

**IMPLEMENTATION OF PENSION ACT IN MALAWI: ANALYSIS OF
STRATEGIES FOR ENFORCING COMPLIANCE**

MASTER OF PUBLIC ADMINISTRATION AND MANAGEMENT THESIS

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UNIVERSITY OF MALAWI

DECEMBER, 2022



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MASTER OF PUBLIC ADMINISTRATION AND MANAGEMENT THESIS

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December, 2022

DECLARATION

I declare that this thesis, **“Implementation of Pension Act in Malawi: Analysis of Strategies for Enforcing Compliance”**, is the product of my own work and has not been presented for any degree at the University of Malawi or any other institution of higher learning. Where other people's work has been used, acknowledgement has been given accordingly. All errors herein are my own.

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CERTIFICATION OF APPROVAL

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DEDICATION

To my late parents; Clement and Regina Lupande for laying a strong foundation upon which success builds. You did not sacrifice in vain!! Continue resting in eternal peace.

ACKNOWLEDGEMENTS

I am grateful to my supervisors; Dr. Tiyesere Mercy Chikapa and Prof. Dan Banik for their untiring professional support and guidance throughout the study. Dr. Chikapa!, thanks for your unique approach in raising student' morale. It is through such effort, that I have seen far.

I also recognise the support from Reserve Bank's Pension and Insurance Supervision department, Ministry of Labour, Blantyre City Council and Malawi Posts Office during the data collection process leading to this study.

Friends and colleagues; Mwaona Nyirongo, Andy Mkwate, Tom Hunt, Severin Berger, Emilda Mkhumba, Annie Thauka, Eluby Kafumbata, Hope Mwatseteza, Innocent Kwakwala, and many others; thank you for the support in various ways.

To my wife Esther, thanks for enduring the loneliness during my study commitments. To siblings; thank you for the moral and financial support and your understanding as I failed to attend to some pertinent family matters in the the study period.

To uncles; Ellard Lupande senior and Henderson Nikisi, thank you for raising our hope, amidst financial struggles upon our father's death. Above all, I thank God the Almighty for the gift of life and being able to see me through this challending and rigorous academic work.

Together, we have produced a post-graduate!!!

ABSTRACT

The overall performance of social security programs, including employment pensions depends on effective enforcement of relevant regulations. Successful implementation of the Pension Act in Malawi hinges on effectiveness of the strategies employed by the state to enforce compliance through the Reserve Bank of Malawi (RBM) as a regulator, in corroboration with the Ministry of Labour. Hence, this study sought to analyse the effectiveness of the strategies for enforcing the Pension Act and utilised an interview guide to conduct in-depth interviews to collect primary data from 20 respondents. Relying on game theory and rational choice theory, the study shows the effectiveness and ineffectiveness of specific compliance strategies and stakeholders' decision-making motivations. With an interpretive research philosophy guiding the research, it was found that on-site inspections, phoning, meetings, written warnings, pension awareness campaigns, financial penalties and litigation are key strategies for enforcing compliance with the pension law. Furthermore, it was exposed that economic hardships, budgetary constraints, lack of pension knowledge, role conflict and ambiguity and legal gaps pose challenges in enforcing compliance with the Pension Act. Hence, the study concludes that the strategies for enforcing compliance with the Pension Act in Malawi are largely ineffective. There have been rising levels of pension contribution arrears, continued tolerance for early withdrawals despite such beneficiaries not qualifying and lack of coercion, including litigation against non-compliant employers. This status quo, if not addressed through a review of the strategies, affects pension's adequacy and sustainability.

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LIST OF ABBREVIATIONS AND ACRONYSMS

BCC:	Blantyre City Council.
DB:	Defined Benefit.
DC:	Defined Contribution.
CNPD:	Centralised National Pension Database.
CPI:	Consumer Price Index.
IT:	Information Technology.
IOPS:	International Organisation of Pension Supervisors.
MPC:	Malawi Posts Cooperation.
NICO:	National Insurance Company.
RBM:	Reserve Bank of Malawi.
USD	United States Dollar.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Problem

Throughout human history, there have been uncertainties emanating from unemployment, sickness, disability, death and old age requiring deliberate public policy interventions to minimise consequential threats to economic wellbeing (Norton et al., 2001). Such public policy interventions were unclear in some parts of the world, including Africa due to reliance on support from extended family (Bernard, 2003). The extended family, usually made of generations of close relatives has been regarded as an essential stimulant for people's welfare and the sustenance of society by providing emotional and material support for its members (Bernard, 2003; African Union, 2004). In the African context, the extended family has been a long-established institution providing a social security system for its members, particularly in times of need and crisis such as unemployment, sickness, death and old age (African Union, 2004; Ferreira, 2005). Hence, there was no need for public policies to address social security challenges due to the existence of such strong family connections (Feldstein & Liebman, 2002).

However, societal configurations due to social changes, rapid population and nucleation of families have adversely weakened such informal social security support (Dsane, 2009; Aryeetey & Badasu, 2013). This gradual decline of dependence on family support necessitated the establishment of formal security systems to protect society against various social risks such as old age, unemployment and injuries (Feldstein & Liebman, 2002). Such formal security systems emerged initially in Germany towards the end of the 19th Century, in the United States of America from 1935 before spreading to other parts of the world, including Africa (Cutler & Johnson, 2004).

In Malawi, the social security regulatory environment for retirees and the elderly before 2010 was voluntary, fragmented and non-comprehensive, with only 30 per cent of the private sector providing pension and supplementary benefits to their retired workers (Mhango, 2012). It was unclear whether what was being covered under these schemes was an over-insurance, under-insurance or just an issue of employers's affordability (Mhango & Thejane, 2012). Employers who could afford to provide pension did so as a staff retention strategy and to remain competitive in the labour market (Thejane, 2012). The only public pension in Malawi was the civil service pension scheme run by the government which operated a defined benefit scheme (IOPS, 2011). This scheme was ill managed due to lack of expertise and funding constraints as it was dependent on inadequate government budgetary allocations (Mhango, 2011). Therefore, the scheme was not sustainable.

As a result, a national contributory pension scheme was introduced in 2010 following the passing in Parliament of the Pension Act as a public policy (Pension Act, 2010). This was a huge step towards providing comprehensive social security and part of an effort to conform to

international social security policies such as the ILO Social Security Minimum Standards Convention of 1952 (Mhango, 2011). The aim was to ensure that every employee is on a pension scheme, promote a savings culture, reduce widespread income insecurity for the majority of retirees, promote sound and prudent management of pension funds, foster accumulation of national savings and stimulate economic growth (Mhango, 2012). The Pension Act is also an attempt to remove the double burden on employers who operated voluntary pension schemes and were required to pay both severance allowance and pension upon termination of employment (Mhango & Thejane, 2012). A pension scheme require ensuring compliance with the laws and rules governing pension funds (Marumoagae, 2021). This entails correct and timely payment of pension benefits, ensuring productive investments so that members receive best returns, secure financial management and good record-keeping mechanisms and regular provision of information to members (Asher, 2006; Marumoagae, 2021; Iglesias, 2000).

However, the implementation of the Pension Act in Malawi is facing some critical challenges in governance, pension administration system problems, misreporting of financials in the pension return, risk management problems, non-remittance, contribution evasion and avoidance, enforcement, economic hardships and knowledge gap among employees and employers (Malema, 2019; RBM, 2019). Of particular concern is contribution evasion and avoidance, which has seriously undermined pension systems in some countries, including those in Africa, by affecting entire pension programme's financial status and political legitimacy (Bailey & Turner, 2001). Contribution evasion occurs when there is no payment or underpayment of social security contributions while contribution avoidance occurs when employers and employees adjust their actions to avoid being liable for social security (Bailey

& Turner, 2001). Some employers structure work and payment so that their workers are exempted from complying with pension laws (Gillion, 2000).

Such employers register some or all of their employees as informal workers who should not even be part of the formal pay roll (Bailey & Turner, 2001). In some countries, governments fail to make pension contributions for their employees (Gillion, 2000; Malema, 2019). Public enterprises are the worst offenders due to their weak financial status (Subaihi, 2013). For example, many state-owned universities in Nigeria struggle to remit pension as the government is unable to fund the guaranteed minimum pension contribution, resulting in failure by retirees to access their pension benefits (Onukwu, 2017).

In South Africa, there have been reports of employers' failure to make pension contributions and mismanagement of pension funds through fraud (Marumoagae, 2021). Some employers claim to have hired consultants rather than employees (Gillion, 2000). Employees may be unaware of contribution evasion, as they have limited access to information on pension contributions made on their behalf by employers (Bailey & Turner, 2001). In Malawi, a common form of social security contribution evasion involves employers, including the government and its agencies failing to remit pension contributions resulting in huge pension contribution arrears (Malema, 2019). Since there is a strong link between pension contributions and benefits, any challenges in the system that reduce payment of contributions threaten access to minimum benefits and accrued interests on pension savings (Enoff & McKinnon, 2011). The resultant decline in contribution revenue adversely affects pension schemes to the extent that they fail to provide adequate retirement income for pensioners (Subaihi, 2013). This threatens the income security of retirees (Mhango, 2012).

Among other key factors, contribution evasion and avoidance and any other form of non-compliance to social security occur if government enforcement is tolerant to such or is inadequate to prevent it (Gillion, 2000). Thus, enforcement is a means to ensure compliance (Weil, 2010). Enforcement is the application of diverse regulatory strategies including formal ones such as administrative order and criminal enforcement and informal ones such as phone calls and written warnings to ensure compliance (Chung, 2015). It is argued that policies do not succeed or fail on their own merits; rather their progress depends on the implementation process (Hudson et al., 2019). Goals determine instruments, and instruments determine results (Hupe & Hill, 2015). Hence, with the social security environment in Malawi as discussed herein, this study analyses the strategies for enforcing compliance with the Pension Act of 2010.

1.2 Problem statement

Pensions are generally considered the most critical employee benefit. A pension scheme is an arrangement under which a stream of income is paid to an employee on the attainment of prescribed mandatory retirement age or depends upon the member's death (Armstrong, 2013). The main objectives of pensions are economic security during old age through consumption smoothing, income redistribution for the larger society and poverty relief and insurance against inflation and longevity (Barr & Diamond, 2008; Asher, 2006). The role of mandatory contributory pensions for retirement income has grown significantly over the recent years, reflecting efforts of many countries to relieve pressure on pay-as-you-go pension system or defined benefit pensions (Bijlsma, 2018 et al; Addio, Roger et al., 2020). Ensuring pension coverage of workers through pension is fundamental to the fight against poverty in old age (Stewart & Yermo, 2009).

As the number of retired people rise more than active workers, the sustainability of social security becomes risky (Diamond, 2006). This usually arises out of defined benefit pension systems financed from budgetary allocations by the government that have, in most cases, been grossly insufficient (Mhango, 2011). Excessive public pension spending leads to high tax rates, putting growth at risk (Diamond, 2006). Hence, most countries have been undertaking considerable pension reforms to respond to demographic, economic, social and financial changes (Mario & Evangelos, 2019). Such reforms have been driven by the desire to explore and ensure sustainable funding sources and mechanisms for efficient and adequate pension benefits (Kolodiziev et al., 2021). Such reforms have differed among countries, with serious considerations on reviewing retirement age, regulating pension contribution rates or payments, reviewing pension policy or legal framework and increasing the effectiveness of the pension system as a source of investment for the economy (Sanusi & Kapingura, 2020; Kolodiziev et al., 2021).

The basis for this has been social, demographic and financial capacity of states to deal with social security sustainably (Kolodiziev et al., 2021). Consequently, there has been a global trend towards defined contributory pension systems (Broadbent, 2006). Apart from being financially sustainable, defined contributory pension schemes assist in the operation of labour and capital markets and offer unique opportunities for encouraging savings and stimulating economic growth (Bijlsma et al., 2018). Pension funds in a defined contributory scheme are used to invest in government securities, stock market, fixed deposits and infrastructure development, which eventually boosts the capital market and stimulate economic growth (Sanusi & Kapingura, 2020). This has been the case in many of developed countries and, some developing countries including South Africa (Sanusi & Kapingura, 2020; Bijlsma, 2018 et al).

The independent management of defined contributory pension schemes reduce bureaucratic bottleneck which are common in defined benefit funds when disbursing pension benefits (Mhango, 2014).

Until 2010, there were voluntary and unregulated pension schemes in the private sector in Malawi, which were mainly based on the affordability of the employer while the government provided a defined benefit pension (pay-as-you-go) scheme for its employees (Mhango & Thejane, 2012). Because of this background, Malawi undertook social security reforms to ensure a financially sustainable and mandatory pension system that covers civil servants and private sector workers as well (Malema, 2019; Mhango, 2012). Despite such effort, there have been various issues of non-compliance that threaten the fulfilment of objectives and obligations outlined in the Pension Act (RBM Supervision Report, 2018). For instance, in 2015, total pension arrears amounted to MK1.6 billion representing 0.5 percent of the total pension assets while in 2016 the pension contribution arrears increased by 250 percent to MK5.6 billion which was 11.5 percent of the total annual pension contributions. In 2017, pension arrears rose to MK9.9 billion, translating into 15.8 percent of the expected annual total contributions, while in 2018, pension contribution arrears rose to MK13.1 billion from MK9.9 billion in 2017, equivalent to 1.8 percent of total assets. In 2019, total pension contributions amounting to MK20.2 billion were outstanding by the end of the year, a significant rise from MK13.1 billion reported in 2018 (RBM Annual Supervision Reports, 2015 – 2021).

