in order to determine the real situation of coverage and not to continue increasing the group of categories of pensioners who are excluded from the general regime. Along these lines there is a warning of the difficulty of financing such a proposal in a situation of fiscal deficit, and reference to the option of using resources from the National Royalty Fund or from privatizations to establish these reserves, as in the case of Bolivia.

Along the same lines, flexible mechanisms are recommended so that employers can make their contributions and thus regularize their pension situation and that of their dependents; microentrepreneurs would be allowed to contribute on the basis of a minimum salary. As a subsequent measure, there is a recommendation to make the payment to a single public fund with strong supervision, which would in turn transfer the percentage corresponding to health funds, occupational risks, pensions and the two respective solidarity funds. This would put an end to undue retention of resources for the solidarity components by the private administrators of pension and health funds.

She adds that the solidarity component of the system should be reconsidered, as the objectives are not clear. For example, indigence pensions cannot be made conditional on municipal participation for their financing, nor restricted to the indigent older person receiving a complete or comprehensive package of services. The impact assessment of this component is urgently needed, as unspent surpluses should not continue to exist at a time when poverty and unemployment are increasing (Uribe, 2002).

Lastly, the author emphasizes the appropriateness of making the retirement age the same for both sexes, but also of informing potential members that this difference is not taken into account in the defined-benefit system. She adds that in Colombia a survivor's pension should be made incompatible with one acquired in one's own right as a measure for enhancing system efficiency. In the violent conditions of Colombia, such a pension can be a determining factor for compensating for the accidental death of the head of the household and avoiding the occurrence of greater poverty (Uribe, 2001).

*El Salvador* is the best example of reforms of reforms. There have been 25 modifications to the Law on Pensions in only five years and reform bills continue to be submitted. Alvarenga (2002) distinguishes two lines of action to be taken, in the short and long term. For the short term, she proposes a redesigning of the calculation for transfer certificates when work records are incomplete. The measure would be similar to the Chilean recognition bond.

In the long term, the author suggests the following measures: (i) defining a labour policy that compensates for shortcomings of the labour market that impact on the pension system; (ii) reviewing the pension system from a gender focus in order to ensure more equitable criteria for benefits and their calculation; (iii) designing compensatory mechanisms to cover the years that women devote to reproductive tasks; (iv) to promote the production of actuarial tables that take into account the difference in life expectancy of men and women and (v) to expand the coverage of the system by incorporating informal workers.

### **(b) Proposals for comprehensive reforms**

Firstly, there is a proposal to guarantee the security of personal income. In particular, the right to a guaranteed income for the whole population which offers a minimum basis for social functioning, with a low risk of following a path that leads to poverty. This is the proposal for a citizens' income, which can be understood as the most comprehensive version of the concept of an income security network. This right to a citizens' income is independent of employment and labour;

access is unconditional for all citizens, requires no contribution in exchange and is independent of income from other sources (Lo Vuolo and others, 1999 and Pautassi, 1995).

This proposal is distinct from the idea of minimum pensions in the unconditional nature and high degree of universality of access to the monetary benefit, as a guarantee of coverage to prevent the emergence of irreparable gaps.

As analyzed here, the idea of traditional social insurances is that persons have the right to certain benefits by the fact of being employed. Directly or indirectly, to a greater or lesser degree, access to the benefits of such insurance requires a counter-payment which is linked to some aspect of remunerated work in the market (employment), whether it is current employment (for example, family allowances, health insurance); past employment (retirement and other pensions, unemployment insurance); or the willingness to be employed (minimum employment programmes, employment in social services and the most unemployment insurance schemes).

In contrast, the proposal for a citizens' income is based on the idea that it is more rational, at least up to a certain amount, for individuals to have the right to an income without any counter-payment being required. This concept is based on arguments which include the following: citizens are capable of carrying out –and do carry out- activities which are socially useful and which are worth paying for with part of the wealth created by society, even when such activities are not transacted or remunerated in the labour market. Examples of these activities are: the domestic work carried out mainly by women, child care, care of older persons and the education and training of each individual.

The citizen's income is oriented directly towards the right to an income. The objective is to guarantee a certain level of income and thus to reduce the central role of the remunerated employment market; that is, the interdependence between labour distribution and income distribution. From this perspective, the issue of labour as a productive input should be decided separately from the issue of income for the coverage of basic needs. The right of access to the citizen's income benefit is not based on any particular contingency or even on the identification of a specific state of need.<sup>81</sup>

Secondly, Emilio Morgado (2001 and 1998) of the Iberoamerican Social Security Organization<sup>82</sup> proposes two changes, which although inspired by the Chilean system, are more comprehensive. The first is to establish three contributory pension schemes: one for guaranteed minimum pensions; another for income-linked defined benefits, with bipartite contributions; and the third of a complementary nature with contributions from members and possibly from employers. A fourth non-contributory assistance scheme would be added to these. The second proposal is to establish some kind of mechanism for information or consultative participation for the members.