Table 1: Pension Contribution Arrears 2015-2021

Year	2015	2016	2017	2018	2019	2020	2021
Arrears (Billion Malawi Kwacha)	1.6	5.6	9.9	13.1	20.2	26.2	27.5

Source: RBM annual reports 2015-2021.

In addition, there has been an increase in the number of complaints received by the Reserve Bank of Malawi, the Ministry of Labour and the Industrial Relations Court (IRC) relating to non-compliance with the Pension Act (Malema, 2019). For example, the number of complaints handled by RBM increased to 129 in 2018 from 68 in 2017 (RBM, 2018). Most of the complaints were on failure by pension members to access pension benefits due to non-remittance of pension contributions by their employers, withholding of pension benefits and lack of facilitation by employers to help their ex-employees access pension benefits, failure for employees to access pension statements (RBM, 2019). In January; 2019, the RBM named 18 parastatal organisations and councils with huge accumulated pension arrears of K5.6 billion for a number of years (Nation Newspaper, January, 2019) and in August, 2020, the central bank also released names of 610 private sector organisations that have not been remitting pension contributions as part of a name and shame strategy for enforcing compliance (Nation Newspaper, August, 2020). As of July; 2021, 999 out of 3,073 institutions across the country were not remitting pension contributions despite making deductions from their employees (RBM, 2021).

From the foregoing discussion, it is evident that there is a high level of non-compliance with the Pension Act of 2010. Therein lies a problem since no social security scheme can succeed if participants fail to comply with relevant regulations (Ofori, 2019). This is so because

regulation ensures order, stability and predictability in the pension sector, without which potential participants or members would shy away due to lack of confidence (World Bank, 2019). Many low income earners in a pension system encounter constraints that influence them to consider tapping some funds from their pension wealth for consumption smoothing, leading to pre-mature withdrawal of the funds (Arif, 2012). Hence, regulation on service provision, early withdrawal of pension benefits, pension fund governance and design, and financial reporting should be enhanced to ensure efficiency of the pension fund (World Bank, 2019).

The regulation prescribes such features as costs and fees, management of payment of benefits, rights of members, governance of the schemes, administrative procedures, funding and accountability and financial management (World Bank, 2019; Gunningham, 2010). Compliance of such features depends on effective enforcement, which is vital for successful implementation of the Pension Act. Gunningham (2010) argues that public policy that is not enforced rarely achieves policy outcomes that are effective and efficient and struggle to maintain public confidence. In this connection, the pension crisis in Europe of 2009, which made pension funds inefficient and fail to deliver on their promises to members, resulted from regulatory failure (Eijffinger & Shi, 2007). Unless the financial sector is appropriately regulated and supervised by government through its regulatory agencies, any type of pension scheme cannot function adequately (Bailey & Turner, 2001). The need for regulation and supervision is more significant when the mandatory pension scheme deals with savings of lower-income workers with less financial knowledge (World Bank, 2019). Therefore, pension laws alongside enforcement strategies should be created in licensing, governance, asset restrictions, financial information disclosures, contribution collection and remittance and

economic and legal sanctions for non-compliance (Eijffinger & Shi, 2007; World Bank, 2019). In this context, Thompson et al (2008) argues that crafting and executing strategy is the heart and soul of managing a program. Aosa (1992) states that strategies are not valuable if developed and not implemented towards desirable outcomes. The key argument is that successful delivery of a public policy relies on the effectiveness of strategies for its implementation and compliance (Maina, 2014). In view of the foregoing issues, the study analysed the effectiveness of strategies for enforcing compliance with the Pension Act of 2010 in Malawi. This was a qualitative study which relied on in-depth interviews with respondent. The study had some limitations. First, it was not very inclusive. Other key players in the pension industry were left out, including pension funds and pension administrators. Since World Bank (2019) argues that pension schemes operate in multi-sector networks, future research should endeavour to include more players in the pension industry. Besides, since this was a case study approach, it cannot be relied upon to draw inferences which can be generalised.

1.2 Aim of the study

The study aimed to assess the effectiveness of strategies put in place by government to enforce compliance with the Pension Act.

1.2.1 Specific objectives of the study

The following specific objectives guided the study;

- (a) To explore strategies for enforcing compliance with the Pension Act.
- (b) To examine effectiveness of strategies for enforcing compliance with the Pension Act.
- (c) To discuss challenges associated with enforcing compliance with the Pension Act.

1.3 Main research question

The study's main question was: How effective are the strategies for enforcing compliance with the Pension Act in Malawi.

1.3.1 Specific questions of the study

The study was guided by the following specific questions.

- (a) What strategies have been used to enforce compliance of Pension Act?
- (b) How effective are the strategies for enforcing compliance with the Pension Act?
- (c) What challenges are there in enforcing compliance with the Pension Act?

1.4 Significance of the study

There have been many studies on social security in various parts of the world including, Kenya, Ghana, Nigeria and Malawi. In a study focusing on the determinants of pension governance, Njuguna (2011), found a significant positive relationship between pension regulations and leadership and governance of Pension Funds since the Retirement Benefits Act (2000) provides directions on pension plan governance and leadership. Further, the relationship arises due to a link of the three variables with optimal allocation of resources such as staffing, framing of delegated responsibilities, sensitivity to pension plan mission statements, setting investment targets and issues of accountability and performance measurement. The study also revealed that smaller pension plans in Kenya were more financially efficient than bigger ones, thereby proposing that pension plans should be within manageable limits.

Ngetich (2012), in a study on pension in Kenya, found that fund governance, operational efficiency, fund regulations, investment strategy and fund ethics are critical determinants for the growth of individual pension schemes. Specifically, quality of leadership of the scheme, effective communication to pension scheme members, existence of a retirement benefits regulator, scheme's compliance with regulators levies, application of a risk based approach adopted by the regulator, member involvement in decision-making, more investment in fixed interest securities than equities and trustees giving total investment discretion to the fund managers. Onukwu (2017) in a study on the challenges of implementing the contributory pension scheme in universities in Nigeria, revealed that non-remittance by government agencies including universities is the main challenge facing pension scheme. As a result, retired employees for the universities were unable to access their pension benefits. In addition, negative perceptions of staff towards the pension scheme have been detrimental to achieving policy outcomes. This was partly due to inadequate public engagement and awareness programmes on social security.

In a study by Ofori (2019) in Ghana, it was observed that government felt it has an obligation and responsibility to plan for and invest for its elderly and retirees through establishing and nurturing a pension fund. This implies that pension funds are being invested in stocks, government bonds and infrastructural development in various sectors of the economy, including health, education and transport. The findings in the above studies are enlightening on social security governance. However, this study extends beyond this by analysing strategies for enforcing compliance with the Pension Act of 2010 in Malawi. This aspect has not been given adequate space in studies conducted thus far. There are also contextual issues that also affect the successful delivery of policy outcomes, which this study captures. Therefore,

the study generates knowledge practical to policy-makers, academia and other relevant stakeholders in designing effective strategies for enforcing regulatory compliance.

1.5 Conclusion

This chapter has provided the background to this study, the problem statement, research objectives and the significance of the study. It has highlighted factors that influenced the introduction of the Pension Act of 2010 in Malawi and the challenges that the implementation of the Pension Act despite efforts to enforce compliance. It has also exposed the problem that has influenced this study, mainly non-remittance of pension contributions. Further, it has stated the relevance of this study to those with an interest in improving society through public policy interventions.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Introduction

This chapter discusses the literature relevant to the study and the theories used therein. It begins with an overview of social security and pension issues in Africa and beyond before narrowing down to the Malawi context. This is a relevant chapter as it shows a gap in existing literature that paves way for this study and the theories that help explain the phenomenon under study.

2.1.1 Overview of Social Security

The issue of social security has received considerable attention from governments since the late nineties (Kimathi, 2013). Social security is the protection provided by society to its members as mitigation against economic and social distress such as sickness, old age and death (Garcia, & Gruat, 2003). Social security guarantees everyone a certain degree of support due to loss of income (Marumoagae, 2021). Such support includes measures to provide a decent standard of living to people who cannot earn an income (Muhome, 2011). Social security schemes vary significantly in terms of level of development, income redistribution policies, cultural and historical background, level of industrialisation and political systems (Asami, 2010; Gillion, 2000).

In some contexts, social security schemes are established by statute (Rejda, 2011). The most dramatic change in the public sector in the 19th century was the creation of social insurance schemes, which had a fixed retirement age, regular and modest monthly income to cover the risk of old age, death and unemployment in Germany, Austria and the United States of America (Cutler & Johnson, 2004).

2.2 Types of social security

Social security is classified into formal and traditional systems. The formal systems mainly cover state-organised and private-run employment pension schemes which are often contributory (social insurance) or financed by taxes (social assistance) while traditional systems are generally based on the development of traditions of social groups (Johannes, 1999). Solidarity and reciprocal interactions rather than efficiency considerations, underlie these traditional security systems which find their expression in specific norms and moral codes (Gans, 1996). Informal systems stand between formal and traditional systems, with their existence influenced by structural, economic and social changes that have pushed out traditional means of survival (Johannes, 1999). Though not fully integrated into the formal economy, informal systems may be linked to the national economy. They discriminate the poor as membership is tied to certain conditions such as regular payments. Examples include savings and loan groups, associations and co-operatives based on mutual social help (Gans, 1996). With this classification of social security, pensions which are the focus of this study fall under the formal social security systems.

2.3 Pension as Social Security

Pension is a form of social security that require government intervention in establishing efficient operating procedures since they are crucial in preventing poverty among workers and improving the national economy (Shawa, 2013). Pension systems are also managed because of their positive effects on national savings, redistribution of wealth within individuals in their life cycle, accumulation of capital and the expansion of the financial sector and the dynamics of entry and exit into the labour market (Filgueira, 2014). The historical record shows the increasing role and importance of pension systems in shaping and responding to the challenges brought about by changing societies and economies (Filgueira & Manzi, 2017).

2.4 Types of Pension

There are three types of the pension fund; defined benefit fund, defined contribution fund, and hybrid funds. However, defined benefit and defined contribution are the two primary types of pension fund (Mhango, 2014).

2.4.1 Defined Benefit Pension Fund

The defined benefit (DB) pension fund is an arrangement where benefits are calculated through a formula that factors in length of service and salary progression without any contribution from the employee (Mhango, 2014; Munnell, 2011). The retiree receives monthly payment from retirement to death (Broadbent, 2006). There is an adjustment of benefits under this pension arrangement in the public sector, at least partially, as a cushion for inflation after retirement (Munnell, 2011). The defined benefit pension scheme has a survivors benefit which covers the loss of income due to a working spouse's death (Broadbent, 2006). Defined benefit pension scheme reward employees who spend many years working for a single employer or

remain with the same employer throughout their career since anticipated pension benefits accrue depending on the length of service (Mhango, 2014). It is designed to retain qualified employees since pension accrual rates depend on age and salary base (Broadbent, 2006). Hence, employees who switch jobs during their careers are penalised through forfeiture of their retirement income (Ulrich, 2001). In Malawi, when civil servants leave employment before 20 years of service, they lose their pension benefits.

2.4.2 Defined Contribution Pension Fund

The defined contribution pension plan differs from the defined benefit pension plan in that contributions are a pre-determined fraction of an employee's pay, with periodic contributions being made into the employees' individual accounts (Rejda, 2011). Beneficiaries of the defined contributory pension scheme may have paid contributions in full or part, in which case the employer would have paid the other part on their behalf during their working life (Mashinini, 2019). Hence, the defined contributory pension schemes can be mandatory wherein the state forces participants to contribute through law enabling employers to make deductions at a certain percentage from their employee's incomes as a contribution to the pension fund (Willmore, 2006). In a voluntary contributory pension scheme, employers deduct a certain amount of money from their employees' monthly income on mutual agreement and pay it into the pension fund (Munnell, 2011). Alternatively, employees contribute on their own into the pension fund (Willmore, 2006).

Although, the contribution rate is known, the retirement benefit varies depending on the workers age, earnings, contribution rate, investment return and normal retirement age (Trieschmann et al., 2005). In some cases, the employee can select investment options with retirement benefit depending on the value in the account and options of benefit receipt such

as periodic payments, annuity and lump sum (Munnell, 2011; Trieschmann et al., 2005). Defined contribution pension funds reward mobile employees since such workers take the funds in their account when they leave employment and roll them over into a new defined contribution pension plan with the next employer or individual pension account but managed by a pension administrator (Munnell, 2011).

2.5 Pension Compliance

Pension systems have undergone reforms in many countries to align them with national social-economic goals and ensure sustainability, hence there is need for adequate regulation to increase transparency and protect beneficiaries (Mayners, 2001). Additionally, pension fund non-compliance and mismanagement and limited expansion in social security coverage have put pension issues in the spotlight of public interest, with significant evidence of employers' non-compliance with pension fund regulations across the world (Ofori, 2019; Mayners, 2001). Shikhule et al (2012) in their study on the pension system in Kenya observed that pension administrators and trustees have often failed to provide accurate information on costs, returns and deficits, making it difficult to track progress and compare with returns among pension administrators. Further, the study found that in some parts including Kenya, pension regulators lack expertise to monitor compliance. At the same time, there was government interference in management of pension funds, a tendency that was encouraged by institutional designs that give control to government and governing boards over social security matters.

Njuguna (2011) did a study focusing on strategies for improving pension fund performance in Kenya, with a specific objective to explore the effect of organisational culture, regulations, investment strategy, ethics, risk management, design size and age size of pension funds in

exerting the efficiency of these funds. However, this study was limited for its utilisation of pension fund trustees as respondents at the expense of executive managers yet as it turned out later on, they were not the most knowledgeable persons on pension fund management. Furthermore, this study had no attention to quality of enforcement for regulatory compliance by the relevant authority in Kenya.

In another study, Njuguna (2011) studied the governance of pensions in an attempt to improve their management in Kenya and observed that pension schemes have governance structures which ensure that interests of beneficiaries are protected and promote accountability to the membership and regulatory agencies. However, it was established that the trustees of the governing bodies have in some instances, been involved in detrimental activities resulting in the loss of assets of the pension scheme. The study hinted that such challenges will persist unless certain loopholes in the pension schemes are sealed. Nevertheless, the study did not provide any analysis of the gaps in the existing strategies for enforcing regulatory compliance of the pension scheme and what is being done to address such limitations. Furthermore, the instruments used to measure some variables such as leadership and governance of pension funds produced low reliability only applicable to the Kenyan situation. At the same time, the research did not extend its scope to explore the effects of non-compliance on the financial performance of the pension scheme.

Hakijamii (2007) established that operational challenges that hinder the growth of the social security in Kenya include funding constraints especially in the public sector; poor investment plans of scheme funds negatively affecting members; misappropriation of scheme funds due to members lack of adequate awareness, poor administration and record keeping leading to

delays in payment of benefits to members, excessive interference by sponsors in scheme affairs, denial of benefits to certain staff members on sham grounds. Shikhule et al (2012), in a study that sought to assess the determinants of effective pension schemes governance in Kenya, established that some schemes still experience serious credibility problems due to poor governance. It was further revealed that members' knowledge of the trustee's agreements and members' participation are the main factors for effective governance of pension schemes. However, this study did not assess approaches for influencing good governance of the pension scheme.

Still, in Kenya, Ngetich (2012) studied factors influencing the growth of individual pension schemes in the country by exploring the effect of governance, regulations, investment strategy and ethics of pension funds on the growth of pension schemes. But, this study had limitations arising from data collection, thereby having some impact on the findings. In another study on extension of pension coverage and compliance in Ghana, Ofori (2019) found high levels of compliance leading to positive financial benefits to fund members. This study closely aligns with the study being undertaken by this researcher. However, the context differs as evidenced by the variations in the levels of compliance between Ghana and Malawi with the latter registering higher level of non-compliance. As has been shown herein, there are many challenges in relation to compliance with the Pension Act raising questions and doubts on the effectiveness of the strategies to enforce compliance. Similar compliance challenges also exist in the United States of America (Clapman, 2007). Ofori (2019) carried out a study in Ghana whose finding that non-effective strategy of pension administration is a manifestation of poor pension plan was a mere pedestrian finding not supported by any empirical evidence. Despite this, the study exposed challenges in terms of pension coverage and compliance.

Dias (2006) exposes similar problems in Brazil, and Rusconi (2008) unveils the situation in South Africa. Yermo (2008) highlights the ineffectiveness of the pension enforcement body in Hungary in enforcing employers' compliance. These studies on pension non-compliance do not specifically address issues applicable to the Malawi social security system context. Further, some of the studies happened before the Pension Act in Malaw came into force. The only closer study applicable to Malawi was that of Malema (2019), which revealed various challenges affecting the implementation of the Pension Act, including non-compliance and weak enforcement of this public policy. Nevertheless, it did not extend its scope to look at the effectiveness of the Pension Act's strategies for influencing compliance. To address these gaps, this study analyses the effectiveness of strategies for enforcing compliance of the Pension Act, which is facing administrative, technical and operational challenges

2.6 Status of Pension in Africa

The regulatory framework for social security in most African countries is largely a product of pre-colonial history, a period known for having racially discriminatory labour-related public policies (Guyen, 2016; Kalula et al., 2011). The colonial pension system was initially meant for European employees, with gradual extension to African civil servants, excluding women, casual labourers and agricultural workers in the white-owned plantations who had short-term contracts (World Bank, 2019). Consequently, pension systems in most African countries are informed by colonial legacies and or national development policies made after independence (Guyen, 2016). Such pension programs have neglected informal workers, particularly women and the youth, who do not meet necessary criteria to qualify for such schemes (Kalula et al., 2011). Instead, the pension programs have focused on workers in formal employment, which is male dominated (Willmore, 2006).

Thus, most pension systems in Africa tend to target the working class such as civil servants, resulting in very low pension coverage (World Bank, 2019; Mashinini, 2019). Pension systems in such developing countries have mostly favoured men in formal employment (Wilmore, 2006). Pension designs vary across the continent but the defined benefit pay-as-you-go pension systems are dominant (Mashinini, 2019; Holzmann, 2009). Pension schemes in South Africa, Swaziland and Namibia are defined benefit funds while those in Kenya, Botswana, Lesotho and Mauritius have defined contribution funds for public sector employees (World Bank, 2019; Wanyonyi, 2016; Kakwani, 2006).

The government of Ghana is the only one in the region that opted for a hybrid defined benefit and defined contribution scheme while the governments of Malawi and Nigeria turned their defined benefit pension schemes into defined contribution pension schemes (Guen, 2016; Ijeoma, & Charles, 2013). Tanzania aligned its social security policies to socialism, which promoted nationalisation of institutions and nurtured egalitarianism and solidarity rather than individualism as advanced by capitalism. This explains the greater presence of mandatory defined-benefit pension schemes in Tanzania (World Bank, 2019). In Kenya and Uganda, colonialists left a legacy of non-contributory defined pension schemes for civil servants and adopted the neoliberal economic principles of western capitalism, which to a large extent prioritise individual responsibility over retirement savings (World Bank, 2019).

These national socioeconomic development choices led to the introduction of defined contribution pension funds in Uganda and Kenya, with the latter having the largest number of private retirement benefit schemes. Burundi and Rwanda have defined contributory schemes for workers, including the private sector, established on French colonial legacy (Guen,

2016:Trust, 2007). Out of 38 pension schemes in the private sector in Africa, 31 are pay-as-you-go defined benefit plans, and 4 are provident funds. Of the 33 pension schemes in the public sector, 29 are designed as defined benefit programs (World Bank, 2019). Of the 47 countries on which information is available, 6 have contributory pension scheme for the public sector only; 27 have separate pension schemes for the public and private sector employee; and 11 have integrated pension schemes for public and private sector employees (Guyen, 2016).

2.7 Status of Pension in Malawi

As in many African countries, Malawi initiated pension reforms that converted its defined benefit schemes into defined contribution schemes through the Pension Act of 2010 (World Bank, 2019; Pension Act, 2010). Primarily, the motivation was to address the increasing fiscal burden of pension liabilities on the government and address social security gaps that existed since the country's independence from Britain in 1964 (Mhango, 2012). The specific objectives of the Pension Act are to ensure that every employer provides pension for their employees; to ensure that every employee in Malawi receives retirement and supplementary benefits at the right time; to promote the safety, soundness and prudent management of pension funds which provide retirement and death benefits to members and beneficiaries and to foster agglomeration of national savings in support of economic growth and development of the country (Pension Act, 2010; Malema, 2019).

However, the implementation of the Pension Act faces several challenges which include exclusion of low-salaried workers on pension, delays in processing claims, economic hardships affecting employers' capabilities to manage pension contributions, inadequate knowledge and awareness on pension issues among stakeholders, remittance of incorrect

pension contributions, delayed remittance of severance due payments, non-remittance of pension contributions, misunderstanding on severance due entitlements versus severance allowance, perception by some employers and employees that pension is only for big companies, employers' attitude of being overburdened with pension requirements, failure by some employers to place eligible employees on pension scheme, lack of coordination among pension enforcement agents, non-provision of pension statements to pension members (Malema, 2019). Consequently, there have been reported cases on employers accumulating pension contribution arrears (RBM, 2020).

However, little has been written on the progress of the implementation of the Pension Act, in particular on the strategies for enforcing compliance and their effectiveness. Thus, this study analysed strategies for enforcing compliance with the Pension Act by relevant state agencies. Attention was on RBM as a regulator of the Pension Act and Ministry of Labour for their roles in enforcing compliance with the Pension Act.

2.8 Theoretical Framework

This study was guided by game theory and rational choice which are discussed as follows;

2.8.1 Game Theory

This theory concerns the study of game-like situations in which players (individuals, enterprises and governments), interact in an environment of strategic interdependence (Hammoudi & Daidj, 2018). This study's nature necessitates using a theory that attempts to explain human behaviour in response to social controls. This is so because most public policies are formulated and implemented in multi-actor networks, with underlying consequences for the evaluation of methods and strategies (Hermans et al., 2012; Scharpf, 1997). Game theory is relevant in studies as this one as it it sheds light on the behaviour of actors, whether individuals or organisations, in strategic situations (Greif, 2006). Since the 1940s, game theory has supported rigorous analysis of outcomes of strategic interactions based on rational choices among actors who coordinate their behaviour with others to make decisions on their own strategies (Hermans et al., 2012). Basic concepts in game theory include actors (players) in a game governed by rules, who each have several possible strategies or actions to follow, whereby the strategies chosen by each actor determine the outcome of the game while payoffs represent the value of these outcomes to different actors (Straffin, 1993).

The players are assumed to act rationally by taking actions likely to maximise the expected utility of the outcomes (Hermans et al., 2012). Because of this, the effectiveness of law as an instrument of social control depends on the assumptions lawmakers and implementers have about the behaviour of relevant actors (Greif, 2006). In game theory, strategy is viewed as a

plan which specifies what choices a player (an organisation) will make in certain circumstances to fulfil particular goals (Capon, 2008). Game theory does simulate a range of real-world games quite accurately and has the potential of being a practical analytical framework for policy and institutional analysis (Greif, 2006; Ostrom, 1990). Therefore, this study adopts this theory to analyse the effectiveness of the strategies for enforcing the Pension Act of 2010 in Malawi. A game theoretic analysis requires an estimation of the utility of different outcomes for different players (Hermans et al., 2012).

In this study, a game theory situation emerges as follows; the government and its regulatory and enforcement agencies, RBM and Ministry of Labour, on the one hand and employers, employees and pension fund administrators, on the other hand, as players. Compliance with regulation arises from a cost-benefit analysis in which organisations or individuals refrain from conflicting with the law when the probability of being caught and the cost of penalties are higher than the benefits of non-compliance (Pires, 2008; Weil, 2008). Therefore, employers would comply if there are perceived or anticipated payoffs or incentives after some cost-benefit analysis. If policy enforcement is not adequate and effective, employers are encouraged not to comply since the cost of complying is higher than the cost of non-compliance. For instance, if the sanctions for non-compliance are negligible, there is an inherent incentive for employers not to comply with the public policy. Equally, if there are limited routine and regular physical inspections and supervision by regulatory and enforcement agencies, employers would also relax in complying with the Pension Act (Amsyari & Kesumah, 2019).

2.8.2 Rational Choice Theory

This theory argues that individuals anticipate outcomes of alternative courses of action and are calculative of which brings the best for them (Scott, 2000). It further asserts that because people are rational, they choose an alternative that gives them greatest satisfaction (Carling, 1992). This is grounded on the argument that individuals or organisations comply with laws and regulations when they perceive that the benefits of compliance outweigh the risk of penalty associated with the non-compliant behaviour and action (Becker, 1968). The potential offender violates the law when the benefits outweigh the risks (Dolphin, 2020). In this connection, Ashenfelter and Smith, (1979) and Chang and Ehrlich, (1985) building on Becker's theory and using a profit-maximising compliance model argue that government enforcement activities induce compliance, although not universally.

In policy implementation, rational theorists support the need for formulating and utilising policy enforcement strategies (Dolphin, 2020). A substantial rational choice and game theory literature states that strategic actions make the certainty of penalty a dynamic process in which the employer changes behaviour to reduce the probability of being caught for conflicting with prescribed laws based on actions of regulatory agencies, and therefore the regulator must respond to such changes to maintain a given priority in detecting violations (Kreps, 1996). Once that happens, it is expected that regulators and inspectors would find all possible irregularities to impose prescribed fines for each offence discovered. However, this does not sometimes happen because regulatory costs for investigation and enforcement are higher than what is gained (Pires, 2008). However, if policy enforcement is effective, employers decide to comply with the regulations (Amsyari & Kesumah, 2019).