### **(c) At the level of international agreements and equality plans**

It may be recalled that the recommendations of the Committee on Economic, Social and Cultural Rights have outlined with greater clarity the obligation of the States to carry out effective monitoring or supervision of the degree of effectiveness of economic, social and cultural rights. The

---

<sup>81</sup> Any design of social security networks in income allows for variations in the basic variables –coverage and benefits- with different affects in relation to the needs for resources. Consequently, the determination of the magnitude of the “financing gap” of the different options for security networks in income based on the concept of citizen's income will depend on four main factors: (i) the size of the population groups defined in the coverage; (ii) the level of the unit monetary benefit which is to be guaranteed; (iii) selection of the fiscal unit; and (iv) the potential saving from current social programmes (Lo Vuolo and others 1999).

<sup>82</sup> The following is from Marco (2002).



Committee considers that the production of information is a necessary part of this monitoring and has imposed on States the duty to collect information on various issues and guarantee access to it.

Along the same lines, it has determined the obligation of the countries to formulate a plan of action or a strategy to move forward with the degree of realization of economic, social and cultural rights. The obligations for monitoring, collecting information and preparation of a plan of action for progressive implementation were applicable, as immediate measures, to all the rights enshrined in the Covenant (General comment 1, paragraphs 3 and 4). The production of information to assess the degree of satisfaction of social rights and the formulation of a plan, according to the Committee, constitute measures that the State should adopt immediately. Resource constraints could not be invoked as an excuse for non-compliance.

This last provision is extremely important, as it challenges the method frequently employed by States of claiming budgetary constraints not only in connection with the production of information, but in some cases, as established by the Argentine Law on Pension Solidarity or by many judgments of the constitutional tribunal of Colombia, for not implementing acquired rights.

The most vulnerable groups include older persons. In General comment No. 6 on economic, social and cultural rights of older persons, the Committee noted that “States parties to the Covenant are obligated to pay particular attention to promoting and protecting the economic, social and cultural rights of older persons. The Committee's own role in this regard is rendered all the more important by the fact that, unlike the case of other population groups such as women and children, no comprehensive international convention yet exists in relation to the rights of older persons and no binding supervisory arrangements attach to the various sets of United Nations principles in this area” (CESCR, 1999, General comment 6, paragraph 13).

The lack of specific international mechanisms to protect older adults illustrates the lack of consideration for them. Once again, it is fundamental that the issues of older persons and the need to provide old-age pension coverage be incorporated into the equality plans of the machineries for the advancement of women and that affirmative action is taken in that respect.

These requirements are based on the exercise of full citizenship and belong to the field of fundamental human rights. As we have seen in the first part of this document, the principles developed by the jurisprudence of the international human rights bodies are directly applied by the jurisprudence of the countries signatories to the treaties, a circumstance which facilitates the application of these provisions.

This point is fundamental for consideration of the enforceability of these standards of social rights as a field of action, in order to achieve a reversal of many of the adverse effects of the reforms. Accordingly, in this type of excluding scenario it is essential to renew the debate on the effective scope of social rights for citizens in general and for women in particular.

#### **(d) At civil society level**

As one of the deficiencies of the pension reforms of the 1990s was the lack of participation of civil society in that process, it is essential that the redefinition of pension provisions be carried out in the framework of a public and participative debate of all citizens, so that they can express their demands in relation to policies and institutions that have been or are to be reformed.

Once again, the different demands and needs of women should be considered in their full scope, as it is not only a question of being a member of society but also of how to enjoy that right. Social participation is thus an indispensable form of exercising citizenship, constituting a good in itself that does not depend on being exercised.

Enhancing the opportunities for women to express their demands with regard to issues and possible solutions concerning the pension systems is a clear and necessary policy option. This requires government measures and actions that effectively promote autonomy and personal capacities as well as strengthening the exercise of personal and democratic liberties.

With regard to the rights of users and consumers, support must also be provided for claims and complaints bodies, and for exercising the right to be informed. As has been shown, using mechanisms to make claims effective implies a change in cultural patterns with regard to social institutions. To promote such forms of action would attenuate the situations of “surprise” which frequently occur to the individual capitalization account holders at the time of claiming their pension holdings, because the amount is less than what was promised, or remissions and deductions have been made that were not foreseen in the original contract or the weeks of contribution are less than those actually worked.