In the case of the Pension Act, employers would not only introduce their employees to the national pension scheme as required but would also ensure that they are remitting pension contributions for fear of penalties, being named and shamed or being dragged to court. The two theories come into perspective in this study with the argument by Bardach (1982) and Van Meter and Van Horn (1975), that interest groups or individuals both public and private also play a key role in policy implementation by directing their actions at the achievement of objectives outlined in prior policy decisions. Linking game theory to the top-down perspective of policy implementation, full follow through by top officials of day to-day operations, working to remove practical obstacles and promote additional legislation when necessary to ensure successful policy implementation. Applied to this study, it is observable that regulation and enforcement is usually managed from the top-level bureaucracy, with the RBM leading the effort supported by the Ministry of Labour. With a top-down approach, the RBM is expected to follow through implementation by centralised decision-making and regulation to the full extent possible alongside the Ministry of Labour with little discretion left to other key players including Ministry of Labour officials.

2.9 Conclusion

This chapter provided a literature review on compliance with the Pension Act. The study discussed the major theories that have influenced this research. The study also provided a theoretical framework. It has highlighted the role of divergent interests by various actors in influencing policy implementation. Hence, the rational choice theory and game theory being adopted to guide this study since the two theories are complementary in explaining how some underlying interests influence actions of rational actors or players in a situation.

CHAPTER THREE

RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction

This chapter discusses the research philosophy and methodology which this study used. This is so because the research methodology must be adapted to the research problem, hypothesis and or questions and the type of informants with whom contact is made (Leopardi, 2002). According to Sousa (2003), research methodology is the art of guiding the spirit in the investigation of the truth through adequate methods, techniques and procedures for attaining objectives. In specific terms, the chapter outlines the study population, sample, data collection and analysis.

3.2 Research Design

This study used a qualitative research approach. Qualitative research is an umbrella term for a large number of different research methods, such as participant observation, interviews, case studies and ethnography which primarily explain phenomena by exploring attitudes, behaviour and experiences (Willis, 2007; Creswell, 2007). The choice of this research design is driven by the desire to have a detailed understanding of the issue by directly talking to the research participants and hearing their thoughts to complement the literature (Yin, 2015).

In qualitative research, the researcher's immersion in the study is based on experiential engagement, direct contact with the subjects, and physical involvement in the setting matter (Berg, 2009; Ospina, 2004). Qualitative research primarily uses data in the form of words, images, and objects and is not subjected to statistical processes but uses codes in methods like content analysis (Creswell, 2007; Hameed, 2020). Qualitative study sample size consideration is neither mathematical nor systematic and do not involve making statistical generalisations.

Instead, the researcher involves making a series of decisions beyond sample size and sampling and the conditions under which this selection will take place (Yin, 2015; Creswell, 2003). The qualitative research approach is appropriate to this study because it provides an opportunity to learn the experiences of the relevant institutions and individuals in implementing the Pension Act. Qualitative research provides the opportunity to learn about a range of opinions and feelings that people have about a given problem, policy or service with the ability to probe into responses or observations as required and obtain more detailed descriptions and explanations (Liamputtong, 2005; Tate, 2017 & Happ, 2017).

3.3 Research Paradigm

A paradigm is a belief about the nature of knowledge, a methodology and criteria for validity (MacNaughton et al., 2001). The interpretivist paradigm or philosophy underpinned this study. This philosophy contends that reality is socially constructed through culture and language and focuses on narratives, stories, perceptions and interpretations (Willis, 2007). Interpretivist researchers discover reality through participants' views, backgrounds, and experiences (Yanow & Schwartz-Shea, 2011; Creswell, 2003). A researcher who utilises the interpretivist

paradigm uses those experiences to construct and interpret his understanding from the data gathered (Creswell, 2003). The interpretivist paradigm also known as the social constructivist epistemological approach paradigm, favours qualitative methods and qualitative approaches which often provide rich reports necessary for understanding contexts (Creswell, 2007; Neuman, 2000). Hence, the interpretivist paradigm is relevant for this study due to its tight alignment to qualitative research methodology and favour of small samples and in-depth investigations

3.4 Research Site

This study was conducted in Malawi at the Reserve Bank of Malawi, Ministry of Labour, Blantyre City Council (BCC) and Malawi Posts Corporation (MPC). The sites were purposively chosen due to their relevance to the issue under study. The Reserve Bank of Malawi and the Ministry of Labour regulate and enforce compliance with the Pension Act, while the BCC and MPC are among institutions under obligation to comply with the Pension Act. However, the two institutions have had challenges with compliance. Hence, the researcher was influenced by their low level of compliance with the Pension Act of 2010, which is a key issue underlying this study.

3.5 Study Population

Population is a group of individuals with certain characteristics that interest a researcher (Creswell, 2007). The population of this study comprised officers working in various capacities at the Reserve Bank of Malawi, Ministry of Labour, BCC and Malawi Posts Corporation.

3.6 Population Sampling, Technique and Size

The justification for the rigour of qualitative research should include a discussion of what aspects of sampling may be widely accepted (Curtis, 2000). In view of this, a sample was drawn from the target population using a purposive sampling technique. A sample is a group of participants in a study that is selected from the target population from which generalisations are made (Creswell, 2012). Purposive sampling is one of the non-probability sampling techniques. Non-probability sampling is a sampling procedure that does not bid a basis for any opinion of probability that elements in the universe will have a chance to be included in the study sample (Etikan et al., 2017).

Purposive sampling is a method whereby respondents or data sources to be used in a study are deliberately selected by the researcher based on their anticipated richness and relevance of information (Yin, 2015). Researchers from management, social sciences and health disciplines favour and promote transparency in the process of qualitative research, including the determination of whether theoretical saturation has been reached or not (Van Rijnsoever, 2017). As such, using some criteria or set of guidelines for evaluating qualitative sampling techniques is helpful (Davis, 2007; Curtis, 2000). Therefore, this study adopted the set of criteria for sample selection proposed by Miles & Huberman (1994) as follows;

1. The sample should be relevant to the theoretical framework and research questions.
2. The sample should be likely to provide rich data and or information.
3. The sample should enhance the generalisability of the findings.
4. The sample should be free from bias.
5. The sample should be feasible.

6. Sampling method should be ethical.

Most qualitative researchers' experience conducting interview-based studies with a reasonably specific question indicate that little new information is generated after interviewing 20 people or so belonging to one analytically relevant participant category (Green, 2004). Broadly, saturation is used in qualitative research as a criterion for discontinuing data collection and analysis (Saunders, 2017). Thus, studies employing individual interviews should have no more than 50 interviewees to allow researchers to manage the often complex data analysis task (Ritchie et al., 2003). Van Rijnsoever (2017) proposes a sample size of 20 to 60 participants. Consequently, the researcher purposively chose from the target population a manageable sample size of 20 participants.

3.7 Demographics of study participants

Demographic or study participant characteristics determine whether the individuals in a particular study are a representative sample of the target population for generalisation purposes (Salkind, 2010). In qualitative research, demographic information is among others, used to recruit and analyse participants in a study and demonstrate the participants' appropriateness (Marshall, 1996). In the context of this study, when soliciting participants, the researcher took into account sex, age, qualifications, work experience and occupation in the target population to come up with a sample of 20 participants.

3.7.1 Ages of the Respondents

The respondents in the study had different ages. Based on their ages, the respondents were categorised into several age groups. The table below portrays the ages of the respondents.

Table 2: Ages of the respondents

Age group	Below 25 years	26 – 35 years	36 -50 years	Over 50 years
Number of respondents	2	4	10	4

According to table 2, two respondents were aged below 25 years, while four were ages between 26 and 35 years. Further, ten respondents had ages between 36 and 50 years, while 4 respondents had aged over 50 years. Thus, most respondents in the study were 25 years old when the Pension Act of 2010 was introduced. This implies that they could be conversant with the issue under investigation.

3.7.2 Qualifications of the Respondents

The respondents also possessed different academic and professional qualifications. The table below depicts the qualifications of the respondents.

Table 3: Qualifications of the respondents

Qualifications	MSCE below	Diploma	Bachelor's degree	Master's degree
Number of respondents	4	4	9	3

As table 3 show, four respondents had completed secondary school, four had diplomas and nine had bachelor's degree in various fields and three had masters degrees. The researcher anticipated that such a quality of respondents would have fair understanding of the issues under study.

3.7.3 Work Experience of the Respondents

The respondents who took part in this study had different work experiences. The table below indicates the work experience of the respondents.

Table 4: Work experience of the respondents

Work experience	Below 5 years	6 – 10 years	10-20 years	Over 20 years
Number of respondents	6	2	10	2

As table 4 shows, six respondents in the study had less than 5 years' work experience, two respondents had work experience ranging from 6 and 10 years, ten respondents had work experience of between 10 and 20 years and only two respondents have over 20 years of experience.

Therefore, respondents had knowledge of the social security coverage and regulatory framework before and after 2010 when the Pension Act was introduced in Malawi.

3.7.4 Occupations of the respondents

Table 5: Occupation of the respondents

Occupation	Subordinate/Industrial Class	HR/Pension/Labour Officers	Directors/Managers
Number of Respondents	4	12	4

As table 5 shows, respondents from different occupations and level interacted with the researcher. The researcher interacted with respondents with different occupations and levels in the institutional hierarchy.

This sample selection was deliberate to ensure a smooth transition of understanding on the phenomenon under study due to their active service and experience in government policy and practice on social security provision. Furthermore, twelve respondents were various officers working as human resource officers, pension officers and labour officers and four officers at director and manager level. There were also four respondents in the subordinate and industrial class, who are junior staff. The diversity of the respondents enhances the richness of the data and the validity of the results since they have different levels of experience and understanding of issues.

3.8 Data Collection Method

3.8.1 In-depth Interview

In- depth interviews, particularly face-to-face confidential interviews were used to obtain good quality results. These interviews allow the researcher to explore, in an in-depth manner, matters that are unique to the interviewees' experiences, allowing insights into how different phenomena of interest are experienced and perceived (McGrath et al., 2019). In-depth interviews could be done using an interview guide (appendix 1), with predetermined questions (Laksov et al., 2017) as was the case in this study, but with follow-up questions. However, where the responses given were not understandable and shallow, the interviewer had an opportunity to probe; to dig deeper, into the interviewees' responses through follow-up questions (Lingard & Kennedy 2010). Such follow-up questions also seek clarity to achieve depth of individual interviews (David & Sutton,

2004). Applying qualitative interviews, such as in-depth interviews can capture data from disadvantaged persons in society (Reeves et al., 2015).

For instance, workers are often in a very weak position to have their views and demands heard by the employer or state to change a policy that impinges on them (Dzimbiri, 2009). Therefore, through the in-depth interviews in this study, the researcher interacted with workers who shared their experiences with the Pension Act of 2010. Confidentiality is one of the key elements when conducting in-depth interviews. As such, the interview venue should also be considered as it may affect the data collection. The interviews were done in various places and times of the respondents' convenience, in a comfortable setting, free from any potential disruptions and noise and fear of implications that may arise thereafter (Nyirongo, 2021; Illing, 2014). The technique leaned on the interpretative tradition, where the researcher tried to understand their answers from their experience as expressed by their words (Creswell, 2003). This method is associated with challenges such as being time intensive, costs for training the interview and traveling or placing the interviewers in the field (Lewis, 2010). This did not affect this study as the researcher tried to familiarise himself with the method before utilising it.

3.8.2 Secondary Documentary Data

The researcher also used text materials from books, journals, government publications or orders, journals, newspaper articles and periodic reports as part obtaining data for the study. Though without limitations, secondary documentary data is a respected and common approach in maximising the usefulness of collected data (Ruggiano & Perry, 2019). Since the data is already available, the researcher does not have to spend much time and finances to the current research (Ruggiano & Perry, 2019). Although some of the secondary data set is purchased, the cost may be lower than such expenses as transportation and allowances (Boslaugh, 2007).

Secondary data also provides an opportunity to maximise utilisation of data, particularly with difficult to-reach subjects (Tate & Happ, 2017). Document analysis is often used to corroborate findings from other data sources such as interviews in a process called triangulation (Bowen, 2009) and to investigate new or additional research questions or to verify previous research findings (Heaton, 2004).

3.9 Data Analysis and Presentation

Thematic analysis has been chosen for analysing and presenting data in this study. It is a method for analysing qualitative data that involves searching across a data set to identify, analyse, and report repeated patterns (Braun & Clarke 2006). The main advantage of thematic analysis lies in its flexibility and easiness to use (Nowell et al., 2017). Having adopted this method, it is imperative to note that thematic analysis is a method of interpreting what is contained in a written, verbal or visual message (Cole, 1988). Through the systematic classification process of coding and identifying themes or patterns, thematic analysis is a “research method for the subjective interpretation of the content of text data,” and goes beyond counting words to examining language to classify text, examine meanings, themes and patterns in a text (Hsieh & Shannon, 2005).