The mechanism used in these cases is complaint via the court with lawyers, which implies expenses for the member, while some practice is needed in the exercise of rights. If effective complaint mechanisms could be established within the superintendencies or ombudsmen’s offices, this would not only be free, but would speed up considerably the procedure for dealing with unfavourable situations, while the scope for making complaints regarding gender gaps in the system could be expanded.

It is clear from this analysis that these agencies have not carried out activities in defence of the rights and interests of members. Imperfect information situations, a lack of complaint bodies and a lack of awareness of the functioning of an individual capitalization account are common to the five countries. There is no systematic record of complaints in this connection, and in some cases they would be made to the ombudsmen and not to the control bodies (superintendencies).

### **(e) Unpaid work**

One urgent issue relating to the processes of review of the pension systems is the fallacy of considering women’s unpaid work to be absolutely elastic, despite the contrary evidence. The situation is aggravated by women’s lack of access to a pension system as they are not considered “workers”. Something similar occurs in the case of precarious work or intermittent situations, which hinder the accumulation of sufficient contributions to qualify for benefits. This fallacy must be recognized and transformed into an urgent issue of public policy.

There has been a change from a paternalist model of an insured husband responsible for a dependent wife to the liberal model of individual capitalization where the lack of protection has increased. Women continue to be considered as a group, on the assumption that their behaviour and interests are similar. Women, however, do not constitute a homogenous group with identical interests, as they are divided by their class origin (Venezuela, 2002).

No progress can be made in this area until it is accepted that care work is not a private good but a public good. Issues such as the division of labour within the household, the view of women as “dependents” will remain current and there will be no progress in increasing pension coverage for unwaged women. Nor will it be accepted that care work is fundamental for generating social capacities, which are indispensable for the development of the individual and his/her opportunities.

Public policy options include the following:

- Conditions for access to the pension system: should not be based only on the category of wage earner or the family group of the head of the family, and new forms for including women in the system should be considered;
- Reduction of age and seniority requirements for access to pension benefits;

- Modification of the division of labour within the household to facilitate family arrangements and/or allow the entry of women into the labour market, so that they can enter on conditions of equality with men;
- Promotion of policies for providing care services (child care, family benefits for mothers);
- Valenzuela (2002) notes that the sexual division of labour has a fundamental role in the construction of citizenship rights, obligations and opportunities for men and women. Accordingly, changes in the sexual division of labour will require changes in public policies and in private behaviour. One way to implement this could be through awareness-raising campaigns. The conflict to be resolved in this case would be how to make such actions compatible with measures to promote a change in the behaviour of men with regard to care and their relationship to the public and private sphere.
- One interesting idea is to present it as a right: the “right to time for care” which refers to both the right to take time to leave the labour market and the right to combine care and work. These rights should be accompanied by measures which at least offer men an incentive to exercise them (Valenzuela, 2002).

## 2. Research agenda

There are many aspects which must be included in the research agenda on pension issues. The most important include the following:

- Establishing the analysis of gender systems from a gender perspective as a field of knowledge and research;
- Information production: it is essential to supplement, redesign and/or produce systematic tools for collecting information disaggregated by sex which take gender indicators into account on social security issues;
- Implications of the impacts of the demographic transition and its effects on the pension systems for men and women;
- Production of actuarial tables for calculating pension benefits in accordance with the mortality indices of each country;
- Research on the pension situation of migrants and its gender impacts;
- An inter-disciplinary analysis of the types and degrees of disability which determine the right to a pension and its implications in terms of gender equity;
- Establishment of joint medical commissions to take into account gender differences;
- Support impact assessments of the new systems, taking into account differentiated gender impacts;
- Promotion of inclusion of the gender perspective in social security law. Note that there is no consideration of the gender perspective in the definition of contingencies. That is, the state of need is considered equally for men and women, and there is no determination of specific contingencies in terms of gender;
- The macroeconomic impacts of including unpaid work in the national accounts and in the financing of the pension system.

Lastly, it should be made clear that the concern frequently expressed in relation to the fiscal situation, which is considered an insurmountable barrier for any policy implementation, should not be considered a limiting factor. The erosion of sources of fiscal financing, the weight of

accumulated public debt and the excessive level of public expenditure, are the arguments repeatedly put forward by the mentors of structural adjustment policies to justify the low or scarce yield of the policies they have implemented.

If these arguments are taken into account, public policy remains trapped in a circle that discards any option that would mean an increase in expenditure on the grounds of a lack of “fiscal visibility”. The problems of the strategy applied hitherto must be recognized and a gradual movement made towards another type of public policy which functions in another context of fiscal administration.

This means, first of all, that it would be appropriate to carry out an in-depth assessment of the consequences of having implemented these pension reforms, to provide a basis for offering a set of alternative strategies. It is a question then of opening new forums which extend the room for manoeuvre of public policies and which, in turn, would bring gradual changes in the new structure of the post-reform State. It is not a question of “small changes” to the policies implemented, but of developing sustainable economic, social and political policies that incorporate gender equity and guarantee the quality of life of all the citizens.

## Bibliography

---

- Abramovich, Víctor and Christian Courtis (2002), *Los derechos sociales como derechos exigibles*, Madrid, Ed. Trotta.
- AIOS (Asociación Internacional de Organismos Supervisores de Fondos de Pensiones) (2001), *Boletín estadístico* No. 5, June.
- Alvarenga, Ligia (2002), *A cinco años de la reforma de pensiones en El Salvador y su impacto en la equidad de género*, ECLAC, Buenos Aires, (mimeographed).
- (2001), *La situación económico-laboral de la maquila en El Salvador: un análisis de género*, Serie Mujer y desarrollo No. 34, (LC/L.1543-P), ECLAC, Santiago, Chile.
- Arenas, Alberto (2000), *Cobertura previsional en Chile: lecciones y desafíos del sistema de pensiones administrado por el sector privado*, Serie Financiamiento del desarrollo No. 105, (LC/L.1457-P), ECLAC, Santiago, Chile.
- Arenas, Alberto and Pamela Gana (2001), *Reformas a los sistemas de pensiones y los desafíos de la dimensión de género*, Serie Población y Desarrollo No. 18, (LC/L.1614-P), ECLAC, Santiago, Chile.
- Arenas, Alberto and Verónica Montecinos (1999), “The privatization of social security and women's welfare: Gender effects of the Chilean reform”, *Latin American Research Review*, vol. 34, No. 3.
- Arriagada, Irma (2001), *¿Familias vulnerables o vulnerabilidad de las familias?*, paper presented at the seminar “Las diferentes expresiones de la vulnerabilidad social en América Latina y El Caribe: conceptos, medición y políticas”, CELADE, Santiago, Chile, 20-21 June 2001, (mimeographed).
- (1991), *World Bank Development Report 1991, The Challenges of Development*, Washington, D.C.

- Barrientos, Armando (1998), "Pension reform, personal coverage and gender differences in pension coverage", *World Development*, vol. 26, No. 1.
- Bertranou, Fabio (2000), "Pension reform and gender gaps in Latin América. What are the policies options?", *World Development*, vol. 29, No. 5, May.
- Birgin, Haydeé and Laura Pautassi (2001), *¿Género en la reforma o reforma sin género? Desprotección social en las leyes previsionales en América Latina*, Serie Mujer y desarrollo No. 36, (LC/L.1558-P), ECLAC, Santiago, Chile.
- Birgin, Haydeé (1992), "La reformulación del orden mundial: El lugar de las mujeres en las estrategias de desarrollo sustentable", in: *Fin de siglo. Género y cambio civilizatorio*, Isis Internacional, Ediciones de las Mujeres No. 17, Santiago, Chile, December.
- Cagatay, Nilüfer (1998), "Incorporación del género en la macroeconomía", in: *Macroeconomía, género y estado*, National Planning Department, Bogotá.
- Cagatay, Nilüfer; Diane Elson and Caren Grown (eds) (1995), "Gender, adjustment and macroeconomics", *World Development*, November.
- CELS (Centro de Estudios Legales y Sociales) (2002), Documento sobre estándares en materia de derechos económicos, sociales y culturales, preliminary version, Buenos Aires, Argentina, (mimeographed).
- CESCR (Committee on Economic, Social and Cultural Rights) (1999), Concluding Observations of the Committee on Economic, Social and Cultural Rights: Argentina, 08/12/99, United Nations, Geneva, Switzerland, December.
- Cox, Alejandra (1999), *Pensions projections for Chilean men and women: Estimates for social security contributions*, World Bank Research Project on Gender and Social Security (mimeographed).
- Demarco, Gustavo (1997), *Reformas de la seguridad social en Argentina: lecciones de la experiencia*, Serie Políticas sociales No. 18, (LC/L.1054-P/E), ECLAC, Santiago, Chile.
- ECLAC (Economic Commission for Latin America and The Caribbean) (1997), The equity gap. Latin America, The Caribbean and The Social Summit, (LC/G.1954 (CONF.86/3)), Santiago, Chile.
- ECLAC (Economic Commission for Latin America and The Caribbean) (2000), Equity, development and citizenship, (LC/G.2071 (SES.28/3)), Santiago, Chile.
- Elson, Diane (1992), "From survival strategies to transformation strategies: Women's need & structural adjustments" in: Lourdes Baneria y Feldman (comp.), *Unequal burden. Economic crisis, persistent poverty and women's work*, Oxford: Westview Press.
- (1991), "Male bias in macro-economics: The case of structural adjustment", in: Diane Elson (comp.), *Male bias in the development process*, Manchester University Press.
- Ewald, Francois (1986), *L'Etat providence*, París, Bernard Grasset.
- Ferreiro Yazigi, Alejandro, (2002), Participación de la mujer en el sistema de pensiones administrado por las AFP, document prepared for the expert meeting on Gender impact of pension system reforms in Chile, Santiago, Chile, 17-18 June 2002.
- Folbre, Nancy (2001), *The invisible heart. Economics and family values*, The New York Press, New York.
- Gana, Pamela (2002), "Seguridad social: Sistema de pensiones y género en Chile. Más derechos económicos, sociales y culturales, menos desigualdades de las mujeres en Chile", Report on economic, social and cultural rights of Chilean women, 2001, Corporación de Desarrollo de la Mujer, La Morada, Santiago, Chile.
- Gargarella, Roberto (1997), "Reciente reformas constitucionales en América Latina: una primera aproximación", *Desarrollo Económico*, vol. 36, No. 144, January-March
- Giménez, Daniel (2002), "Viejas y nuevas tendencias de la ciudadanía social de las mujeres chilenas. Análisis de la evolución de derechos y beneficios previsionales", document prepared for the expert meeting on Gender impact of pension system reforms in Chile, Santiago, Chile, 17-18 June 2002.
- Gómez Gómez, Elsa (1997), *La salud y las mujeres en América Latina y El Caribe: viejos problemas y nuevos enfoques*, Serie Mujer y desarrollo No. 17, (LC/L.990), ECLAC, Santiago, Chile, May.
- Grushka, Carlos (1996), *Tablas actuariales para Argentina*, Serie Estudios Especiales No. 8, SAFJP, Buenos Aires.
- ILO (International Labour Organization) (2001), "Trabajo decente para la mujer. Una propuesta de la OIT para acelerar la puesta en práctica de la Plataforma de Acción de Pekín", Geneva.
- James, Estelle (1997), *Pension reform: Is there an efficiency-equity trade off?*, working paper prepared for the Conference on inequality reducing growth in Latin American's markets economies, Inter.-American Development Bank, January.