The analysis was essentially done following Braun and Clarke’s thematic analysis framework (2006) which has the following six phases:

(a) Familiarisation of data by the researcher.

In this step the researcher actively engaged with the data, transcribing the interactions, reading and re-reading the transcripts and listening to recorded data. This was done to ensure a greater understanding of the content and have a good basis for further analysis.

(b) Generation of initial codes

In this step, the researcher identified features of the data that seemed exciting and carried some meaning.

(c) Searching for recurring themes in the data

The researcher was involved in an interpretive analysis of collated codes. Relevant data extracts are either combined or split in the following overarching themes. The thought being on the relationship between codes, subthemes and themes.

(d) Reviewing of emerging themes

This was an in-depth review of identified themes on whether to merge, separate, refine or discard initial themes. The overall aim was to ensure that data within themes should be coherently, meaningfully, while there should be clear and identifiable differences between themes.

(e) Defining and naming themes

The researcher was preoccupied with bringing forth a unified story of the data. This involved refining and defining the themes and potential subthemes within the data as part of an ongoing analysis to enhance the themes. Names are attached to themes, with clear working definitions that capture the central argument in each theme.

(f) Relating the themes to the research questions as well as the literature

This research adopted this thematic analysis method because this method organises and describes data in great detail and further interprets various aspects of the research topic hence this method is very beneficial to this study (Boyatzis, 1998).

Thematic analysis is a data analysis method that offers researchers great flexibility with respect to the type of research questions it can address ranging from personal accounts of experiences and understandings to broader constructs in various social contexts, the type of data and documents to be referred and examined, the volume of data analysed, the choice of theoretical and or epistemological framework applied and the ability to analyse data with an inductive, data-driven approach or a deductive, theory-driven approach (Clarke & Braun, 2013).

3.10 Ethical Consideration

Ethical issues are particularly important in a qualitative study due to the in-depth nature of the study process (Arifin, 2018). The researcher obtained permission from the organisations under the study; the RBM, Ministry of Labour, BCC and MPC. For instance, consent was granted in writing by BCC and MPC (appendix 7 & 8). It has been advanced that research participants have to be made aware of different aspects of the research in understandable language before obtaining consent (Johnson, 2012).

Such awareness should include; the nature of the study, the participants' potential role, the researcher's identity, sources of funding for the study, the objectives of the study and how results will be published and used. In addition, data collection must respect the privacy and dignity of the subjects (Sanjari, 2014). The researcher considered issues of informed consent and voluntary participation and confidentiality. Absolute confidentiality is crucial at the stage

of data management. Creswell, (2007) argues that a proper consent procedure should include the participants' right to withdraw from the study without any implications, focus of the study and the methods to be employed, statements surrounding confidentiality and a signature of both the researcher and the participant.

Sarantakos (2005) states that in qualitative study, the researcher must build up an enlightened permission from the participants to sign before they get involved in the study. The researcher in this study obtained permission from respondents for their participation in the study, after thoroughly explaining the purpose and the data collection process. Participants were free to ask questions and raise any issues relating to the study. Thus, participation in this study was willful and voluntary. The participants were informed about what their participation entails with an assurance of high levels of confidentiality. Throughout the study and publication process, the research has ensured strict confidentiality of the research participants.

3.11 Limitation of the Study

The study was limited in scope since it only focused on the implementation of the Pensions Act in two public sector organisations and the state agencies responsible for regulation and enforcement. There are many players in the pension industry whose actions. These include employers, employees and pension administrators.

However, data collection was biased towards RBM and Ministry of Labour for their regulatory and enforcement roles; BCC and MPC due to their non-compliance with the Pension Act. This excluded private sector employers and other key players in the pension industry including Pension Administrators and Pension Funds, whose role and experiences have not been captured

in this study. World Bank, (2019) explains that pensions are complex products with multiple intermediaries from employees to trustees to service providers. Moreover, since this was a qualitative study, it cannot be relied upon to draw inferences which can be generalised to a larger context, unless there is careful consideration of the circumstances surrounding the study. This offers a future research opportunity that adopts a quantitative or mixed methodological approach.

3.12 Conclusion

This chapter has discussed the research philosophy and methodology including issues of sampling size, sampling technique, demographics and ethical consideration and a justification for their adoption in this study. Interpretivist philosophy was adopted in this qualitative study, with a sample size of twenty participants ranging from subordinates, officers and senior officers at managerial and director levels. In-depth interviews were used to capture the experiences and feelings of respondents in the study to complement the literature's information. Ethical issues were put under consideration throughout the study.

CHAPTER FOUR

FINDINGS AND DISCUSSION OF FINDINGS

4.1 Introduction

This chapter presents findings and a discussion of the findings of this study in view of collected data and the literature to identify consistencies and inconsistencies with previous studies and literature. This presentation follows the specific objectives and the research questions under the following major headings; strategies for enforcing compliance, challenges associated with strategies for enforcing compliance and effectiveness of strategies for enforcing compliance with the Pension Act.

4.2 Strategies for Enforcing Compliance

According to the findings, several strategies are used to enforce compliance with the Pension Act. This agrees with the views of Austin (2011) who argued that organisations are expected to comply with these strategies. The respondents were asked this question: what are the strategies used to enforce compliance with the Pension Act? Respondents provided different views.

These strategies shown in table 6 below.

Table 6: Strategies that are used to enforce employer compliance with Pension act

1. Written warnings	8.Payment plan
2. Naming and shaming	9. Periodic reports
3. Financial penalties	10. Pension awareness campaigns
4. Physical inspections	11. Complaint handling
5. Meetings	
6.Phoning	
7.Meetings	

These strategies are highlighted and explained below.

4.2.1 Written warnings and administrative directives

According to the findings of this study, written warning has been used as a strategy for enforcing compliance with the Pension Act. Written warnings are persuasive approaches involving provision of information for compliance and reprimanding for deviance of the rules while administrative directives or orders are written orders with legal force to oblige to regulated entities to take specific measures to resolve some non-compliance (Carell, 2013; Amodu, 2008). A female respondent, one of RBM's officers said, "*written warnings also include instructions to comply with pension requirements by some deadline, usually following complaints from employees or the public over non-compliance by a particular employer*". In other cases, such actions follow reviews of quarterly reports submitted to RBM by pension funds and administrators and physical inspections by the RBM and the Ministry of Labour.

4.2.2 Naming and Shaming

The RBM has used naming and shaming as another strategy for enforcing compliance with the Pension Act (RBM, 2020). Shaming means all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed and condemnation by others who become aware of the shaming (Braithwaite, 2019). Naming and shaming have been used in international human rights, taxation and regulatory compliance (Dwenger, 2018). It is likely to be an effective tool for reducing arrears if correct expectations about the social costs of shaming more extensive than anticipated (Braithwaite, 2019). Actual shaming may lead some of the first unwilling delinquents to engage in social learning and to meet their legal obligation (Dwenger & Treber, 2018).

Social learning may happen if there are fewer delinquents shamed (signalling a stronger social norm) or if naming-and-shaming entails graver social costs (such as broader media coverage or greatly impaired reputation with customers) among the shamed (Dwenger & Treber, 2018). In Malawi, naming and shaming have been used as one of the extreme efforts to ensure compliance with the Pension Act. It complements other strategies such as written warnings and financial sanctions (Thornton, 2005 et al). Naming and shaming is more effective and realistic when regulatory agencies increasingly utilise publicity to communicate their activities, including the enforcement decisions to the broader public for transparency, stability and legitimacy of enforcement decisions (Lusardi & Mitchell, 2011). A female respondent, one of RBM's officers noted, *“the bank has used naming and shaming in extreme cases of non-compliance involving both public and private sector employers as means to influence them to comply”*.

4.2.3 Financial Penalties

The study found that financial penalties are used by the regulator, RBM to enforce compliance with the Pension Act in Malawi. This is done mainly without recourse to courts. This happens in many countries including Germany, Sweden, USA and the Netherlands (Wright et al., 2005). In Malawi, these penalties are prescribed in various notices issued by the government periodically in respect of the Pension Act and the Financial Services Act. This means employers failing to comply are penalised by way of paying fines by the regulator, Reserve Bank of Malawi. This is one form of deterrence strategy for regulator compliance which is better at influencing rational actors (Gunningham, 2010). Some respondents in the study presented imposition of penalties as another important strategy that is used to make employers comply with the Pension Act. This observation echoes the views of Havath (2007) who argued that penalties are imposed to force employers to comply with pension guidelines.

4.2.4 Physical Inspections

Physical inspection is a critical activity in ensuring a wide social insurance coverage. The role of inspections is a key element of not only assessing enforcement but a medium through which knowledge is disseminated and advice given (Hawkins, 2002). Further, when labour officers uncover non-compliance and report to the regulator, which in turn influence the regulated entity compliant, pension coverage is extended by introducing new workers into the system. Financial soundness of the pension system is improved, so as the adequacy of benefits for those who are enrolled (ILO, 2015). In line with this, a male respondent, a labour officer said, *“the Ministry of Labour conducts general labour inspections, which include those specific to monitoring on compliance with the Pension Act”*. Face to face interaction through physical inspections shape compliance behaviour by solving problems identified, thereby building up trust, an important feature in encouraging compliance (Hawkins, 2002).

4.2.5 Meetings

From the findings, another strategy for compelling employers to comply with the Pension Act is meeting non-complying employers and advising them of the need and benefits for compliance and the consequences for non-compliance with the Pension Act. A female respondent, one of RBM's officers said, "*the regulator organises meetings with employers ... to engage them on compliance with pension legislation and make them understand the implications of non-compliance on their employees...*". The respondent noted that non-remittance of pension contributions denies employees a decent life on retirement as interests may not accrue on the monies the employers withhold. Therefore, by engaging employers, including non-compliant ones, such scenarios are prevented.

This strategy hopes to prevent violations and secure cooperative compliance for a long time through advice, persuasion, negotiation, bargaining and education while penalties being used as a last resort as penal sanctions are viewed as a failure to ensure compliance through other means (Gunningham, 2010). This is consistent with an accommodative approach that relies on constructive and active engagement with the subjects being regulated and is often associated with cooperative, persuasive and self-regulatory strategies (Shapiro & Rabinowitz, 1997).

4.2.6 Phoning

From the study, it was observed and found that phoning is also another strategy that is used to make employers comply with pension regulations. This is according to a male respondent, one of RBM's officers, who said that it is a practical way of making follow-ups on already initiated efforts for enforcing compliance. This may include following up on adherence to repayment plans and previous commitments by employers to meet their pension obligations. The

respondent stated, *“we make phone calls partly to serve on costs for enforcing compliance on matters that may still be addressed without physical engagement or visit”*.

4.2.7 Payment Plan

The study has shown that payment plan is another important strategy for enforcing pension with the Pension Act. According to the findings, it was highlighted that another way of ensuring that employers comply with the Pension Act is to help them have a good payment plan. This is only done to employers who comply most of the times but may find problems complying at certain times due to financial constraints on their part. This concurs with Carell (2013) who argued that payment plans are also used to make employers comply with pension legislation in a country. This means that some employers in Malawi are on a payment plan to fully comply with pension guidelines. For example, it was stated that the BCC has a schedule of compliance or payment plan for settling pension arrears as agreed upon with the RBM.

4.2.8 Periodic Reports

The study has shown that accurate reporting is another strategy used enforcing employers to comply with pension regulations in Malawi. This means that RBM as a regulator, demands Pension Funds and trustees to report accurately on pension issues. This makes compliance possible. Compliance requires accurate reporting, timely filing, and timely payment (Slemrod et al., 2001). From the study, a male respondent who is one of RBM’s directors stated that, *“we require pension fund trustees and administrators to provide accurate reports on a quarterly basis from which RBM monitors various trends in compliance.”*

4.2.9 Pension Insurance Awareness Programs

With this strategy, RBM ensures compliance by conducting pension awareness programmes. According to one of the respondents, one of RBM's directors, this is an ongoing activity to ensure greater awareness of pension matters and the provisions of the Pension Act. A specific functional unit within RBM is responsible for financial literacy under the department of Financial Sector Regulation. Despite being an ongoing activity, the respondent said that

“annually, RBM conducts an intensified pension awareness campaign for a week, which includes open public functions featuring music, jingles, drama and various plays and this activity also involves key stakeholders such as the Malawi Congress of Trade Union and the Employers Consultative Association of Malawi”.

For example, in 2018, there was a Pension and Insurance Awareness Week to increase the number of members in the national pension scheme and insurance penetration.

The activities undertaken in that week included press conferences, road shows, workshops for union leaders, product exhibitions at shopping malls, a workshop for farmers on insurance and press releases in print and electronic media.