- Lefaucheur, Nadine (1993), "Maternidad, familia, Estado", in: Georges Duby and Michelle Perrot (comp.), *Historia de las mujeres. El siglo XX, la nueva mujer*, vol. 10, Madrid: Taurus.
- López, Diego (2002), Los derechos sociales y económicos de las mujeres en el sistema de pensiones, document prepared for the expert meeting on Gender impact of pension system reforms in Chile, Santiago, Chile, 17-18 June 2002.
- Lorenzetti, Marcos (1999), "Reformas de las pensiones en América Latina: genuinos y falsos objetivos", en *Contribuciones*, 4/1999, CIEDLA/Adenauer Stiftung.
- Lo Vuolo, Rubén; Alberto Barbeito; Laura Pautassi and Corina Rodríguez (1999), La pobreza de la política contra la pobreza, CIEPP/Miño y Dávila, Buenos Aires.
- Lo Vuolo, Rubén (1997), "Reformas previsionales en América Latina: una visión crítica en base al caso argentino", in: *Economía e Sociedade*, Revista do Instituto de Economía da UNICAMP, vol. 6, Campiñas, Brazil, June 1996.
- Lloyd-Sherlock, Peter (1999), Ancianidad y pobreza en el mundo en desarrollo, CIEPP/Miño y Dávila (eds.), Buenos Aires.
- Marco, Flavia (2002), Factores jurídicos demográficos y laborales que determinan diferencias de género en el sistema de pensiones. Los casos de Argentina y Chile (DDR 16), ECLAC, Santiago, Chile.
- Marshall Thomas and Tom Bottomore (1996), *Citizenship and social class*, London and Chicago, Pluto Classic.
- Mesa Lago, Carmelo (2000), *Desarrollo social, reforma del Estado y de la seguridad social en el umbral del siglo XXI*, Serie Políticas sociales No. 36, (LC/L.1249-P/E), ECLAC, Santiago, Chile, January.
- \_\_\_ (1999), Estudio comparativo de los costos fiscales en las ocho reformas previsionales en América Latina, paper presented at the seminar ECLAC/, Ministry of Finance, Santiago, Chile, 2-3 September 1999.
- \_\_\_ (1978), *Seguridad Social en América Latina*, ECLAC, Santiago, Chile.
- Mesa Lago, Carmelo and Fabio Bertranou (1998), *Manual de economía de la seguridad social en América Latina*, CLAEH, Montevideo.
- Montaño Virreira, Sonia (1997), "Mujer, cultura y poder local", in: *Los procesos de reforma del Estado a la luz de las teorías de género*, IULA/CELCADDEL, Quito, Ecuador.
- Morgado, Emilio (2001), "Presente y tendencias de la seguridad social", *Memorias del 12<sup>th</sup> Encuentro Iberoamericano de Derecho del Trabajo y Seguridad Social*, Sinaloa.
- \_\_\_ (1998), "Reforma de la seguridad social en Chile. El sistema de pensiones por vejez. Las reformas de la Seguridad Social en Iberoamérica", OISS, Madrid.
- Navarro, Mario (1995), "Democracia y reformas estructurales: explicaciones de la tolerancia popular al ajuste económico", in: *Desarrollo Económico*, vol. 139, Buenos Aires, October-December.
- Nussbaum, Martha and Sen Amartya (1996), *La calidad de vida*, Fondo de Cultura Económica, Mexico.
- O'Connor, James (1973), *The fiscal crisis of the State*, St. Martin's Press, New York.
- O'Donnell, Guillermo and Phillipe Schmitter (1986), *Transitions from authoritarian rule: Tentative conclusions about uncertain democracies*, John Hopkins University Press, Baltimore.
- Offe, Claus (1995), "Un diseño no productivista para políticas sociales", in: Rubén Lo Vuolo (comp.) *Contra la exclusión. La propuesta del ingreso ciudadano*, CIEPP/Miño y Dávila, Buenos Aires.
- \_\_\_ (1990), *Contradicciones en el Estado de Bienestar*, Alianza Editorial, Madrid.
- Palmer, Ingrid (1998), Cuestiones sociales y de género en las políticas macroeconómicas, en DNP-Colombia, *Macroeconomía, género y planeación*, National Planning Department, Colombia.
- Paganini, Mario (1983), "El concepto de contingencia en seguridad social", in: ZEUS, vol 33, Santa Fe.
- Pautassi, Laura (2001), *Equidad de género y calidad del empleo. Las trabajadoras y trabajadores en salud en Argentina*, Serie Mujer y desarrollo No. 30, (LC.L.L1506-P), ECLAC, Santiago, Chile.
- \_\_\_ (2000), "Igualdad de derechos y desigualdad de oportunidades: Ciudadanía, derechos sociales y género en América Latina", in Gioconda Herrera, *Las fisuras del patriarcado. Reflexiones sobre feminismo y derecho*, FLACSO-CONAMU, Quito, Agora.
- \_\_\_ (1995), "¿Primero...las damas? La situación de la mujer frente a la propuesta del ingreso ciudadano", in: Rubén Lo Vuolo (comp.), *Contra la exclusión. La propuesta del ingreso ciudadano*, CIEPP/Miño y Dávila, Buenos Aires.
- Pearson, R. and C. Jackson (1998), "Introduction: Interrogating development: feminism, gender and policy", in: *Feminist vision of development. Gender, analysis and policy*, London, Routledge.
- Rico, María Nieves (1997), "Género, medio ambiente y sustentabilidad del desarrollo" (DDR/2) ECLAC; November.

- Rofman, Rafael (1999), El sistema previsional argentino a cuatro años de la reforma, in: *Estudios del trabajo*, No. 18, Buenos Aires, July-December.
- Sana, María and Alejandra Pantelides (1999), La pobreza entre los ancianos. Lo que dicen los datos a la luz de las limitaciones de la medición, in: *Desarrollo económico*, vol. 38, No.152, Buenos Aires, January-May.
- Sen, Amartya (1996), “Compromiso social y democracia: las demandas de equidad y el conservadurismo financiero”, in: P. Baker (comp.), *Vivir como iguales. Apología de la justicia social*, Paidós Studio, Barcelona, Buenos Aires, Mexico.
- \_\_\_ (1985), *Commodities and capabilities*, Elsevier Publishers, Amsterdam and New York.
- Sineau, Mariette (1993), “Las mujeres en la ciudad: derechos de las mujeres y democracia”, in: Georges Duby and Michelle Perrot (comp.) *Historia de las mujeres. El siglo XX, la nueva mujer*, vol 10, Madrid: Taurus.
- SAFJP (Superintendencia de Fondos de Jubilaciones y Pensiones) (2002), *Boletín estadístico mensual*, March, Buenos Aires.
- \_\_\_ (2001), *Informe de coyuntura*, Buenos Aires, March.
- SAFP (Superintendencia de Fondos de Pensiones) (2002), *Sistema chileno de AFP. Resultados 2001*, Santiago, Chile.
- SAP (Superintendencia de Pensiones) (2002), *Revista Estadística: 4<sup>th</sup> quarter of 2001* (October, November and December), El Salvador.
- Schulthess, Walter and Gustavo Demarco (1996), *El sistema de jubilaciones y pensiones en Argentina a dos años de la reforma*, Serie Estudios Especiales No. 5, SAFJP, Buenos Aires.
- SPVS (Superintendencia de Pensiones, Valores y Seguros) (2002), *Información estadística*, Bolivia, <http://www.spvs.gov.bo/>
- Standing, Guy (1992), “The need for a new social consensus” in: Philippe Van Parijs (ed.), *Arguing for Basic Income. Ethical Foundations for a Radical Reform*, London, New York: Verso
- Uribe, Consuelo (2001), La reforma de pensiones en Colombia y la equidad de género, Bogotá, October (mimeographed).
- Uthoff, Andras (2002), Diferencias en la cobertura y monto de las pensiones provocadas por el mercado laboral, document prepared for the expert meeting on Gender impact of pension system reforms in Chile, Santiago, Chile, 17-18 June 2002.
- \_\_\_ (2001), *La reforma del sistema de pensiones en Chile: desafíos pendientes*, Serie Financiamiento para el desarrollo No. 112, (LC/L.1575-P), ECLAC, Santiago, Chile.
- \_\_\_ (1997), “Reformas a los sistemas de pensiones, mercado de capitales y ahorro”, *Revista de la CEPAL* No. 63 (LC/G.1886-P), Santiago, Chile.
- Valenzuela, María Elena (2002), Comentarios al trabajo de Daniel Giménez “Viejas y nuevas tendencias de la ciudadanía social de las mujeres chilenas. Análisis de la evolución de derechos y beneficios previsionales”, document prepared for the expert meeting on Gender impact of pension system reforms in Chile, Santiago, Chile, 17-18 June 2002.
- World Bank (1994), *Envejecimiento sin crisis*, Washington, D.C.