4.2.10 Handling Pension Complaints

From the findings, it was evident that another strategy for enforcing compliance with the Pension Act is the swift handling of complaints by the Reserve Bank of Malawi. This agrees with the view by Havath (2007) who argued that handling pension complaints is another strategy used to influence employers comply with pension regulations. It helps to boost confidence in the pension system (Wright et al., 2005).

Table 7: Key Strategies for Enforcing Compliance of Pension Act in Malawi.

THEME	DESCRIPTION	
Pension Policy Enforcement	Strategies for Enforcement	
Sub-category	Description	Extracts of significant statements
Naming and shaming	One of the extreme measures for enforcing compliance	<i>“the bank has used naming and shaming in extreme cases of non-compliance involving both public and private sector employers as means to influence them to comply”</i> Male respondent, one of RBMs officers (p.45).
Physical inspections	Routine activity done by RBM and Labour officers	<i>“the Ministry of Labour conducts general labour inspections, which include those specific to monitoring on compliance with the Pension Act”.</i> male respondent, labour officer (p.46).
Pension Awareness campaign	Accommodative or persuasive strategy for enforcing compliance	<i>“Annually, RBM conducts an intensified pension awareness campaign for a week, which includes open public functions featuring music, jingles, drama and various plays and this activity also involves key stakeholders such as the Malawi Congress of Trade Union and the Employers Consultative Association of Malawi”.</i> Male respondent, one of RBM’s Directors (p.49).

4.3 Effectiveness of the Strategies for Enforcing Compliance with Pension Act

Compliance is a term used in understanding regulatory effectiveness but is rarely defined. However, attempts have been made drawing from academic and policy literature to define compliance. For instance, Hutter (1997) states that compliance is a range of activities and aspects of regulation including the act of enforcement of the law, the process of securing underlying aims and objectives of regulations and the negotiation of regulatory outcomes. In practice, regulators deploy a combination of strategies for enforcing compliance ranging from provision of advice and guidance, persuasion and negotiation and surveillance to formal coercive and punitive strategies such as financial penalties and litigation (Amodu, 2008).

In the instant study, reference was made to the core provisions of the Pension Act of 2010 in Malawi as criteria for determining the effectiveness of strategies for enforcing its compliance. In particular, several key provisions of the Malawi Pension Act are worth discussing. First, the Pension Act provides that pension should apply to all employees in Malawi except those exempted such as domestic workers and seasonal workers. Second, the Pension Act provides for mandatory contributory national pension scheme (IOPS, 2011; Section 9 of Pension Act, 2010). The employer (sponsor) pension contribution is a minimum of ten percent while the employee (member) contribution is a minimum five per cent (Malema, 2019; Pension Act, 2010). Thereafter, the employer is supposed to remit the pension contributions to a pension fund administrator within fourteen days after the end of the month (RBM, 2019).

Third, the Pension Act provides that the employer must maintain a life insurance policy cover for each employee with a minimum amount of one times the employee's annual pensionable emoluments (Section 15, Pension Act, 2010).

Employers are also required to carry out assessments and payments of their employees' severance due entitlements (Mhango, 2014; Section 91, Pension Act, 2010). Fourth, the Pension Act provides some rights for pension members of access to fund information for employees as fund members (Sections 60 and 89, Pension Act, 2010), including right to know pension fund investment strategy; right to know investment performance and financial position; right to know charges payable by them as fund members; right to request information (pension statements) about the fund or their entitlements in the fund pool; right to require for meaningful and accurate information; right to nominate beneficiaries for their death benefits and right to access pension benefits accumulated before commencement of the Act (severance due entitlements) as outlined on Section 91.

Finally, the Pension Act provides for conditions under which pension fund benefits are payable (Pension Act, section 64 and its accompanying directive of 2014). The conditions are: upon reaching retirement age from 50 to 70 years, after 20 years of continuous employment, retirement on medical grounds, leaving the country permanently, failure to secure a job for at least 6 months from previous employment (Malema, 2019). These provisions are supposed to be complied with under all circumstances. Therefore, it follows that any departure from these provisions entails non-compliance. This raises questions on the effectiveness of strategies by the state for enforcing compliance. The study found varying levels of effectiveness of the strategies for enforcing compliance with the Pension Act in Malawi. Some strategies are working effectively whereas others are ineffective. This finding is consistent with Carell (2013), who stated that not all strategies are effective. A male respondent, one of RBM's officers claimed, *"Not all strategies are effective. Some strategies are ineffective while*

others are effective". In the instant study, written warnings were found to be effective in ensuring that employers are mindful of their obligations in complying with the Pension Act. It was confirmed by a male respondent, one of BCC's officers that they have had written warnings and summons followed by discussions discussions with RBM on how to resolve issues of non-compliance. For instance, he stated

"at the moment we have six summons from RBM raised by some ex-employees mainly over misunderstandings on calculation of their pension benefits and delays in settling severance due payments that we are trying to resolve".

Furthermore, the study found that naming and shaming to effectively enforce compliance with the Pension Act. It was reported by a male respondent, one of RBM's officers that *"some of the employers that were named and shamed engaged the RBM to discuss and agree on how they would resolve in the best ways possible to ensure compliance of the pension act to avoid further damage to their reputation*. Another respondent, a male officer at RBM asserted the following, *"some employers do not like to be named and shamed. So, they act in a way to avoid being embarrassed. They strive to ensure compliance with the dictates of the pension act"*.

This is consistent with the literature on compliance which state that a well chosen and executed enforcement strategy such as naming and shaming, can have wider affect on the attitudes and behaviour of the regulated community nationally (Wright et al., 2005). Damage to reputation is costly (Nnamdi, 2021). For instance, when violations are detected and made public, the quality of work is decreased as employees are demoralised (Wright et al., 2005, Hiscox et al.,

2011). In some cases, this may lead to withdraw of labour to force their employer to comply with the relevant law. This finding reflects what happened in Malawi in 2019 as some non-compliant employers were named and shamed. There have been sit-ins and strikes by employees at Agricultural Marketing Cooperation (ADMARC), Malawi Posts Corporation and Malawi Housing Cooperation (MHC) forcing their employers to comply with the Pension Act amidst reports of pension arrears and severance dues (Times Online, May, 2019; Nation Online, October, 2021). As reported by a female respondent, one of the directors at MPC, *“the pressure from the workers forced us to seek a 42 billion kwacha bailout package from the government, to among other things resolve the non-compliance with the mandatory pension law”*. This shows that naming and shaming as an enforcement strategy is effective to some extent. The BCC has started taking measures to address its accumulated pension arrears. *There are efforts to widening the revenue base*. Ironically, it was argued by a male respondent, one of BCC’s directors that, *“we are making efforts to settle pension contribution arrears not because were named and shamed but because we realise that it is an obligation for the employer”*.

However, to a larger extent, naming and shaming has not been effective. It was argued by a male respondent, one of RBM’s officers that *“huge pension contribution arrears far outweigh the positive response by employers and employees after naming and shaming, hence the need to do more to enforce compliance”*. Such additional efforts could include much stronger financial sanctions, which have social costs that negatively affect either the reputation of the organisation or the managers responsible for ensuring compliance to regulations (Fung et al., 2007 & Thornton et al., 2005). Therefore, from a game theory lens, with payoffs in consideration, the players' behaviour affects regulatory compliance and calls for an integrative

approach. For example, naming and shaming could be complemented with litigation. The central argument is that in most circumstances, using multiple rather than single policy regulatory strategies will produce better regulation (Gunningham, 2017).

In a related development, financial penalties have been less effective in enforcing compliance with the Pension Act. Partly, it was found that this is due to the slowness in applying financial sanctions by RBM on moral grounds. A male respondent, one of RBM's directors said *"it becomes too harsh to apply financial sanctions on a visibly struggling entity to meet their statutory obligations such as salary, pension and taxes, as such action would further deepen the problem"*. However, a female respondent, one of RBM's officers underscored that *"such penalties for non-compliance are prescribed in the Financial Services Act and accompanying subsidiary legislations including government notices and that employers who are penalised are made to comply against their will"*.

In line with this, Thornton et al (2005) argues that an essential part of enforcement strategy is imposing penalties as a threat for preventing other offenders from breaking the law. However, a considerable body of empirical research has shown that financial sanctions do not deter as strongly as regulators sometimes expect to the extent that their impact is minimal especially when the costs attached to non-compliance are lower than those related to compliance (Fung et al., 2007).

These findings also relate to that of Ofori (2010), in his study of compliance in Ghana who established that there were high levels of compliance to the pension scheme due to among other factors stringent penalty rates. Physical inspection and meetings form part of the strategy

for enforcing compliance with the Pension Act. As reported by a female respondent, one of RBM's officers, *"normally, RBM would meet senior management that are not complying with the pension act. In these meetings management is told of the importance of complying with the pension law. This is a diplomatic way of making employers comply the pension law"*. According to the findings, RBM initiates these meetings.

A male respondent, one of BCC's directors, stated,

"we have had several joint meetings with RBM and Ministry of Labour over issues of our non-compliance ...they threatened us with penalties but we pleaded with them to give us some time because the penalties will simply worsen our already difficult financial situation".

These meetings usually happen before written warning is issued for noncompliance. In some cases, RBM and the Ministry of Labour would visit employment premises for general talk with management and staff on the requirements of the Pension Act. Regardless of its valuable role in encouraging voluntary compliance with the law, it proves problematic against those who are not inclined to wilful compliance thereby discouraging regulatory performance among better actors if agencies allow those that conflict with the law to be left free (Shapiro & Rabinowitz, 1997). A male respondent, one of RBM's directors said, *"we conduct joint physical inspections with Ministry of Labour and in some cases we move with fiscal police to enforce compliance"*. This was confirmed by a male respondent, one of BCC's directors who said, *"Fiscal police accompanied RBM and Ministry of Labour officials for a discussion on how we resolve our non-compliance with the Pension Act due to accumulated pension arrears"*.

Periodic reporting on pension has been an effective strategy in tracking the extent of compliance with the Pension Act. A male respondent, one of RBM's officers stated, "*through such reports, we have been able to monitor decline or increase of pension contributions in a particular month*" and then begin to probe the factors behind such. Consequently, "*we may discover that in a particular month, a certain company has closed down and declared employees redundant*" hence helping in making informed decisions on how to approach enforcement of compliance with the Pension Act.

Phone calling is another effective strategy for enforcing compliance with the Pension Act. Austin (2011) states that this is another mechanism to follow up on regulatory compliance by regulated entities. Jennings (2020) says that phone follow-up as have the potential to reduce agency costs. This is through increased self-monitoring by organisations and enhanced commitment by management to follow through and achieve an agreed-upon compliance with the regulator. This finding is supported by the views of Stewart and Yermo, (2009), that pension supervisory agencies should have sufficient flexibility to enable rapid adaptation to the changing risks in the social security sector, which the government may not have anticipated. It has been argued by Kaplan and Norton (2006) that as the environment in which institutions operate changes, the strategic plans and their enforcement practices should adapt to changes to ensure successful policy implementation. In line with this, a male respondent, one of BCC's officers, said "*we have not been complying in full with the pension act since 2016 ..., in some cases RBM make phone calls as reminders and directions on what we agreed earlier own*".

Pension insurance awareness was found to be effective in some way. As stated by a female respondent, one of RBM's officers, "*pension insurance and awareness week serves many purposes including raising general awareness of pension and the roles of various players in the pension industry*". The study revealed that the number of pension complaints processed by the RBM in 2019 increased from 59 cases in 2018 to 174 in 2019. The increase was largely attributed to members' enhanced awareness regarding where to channel their pension complaints against employers (RBM, 2019). RBM also enhanced its system of handling pension-related complaints as part of the effort to enforce compliance with the Pension Act. The underlying assumption is that when complaints are resolved on time, employers are forced to comply. A male respondent, one of RBM's officers, stated, "*when RBM resolves these complaints, employers are compelled to comply with the pension act*".

However, this increase in the number of complaints indicates the high level of non-compliance with the Pension Act by employers as revealed by the nature of complaints which included failure by pension members to access pension benefits due to non-remittance of pension contributions. Repayment plan as a strategy for enforcing compliance have had limited impact hence not effective. For instance, as stated by a male respondent, one of BCC's directors said institution struggles to fulfil the repayment schedule. He stated "*we are unable to follow the schedule of compliance because of budgetary constraints as we do have lean periods in revenue collection. Therefore, we simply strive to pay monthly salaries at a minimum*". The respondent said that the sources of revenue for the BCC which include city rates, property rates, licences, market fees and services do not match operational and service delivery costs arguing that the framers of the Pension Act did not consider the plight of employers in the service sector as the BCC that are not inclined towards making profits.

It was indicated that with an average wage bill of 200,000 million kwacha, the BCC require about 40 million kwacha a month for monthly pension remittance to the pension administrator, NICO. Consequently, the respondent said, *“we sort out pension related-claims case by case to ensure that we balance the need to continue operating as a service provider and the compliance with the law and fulfilling their obligation as an employer”*. The study found that the RBM and MPC agreed on a repayment plan to sort out accumulated pension arrears but it has not been fully achieved. A male respondent, one of MPC’s officers said

“there is a repayment plan made in July, 2021 in which MPC committed to pay three hundred thousand kwachas each month to settle the accumulated arrears which are from May, 2019 to date but we have been failing to honour that due to financial challenges”.