UNITED NATIONS

Serie

ECLAC

Mujer y desarrollo

## Issues published

1. Rural women in Latin America and the Caribbean: Results of projects and programmes (LC/L.513), September 1989.
2. Latin America: The challenge of socializing the home environment (LC/L.514), October 1989.
3. Women and Politics in Latin America and the Caribbean (LC/L.515), September 1989.
4. Refugee and displaced women in Latin America and the Caribbean (LC/L.591), December 1990.
5. Women, Cultures and Development: Views from Latin America (LC/L.596), May 1991.
6. Women and New Technologies (LC/L.597/Rev.1), April 1991.
7. New participatory methodologies for working with women (LC/L.592), October 1990.
8. The Vulnerability of Households Headed by Women: Policy Questions and Options for Latin America and the Caribbean (LC/L.611), April 1991.
9. Integration of the feminine into Latin American culture: In search of a new social paradigm (LC/L.674/Rev.1), June 1994.
10. Violencia doméstica contra la mujer en América Latina y el Caribe: propuesta para la discusión, María Nieves Rico (LC/L.690), mayo de 1992.
11. Feminización del sector informal en América Latina y el Caribe, Molly Pollack (LC/L.731), abril de 1993.
12. Las mujeres en América Latina y el Caribe. Un protagonismo posible en el tema de población (LC/L.738), mayo de 1993.
13. Desarrollo y equidad de género: una tarea pendiente, María Nieves Rico (LC/L.767), diciembre de 1993.
14. Changing Power and Autonomy of the Caribbean Women. Paulina Van Der de Aa (LC/L.881), October 1995.
15. Formación de los recursos humanos femeninos: prioridad del crecimiento y de la equidad (LC/L.947), María Nieves Rico, junio de 1996.
16. Gender-based violence: A human rights issue (LC/L.957), María Nieves Rico, July 1996. [www](#)
17. La salud y las mujeres en América Latina y el Caribe: viejos problemas y nuevos enfoques (LC/L.990), Elsa Gómez Gómez, mayo de 1997.
18. Las mujeres en América Latina y el Caribe en los años noventa: elementos de diagnóstico y propuestas (LC/L.836/Rev.1), abril de 1997. [www](#)
19. Reflections on the use of labour market indicators in designing policies with a gender-based approach (LC/L.1016), Molly Pollack, June 1998. [www](#)
20. A gender-based approach to the urban informal sector. The case of Mexico (LC/L.1017), Molly Pollack and Clara Jusidman, July 1998.
21. The Urban Female Labour Market in Latin America: The Myth and the Reality (LC/L.1034), Irma Arriagada, July 1998. [www](#)
22. La educación de las mujeres: de la marginalidad a la coeducación. Propuestas para una metodología de cambio educativo (LC/L.1120), Marina Subirats, julio de 1997. [www](#)
23. Violencia en la pareja. Tratamiento legal. Evolución y balance (LC/L.1123), Hanna Binstock, agosto de 1998. [www](#)
24. Towards equality for women. Progress in legislation since the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (LC/L.1126), Hanna Binstock, August 1998. [www](#)
25. Gender, the Environment and the Sustainability of Development (LC/L.1144), María Nieves Rico, November 1998. [www](#)
26. Part-time work in Chile: Is it precarious employment? Reflections from a gender perspective (LC/L.1301-P), Sandra Leiva, Sales No. E.00.II.G.9 (US\$ 10.00), January 2000. [www](#)
27. The Challenge of gender equity and human rights on the threshold of the twenty-first century (LC/L.1295/Rev.1-P), Sales No. E.00.II.G.48 (US\$ 10.00), May 2000. [www](#)
28. Mujer y trabajo en las reformas estructurales latinoamericanas durante las décadas de 1980 y 1990 (LC/L.1378-P), Francisco León, N° de venta S.00.II.G.94 (US\$ 10.00), mayo de 2000. [www](#)