The respondent stated that *“this is due to bad business as postal services are no longer popular in the advent of technology”*. With about 10 million kwacha employer contribution to the national pension scheme, the council struggles to secure bank drafts to make the pension contributions to respect the repayment plan. These findings are consistent with an observation by (Impavido, 2002), that poor employer compliance with pension law arise due to a number of reasons including macroeconomic factors and unfavourable market conditions. A male respondent, one of RBM’s officers, a respondent in this study, said such visits are done alone by RBM, but in some cases it is a joint activity with the Ministry of Labour. Pension funds and administrators are also monitored and visited in some cases. The purpose is to *“check for financial statements, budget threshold, and investment plans and actions or projects...staff numbers, payroll and other documents, and if they have a desks officer for pensions”*.

Through these important visits, it was discovered that, among other things, there were governance challenges, pension administration system problems, misreporting of financials in the pension return and risk management problems. Despite the constraints, physical inspections have brought some positive results as more employees are aware of their pension rights. As a result, the number of complaints registered at the Labour Office has increased. Further, the number of employers seeking guidance at RBM and Labour Office on compliance with the Pension Act has increased. This relates to what ILO (2015) argues that “labour inspector’s roles go beyond enforcement and ideally involve communication and awareness raising about obligations and how to become compliant”. Overall, the strategies for enforcing compliance with the Pension Act have not been effective. Pension contribution arrears have continued to accumulate over the years (RBM, 2019).

Out of a sample of 120 employers, mainly small-scale enterprises, 55 had not placed their employees on pension in 2019 affecting 4,886 employees who would retire without pension, if this non-compliance is not is not addressed (RBM, 2019). Only 399 out of 1,305 workers at BCC are on the national pension scheme being managed by the National Insurance Company (NICO). This conflicts section 9 of the Pension Act which makes pension provision applicable to all employees in Malawi. A male respondent, who is one of BCC’s officers said “*all junior staff here are not on pension and when such workers are on termination, we calculate their accrued pension benefits and apply the RBM policy lending rate, 10 per cent interest per annum and the consumer price index (CPI)*”. The respondent said that BCC has accumulated pension contribution arrears for over five years from 2017. But, the respondent said that they are aware that such actions undermine one of the key objectives of the Pension Act to promote a saving culture in the country.

The Pension Act prescribed that 8 years from its introduction in 2010, employers shall have placed all their employees on pension. Therefore, by 2018, all employees in Malawi unless exempted by the law were supposed be on pension. Furthermore, government notice number 33 of 2011 prescribes interest for late remittance and or payment of pension calculated at the RBM policy rate plus 10 percent per annum in respect of each month the contribution remains unremitted (Pension Act, 2010). There are implementation challenges on this aspect.

Table 8: Thematic Tabular Data Analysis: Effectiveness of Enforcement Strategies for Pension Act in Malawi

THEME	DESCRIPTION	
Pension Act enforcement	Effectiveness of challenges for enforcing compliance	
Sub-category	Description	Extracts of significant statements
More effective strategies	Routine activity done by RBM and Labour officers	<i>“the pressure from the workers forced us to seek a 42-billion-kwacha bailout package from the government to among other things resolve the non-compliance with the mandatory pension law”</i> . Female respondent; one of the directors at MPC (p.54).
Less effective strategies	Phoning, payment plans, meetings	<i>“all junior staff here are not on pension and when such workers are on termination, we calculate their accrued pension benefits and apply the RBM policy lending rate, 10 per cent interest per annum and the consumer price index (CPI)”</i> . Male respondent, one of BCC’s officers (p.60).

4.4 Challenges Associated with Strategies for Enforcing Compliance of Pension Act in Malawi

4.4.1 Legal Lapses

The study reveals role conflict between the RBM and Ministry of Labour arising from perceived lapses in the Pension Act. A male respondent, one of RBM's directors stated that some strategies employed have not been effective as expected partly because of legal issues. He argued that

“the mandate of the bank in line with the Financial Management Act, 2000 is to regulate financial institutions unlike the Ministry of Labour which has wider mandate under the Employment Act, 2000 and as a result the majority of employers are not financial institutions hence this challenge. This is an issue that borders on jurisdiction”.

He read out Section 9 and subsection 2 which says, *“the Minister responsible for labour and the Registrar in consultation with the Minister (Finance), shall be responsible for ensuring compliance with this part”*. The part being referred to in this particular case is the one that provides for the mandatory national pension scheme demanding that every employee is put on pension. Further, he said *“it is clear issues relating to employees in Malawi are a direct responsibility of the Ministry of Labour in ensuring that employers create good working conditions including provision of minimum wage, pension and a safe working environment”*. This is an observation by a female respondent, one of RBM's officers who says that *“it is out of some lack of understanding that some labour officers would push the whole responsibility on the RBM considering that the law is very clear on this issue”*. Ironically, some labour

officers argue that enforcing the Pension Act is a responsibility of the Reserve Bank of Malawi. A male respondent, one of the labour officers said, *“I feel not empowered by the law to enforce compliance of the Pension Act and receive less support from RBM who are the custodians of the Act”*.

However, another respondent who is a male labour officer said *“labour officers have the right to enter any workplace and we go and do inspections to check compliance with the labour laws”*. According to the Employment Act, 2000 of the Laws of Malawi section 9, a labour officer may enter any workplace freely and without prior notice at any hour of the day or night. Labour officers also generally carry out any examination, test or enquiry that they consider necessary in order to satisfy themselves that labour related laws are strictly observed (Employment Act, 2000). However, a female respondent, one of the officers from Ministry of Labour said, *“the Ministry of Labour lack enforcement unlike the RBM who is legally a custodian of the Act”*. According to IOPS (2011) and Stewart & Yermo, (2009; World Bank, 2019) pension fund regulation involves “the oversight of pension funds and the enforcement of and promotion of adherence to compliance with regulations relating to the structure and operation of pension funds to promote a well-functioning pensions sector.” In addition, it is also a key finding in this study that some employers undermine the authority of the RBM as Registrar of Financial institutions.

As reported by a female respondent, one of RBM’s officers,

“employers especially those operating outside the mainstream financial sector (such as bank and insurance companies) question the legitimacy of RBM as a regulatory and enforcement agency of the Pension Act on the understanding

that such power is for the Ministry of Labour and not the central bank whose role is to supervise and regulate financial institutions such as banks and insurance companies”.

As a result, such employers do not take efforts and threats from RBM seriously. This finding is consistent with the views of Demaestri (2003) who argued that pension fund legislation should not be integrated with the supervision of other financial institutions in the financial system such as banks and insurance companies since their operations and mandates differ significantly from those of pension funds.

4.4.2 Lack of Capacity

Regulatory compliance and enforcement requires financial, human, technical capacity and resources (Kolodiziev, et al., 2021). However, Malawi's state regulatory and enforcement agencies face various challenges, including inadequate funding and human resources. For instance, a male respondent, one of RBMs directors stated that *“there are only 18 officers in the pension department against 28 registered pension funds, each with hundreds to thousands of members”*. Hence, it becomes difficult to make follow ups on each and every occurrence of non-compliance by them and other players in the pension sector. As a result, the respondent said, *“RBM takes a risk-based approach targeting larger scale non-compliance by large pension funds and employers since our officers cannot monitor all at once”*.

However, in other instances, subject to availability of financial resources, physical inspections specific to pension compliance are conducted in conjunction with the Ministry of Labour. For example, in 2019, there were joint pension compliance inspections of employers in the country. Nevertheless, this does not happen frequently as planned due to lack of

funding, logistical constraints and staff shortage. For instance, out of four planned quarterly inspection visits in 2020, the Zomba district labour office managed to conduct one inspection visit.

A male respondent, one of BCC's officers reported that *“there were no visits by Ministry of Labour Officials in the last year for compliance checks on employment conditions including the Pension Act”*. This was also stated by a female respondent one of MPC's directors who said that *“the physical visits and inspections by the Ministry of Labour are irregular and erratic and mostly done when reacting to situations like when our workers staged a strike over unpaid pension arrears”*.

In line with this, it has been stated that governments in developing countries have difficulties in implementing coercive strategies because such require a relatively high institutional capacity to utilise, besides having requiring a lot of resources (Bengtsson, 2010 et al). The efficacy of operations of all enforcement agencies in Malawi is affected inadequate funding and understaffing (Anders, 2021). In such circumstances, Kruse & Wilkinson (2005) argues that capable and experienced regulatory agencies would ask, “given all the circumstances, which enforcement technique is most likely to result in a lasting improvement..., while retaining the confidence of stakeholders”. This rational choice approach encourages taking a course of action that gives optimal results.

4.4.3 Tough Economic Environment

From the study, it was found that economic challenges have affected regulatory compliance of the Pension Act. This has rendered the strategies for enforcing compliance of the Pension Act ineffective. There were devaluations of the currency over the years since 2010 by an average of 50% against the United States Dollar (USD), leading to inflation that had seen prices of goods and services rising. The high cost of living made most Malawians struggle to meet their immediate needs and to sustain any savings. As a coping up mechanism, workers from both the public and private sector have staged strikes and sit-ins demanding salary increments. In the circumstances, it was argued by a male respondent, one of RBM's officers, *“this has contributed to a lack of interest in retirement savings as employees only consider their immediate needs without considering their welfare after employment”*. This has contributed to stakeholder resentment resulting into pension contribution evasion and avoidance. This is consistent with van Nispen & Peters (1998) who state that the effectiveness of tools may be blurred by external factors such as financial crisis, that are beyond the control of the state. Consequently, an effective strategy may not lead to the realisation of goals not achieve desired goals.

4.4.4 Stakeholder Resentment

The study found that some segment of the public, including trade unions have some reservations with the Pension Act partly due to knowledge gap on pension matters (Malema, 2019; RBM, 2020). There was public perception that politics largely influenced the introduction of the national pension scheme to provide government with a broader revenue base and an easier means of internal borrowing respectively (BNL, 2011).

Further, a female pensions officer at RBM stated, *“unskilled and lower paid employees do not appreciate the need to belong to a pension fund owing to their low salaries hence they do not want to be deducted pension contribution”*. A female respondent, one of the BCC’s industrial class workers said, *“I do not understand why government takes part of my money for pension, yet it is their responsibility to take care of our welfare”*. Such perception has perpetuated a non-compliance culture by some employers since employees who are direct beneficiaries of the national pension scheme are not willing to participate.

This is despite public awareness efforts on pension and threats for litigation for non-compliant employers as a deterrence enforcement strategy. This is consistent with game theory and rational theory insights, with their assumptions on actions of rational actors with vested interests in decision-making. It was also found in this study that there is growing resentment from small-scale employers who feel that the Pension Act is a financial burden on their small businesses which are struggling to thrive. This is due to a small profit margin and a feeling that they are not obliged to participate in the national pension scheme. Equally, low-paid workers perceive that the Pension Act applies to high-income workers. Impavido (2002) argues that employer non-compliance arises in some cases due to poor portfolio planning and limited knowledge in pension fund matters. Sometimes, employers and employees would corroborate to evade or avoid pension liabilities. A male labour officer stated that,

“employers and employees are calculative when settling disputes over unpaid pension funds. Instead of the funds being paid to a pension administrator, the funds are paid directly to the employees. This happens because the employee requires instant finances for survival while the employer would want to escape from penalties for non-compliance”.

Another source of resentment over the Pension Act is its design. One of the findings in this study is that some workers want to use pension funds as collateral to access loans from financial lending institutions, as was the case before 2010. This aspect is not provided for in the Pension Act. Others want a larger share of the lumpsum payment after staying for six months without pay or retirement. The argument is that the current threshold of fourty percent is not enough.

A male respondent, one of BCC's directors, stated *"It doesn't make sense to hold retirement funds for workers without an option for withdrawal while in active service since that prevents them from investing in productive businesses in preparation for retirement"*. He argued that for many retirees, pension funds become the only source of income which is never invested in a business to increase it, thereby perpetuating economic hardships. Therefore, *"allowing access to a significant part of their pension savings would further hedge against the bemoaned economic shocks after retirement. For example, one would be able to build housing units for rentals and make savings before retirement"*, the respondent said. This is consistent with the literature on the interaction between pension and housing. It has been argued that pension funds can make a difference if they are utilised to purchase a home, which eventually improves the person's retirement income, than retaining the total fund to accumulate to retirement (International Actuarial Association, 2019). This confirms that implementing a public policy like Pension Act should be based on rational-decision making as envisioned in rational choice and game theory, otherwise the policy intent might be altered. Hudson (2008), states that in cases where policy enforcement require face-to-face contact with the public, lower level staff have discretionary powers which accord them de facto autonomy from the top.