29. The Gender Perspective in Economic and Labour Policies. State of the Art in Latin America and the Caribbean (LC/L.1500-P), Lieve Dearen, Sales No. E.01.II.G.44 (US\$ 10.00), July 2001. [www](#)
30. Equidad de género y calidad en el empleo: Las trabajadoras y los trabajadores en salud en Argentina (LC/L.1506-P), Laura C. Pautassi, N° de venta: S.01.II.G.45 (US\$ 10.00), marzo de 2001. [www](#)
31. The collective memory and challenges of feminism (LC/L.1507-P), Amelia Valcárcel, Sales No. E.01.II.G.46 (US\$ 10.00), March 2001. [www](#)
32. The Institutionality of Gender in the State: New Analytical Perspectives (LC/L.1511-P), Virginia Guzmán, Sales No. E.01.II.G.58 (US\$ 10.00), September 2001. [www](#)
33. El turismo en la economía ecuatoriana: la situación laboral desde una perspectiva de género (LC/L.1524-P), Martha Ordoñez, N° de venta: S.01.II.G.69 (US\$ 10.00), marzo de 2001. [www](#)
34. La situación económico-laboral de la maquila en El Salvador: Un análisis de género (LC/L.1543-P), Ligia Elizabeth Alvarenga Jule, N° de venta: S.01.II.G.83 (US\$ 10.00), mayo de 2001. [www](#)
35. Aspectos económicos de la equidad de género (LC/L.1561-P), Thelma Gálvez P., N° de venta: S.01.II.G.107 (US\$ 10.00), junio de 2001. [www](#)
36. ¿Género en la reforma o reforma sin género? Desprotección social en las series previsionales de América Latina (LC/L.1558-P), Haydeé Birgin y Laura Pautassi, N° de venta: S.01.II.G.103 (US\$ 10.00), junio de 2001. [www](#)
37. Economics and Gender. Selected bibliography (LC/L.1610-P), Flavia Marco, Sales No. E.01.II.G.152 (US\$ 10.00), October 2002. [www](#)
38. Las relaciones de género en un mundo global (LC/L.1729-P), Virginia Guzmán, N° de venta: S.02.II.G.40 (US\$ 10.00), abril de 2002. [www](#)
39. The new information Technologies and Women: Essential Reflections (LC/L.1742-P), Gloria Bonder, Sales No. E.02.II.G.54 (US\$ 10.00), August 2003. [www](#)
40. Violencia contra la mujer en relación de pareja: América Latina y el Caribe. Una propuesta para medir su magnitud y evolución (LC/L.1744-P), Diane Alméras, Rosa Bravo, Vivian Milosavljevic, Sonia Montaña y María Nieves Rico, N° de venta: S.02.II.G.56 (US\$ 10.00), junio de 2002. [www](#)
41. La reforma de pensiones en Colombia y la equidad de género (LC/L.1787-P), Consuelo Uribe Mallarino, N° de venta: S.02.II.G.101 (US\$ 10.00), octubre de 2002. [www](#)
42. Pension legislation and gender equity in Latin America (LC/L.1803-P), Laura C. Pautassi, Sales No.: E.02.II.G.116 (US\$ 10.00), October 2004. [www](#)

- Readers wishing to obtain the listed issues can do so by writing to: Distribution Unit, ECLAC, Casilla 179-D, Santiago, Chile, Fax (562) 210 2069, E-mail: [publications@eclac.cl](mailto:publications@eclac.cl).

[www](#) These publications are also available on the Internet: <http://www.eclac.org/> and <http://www.cepal.org>

Name:.....
Activity:.....
Address: .....
Postal code, city, country:.....
Tel.:.....Fax: .....E.mail:.....