He further argues that although many of their decisions may appear insignificant, on aggregate, they may fundamentally reshape policy intention. In the instant case, the will power to enforce the Pensions Act by the Reserve Bank of Malawi, assisted by the Ministry of Labour and other key stakeholders, including Ministry of Finance employers, has been questionable. In some instances, employers have facilitated access to pension funds by ineligible ex-employees through recommendation letters to pension administrators or pension funds. The study found that if an ex-employee has found employment within 6 months, they are allowed to access part of his pension fund in line with the Pension Act.

However, a female respondent, one of RBM's officers said, "*there have been cases where ineligible workers have successfully claimed and withdrawn benefits from the pension fund*". This proves that the actions of street level bureaucrats matter in policy enforcement and implementation (Hudson, 2008). From a game theory and rational choice perspective, enforcement agencies operating in a multi-actor environment (players) are calculative in trying to balance cooperation and interference for some pay offs (Hermans, Cunningham & Slinger, 2012).

Table 9: Thematic tabular data analysis: Challenges for enforcing Pension Act in Malawi

THEME	DESCRIPTION	
Pension Act enforcement	Challenges for Enforcing Pension Act	
Sub-category	Description	Extracts of significant statements
Legal lapses	Role conflict between RBM and the Ministry of Labour	<i>“employers especially those operating outside the mainstream financial sector (such as bank and insurance companies) question the legitimacy of the RBM as a regulatory and enforcement agency of the Pension Act on the understanding that such power is for the Ministry of Labour and not the central bank whose role is to supervise and regulate financial institutions such as banks and insurance companies”</i> Female respondent, one of RBM officers (p.64-65).
Tough economic times	Devaluation Inflation	<i>“This has contributed to a lack of interest in retirement savings as employees only consider their immediate needs without considering their welfare after employment”</i> male respondent, one of RBM’s officers (p.67)
Stakeholder resentment	Employers, employees, trade unions	<i>“I do not understand why government takes part of my money for pension, yet it is their responsibility to take care of our welfare”.</i> Female respondent, one of BCC’s subordinate workers (p.65).

4.5 Efforts to address the challenges in compliance

4.5.1 Centralised National Pension Database (CNPDP)

From the study, it was learnt that the CNPD is an initiative yet to be rolled out to enforce compliance by RBM. It is intended to be used in registering employees and employers participating in the scheme. The system is expected to improve the reliability of data and enhance the capacity of RBM as Registrar of financial institutions to monitor employers' compliance and assist in tracking member movements, trends in benefits payments, unclaimed retirement savings and minimising the existence of multiple accounts. Setting up this system involved collecting critical pension-related information including, membership and National Identity Cards of all members in the national pension scheme. It was reported by a male respondent, one of RBM's directors that the system is yet to be rolled out because of system development issues.

For instance, user acceptance was in progress; therefore, the system was to be resolved once those issues were resolved. When it is rolled out, the system shall register all pension members and integrate pension data from all pension fund administrators in Malawi for easy monitoring of compliance. Despite this, the respondent hoped that the CNPD would enhance compliance monitoring. It was also the hope of a male respondent, one of MPC's officers that, *“the introduction of the CNPD, would assist in ensuring that only eligible claimants for early withdraw are supported as the system is linked to national identity card”*. The findings are consistent with IOPS, (2011), which states that the use of information technology (IT) enhances off-site risk-based supervision of pension funds by allowing for the monitoring of transactions, generation and reporting of statistics, detection of problems remedial action, and

monitoring financial statistics. These findings suggest that, once launched, the CNPD initiative would ensure a more efficient, effective and sustainable national pension scheme.

4.5.2 Litigation

Regulatory agencies have considerable administrative discretion in the enforcement task allowing them to choose between two polar extreme strategies; compliance and deterrence (Gunningham, 2010). On the one hand, the deterrence strategy emphasises sanctions for non-compliance since those regulated are rational actors capable of responding to incentives. Therefore, offenders must be punished severely when detected so that they and other potential violators are deterred from further violations. On the other hand, compliance strategy seeks to prevent harm rather than punish evil, and its conception of enforcement revolves around the attainment of broad aims of legislation; rather than sanctioning its breach (Gunningham, 2010; Hutter, 1997). In the instant study, it emerged that efforts by the state to enforce compliance with the Pension Act is inclined largely to compliance (advise and persuade) strategy.

Hence, the RBM favours such strategies as on-site and off-site inspections, written warnings, naming and shaming, financial penalties, physical inspections, phoning, meetings and payment plans and demand for accurate reporting. In this context, Gunningham, (2010) argue that using confrontational strategies as litigation is rare, largely used as a bluff but actually invoked where regulated entities remains uncooperative and arrogant. Rising levels of pension contribution arrears influenced RBM to consider a deterrence, approach with threats of legal action against deviants (RBM, 2021). RBM has bemoaned the conduct of some employers who default on pension contributions despite having funds and threatened that *“the next step will visiting the employers, with prosecution as a follow-up action”* as reported by a female

respondent, one of RBM's officers. A male respondent, one of RBM'S directors, stated “*we consulted lawyers on the possibility of prosecuting non-compliant employers and pension funds and we were advised that is a viable option*”. Hence, it was indicated that pension defaulters would be dragged to court soon.

In effect, RBM's approach to regulation and enforcement is aligned to “responsive regulation” model, as advanced by John Braithwaite. This approach promotes a culture of dialogue through which regulators signal to regulated entities their commitment to use punitive measures if lower levels of enforcement effort fail (Gunningham, 2010). Regulators assume that regulated entities are rational by applying cooperative strategies and progress to coercive and punitive strategies until conformity is achieved (Ayres & Braithwaite, 1992). It is sound to make a low interventionist response and to escalate, in a tit-for-tat response, especially when there have been continuing interactions between the regulator and the regulated entities (Gunningham, 2010). However, some studies indicate that such approaches have been largely ineffective and that excessive emphasis on such strategies may be a diversion from the need to build appropriate regulatory capacity (Bengtsson, 2010 et al).

4.6 Conclusion

This chapter discussed the findings of the study. The chapter has observed that to a large extent the strategies for enforcing compliance with the Pension Act are ineffective. The challenges associated with enforcing regulatory compliance are perceived legal lapses, lack of capacity, tough economic environment and stakeholder resentment. However, the Bank embarked on efforts to mitigate these challenges including establishing a centralised national pension

database and adopting a confrontational approach to regulatory compliance, including litigation.

CHAPTER FIVE

STUDY SUMMARY AND IMPLICATIONS

5.1 Introduction

This chapter summarises the study findings and their theoretical and practical implication on regulatory compliance. It also examines the extent of achievement for each study questions. The study had the following underlying objectives; To explore the strategies for enforcing compliance with the Pension Act; To that have been used to enforce compliance with pension act; To examine effectiveness of the strategies in enforcing compliance of the pension act. To discuss challenges associated with the strategies for enforcing compliance with the Pension Act. The study's main question was: How effective are the strategies for enforcing with the Pension Act in Malawi?. From a game theory and rational theory lens, the study findings reinforce theoretical insights that the behaviour of multiple actors, with vested divergent interests, has an impact on policy outcomes

5.2 Study summary

5.2.1 Strategies for Enforcing Regulatory Compliance

The study's first objective was to explore strategies for enforcing compliance with the Pension Act. The study found that key strategies for enforcing compliance with the Pension Act include; on-site inspections, phoning, meetings, written warnings, naming and shaming, pension awareness campaigns, financial penalties and litigation. Leroy (2013) argued that compliance and enforcement strategies must reflect unique circumstances to a program and cultural settings. Thus, the study found that the strategies are inclined towards compliance, which seeks cooperation. Further, it was found that the strategies are not mutually exclusive as the Reserve Bank relies on several of these in managing compliance and enforcing the Pension Act.

This follows Gunningham (2010) argument that different strategies are suited to different contexts and that a combination of strategies often provides better outcomes than single strategies. Thus, the study concludes that regulation and enforcement is designed using a number of different instruments implemented by a number of parties. Roberts and Nielsen (2008) & Leroy (2013) state that there are varying degrees of compliance and enforcement strategies, with some being used more frequently than others. This is a key reflection of this study.

5.2.2 Strategies for enforcing compliance with the Pension Act in Malawi

The study's second objective was to examine the effectiveness of the strategies used to enforce compliance of the Pension Act. According to the findings of this study, not all strategies are effective. Some strategies are effective and others are not effective. But overall, the strategies

are largely ineffective due to among other factors the continued rise in cases of pension contribution evasion and avoidance. Pension contribution arrears have accumulated from 1.6 billion kwacha in 2015 to 27.5 billion in 2021. The study found that the following strategies are effective; written warning, pension awareness week, phoning, meetings. The study found that the following strategies are less effective in enforcing compliance with the Pension Act; naming and shaming, payment plans and financial penalties. This view agrees with Knowles and Boyle (2003) who stated that some strategies effectively enforce regulatory compliance than others. As reported by one respondent, one of RBM's officers, said despite joint physical inspections by RBM and Ministry of Labour officials and general public awareness on pensions, there are still drawbacks in implementing the Pension Act. She said,

“we still receive cases of employers not remitting pension contributions and when the employee intends to leave employment, the employer under pressure, calculate and give the pension money direct to the employee, which is against the requirements of the law”.

Under such circumstances, it is required that the employer calculate the pension due and remit to the pension administrator; so that the employee can access the funds from there if eligible. The respondent also stated that *“we have also noted circumstances where employees access pension funds even where they have secured another job within six months from previous employment”*. These cases show lapses in the physical inspections and pension awareness campaigns among other strategies for enforcing compliance. Even the payment plans submitted to the Reserve Bank are not strictly adhered to, citing financial challenges. This implies that overall the strategies for enforcing compliance are not effective.

5.2.3 Challenges for Enforcing Compliance with the Pension Act

The researcher has established that legal lapses as perceived by stakeholders, lack of capacity, tough economic environment and stakeholder resentment were key challenges affecting enforcement of compliance with the Pension Act. Consequently, strategies for enforcing compliance have been rendered ineffective. It was evident in the instant study that employers have in varied ways frustrated the implementation of the Pension Act. For instance, one of the eligibility criteria prescribed in the Pension Act under Section 65, for early withdrawal of benefits is that a person should stay for a minimum of 6 months without securing another job after termination of contract. However, it was found in the study that employers do recommend ineligible beneficiaries to access their accumulated pension benefits. This happens when ex-employees who have secured a job within 6 months from termination of contract can make early withdrawals in full or part. A male respondent, one of RBM's directors stated, *"it is unfortunate that early withdrawals are possible even to those that are not qualifying"*.

But, the respondent said that,

"while that is so, the vetting process for payments for pension including early withdrawals is done based on the principle of utmost good faith relying on the information that employers have provided through pension officers, pension funds and pension administrators".

The respondent argued that RBM expects to receive accurate and truthful information from the pension fund trustees and pension administrators for their vetting to be effective. The respondent further stated that in the absence of such knowledge and information, it becomes difficult to detect ineligible and dubious claims. This finding is consistent with Hudson (2019)

who argues that “the effectiveness of strategies to support implementation of a policy covers many aspects including the extent to which the intervention assists to ensure policy legitimacy, exhibits clarity of purpose, contributes to the wider attainment of policy objectives, and develops support from stakeholders”.

Many other factors influence compliance such as the compliance cost, knowledge and inspection style (Gunningham, 2010). This is consistent with the finding in this research that there is low knowledge on pension matters by most of the unskilled workforce in most organisations. This was stated by a male respondent, one of BCC’s officers that “*most of the unskilled workforce have little knowledge on the defined contribution pension plan as opposed to the defined benefit pension scheme, which had been the pension plan for many years*”. Therefore, given a chance, they would opt for a defined benefit fund as a rational actor. In addition, when salaries are due to be paid at the end of the month, in some cases, it is found that the BCC have inadequate funds to meet the wage bill, including pension and statutory tax obligations.

It was stated by another male respondent, one of BCC’s officers that, “*under such circumstances, the imminent need is to ensure that salaries are paid and sort out the pension remittance later and it is in such a way that pension arrears are accrued*”. This reflects the actions of a rational actor and or a player in a game as expounded in rational choice and game theory.

5.3 Study Implications

5.3.1 Theoretical Implications

Scholars have tried to triangulate themes of regulatory compliance and enforcement to understand gaps in achieving effective compliance. In terms of social security, there is some knowledge base on pension reforms in many parts of the World including Africa (Malema, 2019; Mhango, 2012; Stewart & Yermo, 2009; Ngetich, 2012). However, literature for social security policy and practice in Malawi is limited. The study drew from this gap to provide insights into some underlying issues on the implementation of the Pension Act of 2010 in Malawi. The study has its own limitations but outlines themes that should shape policy direction for effective compliance of the Pension Act in Malawi. Future research should endeavour to look into such limitations and other neglected areas in public policy implementation.

5.3.2 Practical Implications

The study advances that for any public policy or legislation to be meaningful and achieve desired outcomes, it requires enforcement. Broadly, the strategies for enforcement could be aligned to compliance or the deterrence approach. While regulators struggle to balance the two approaches, RBM is more inclined towards the compliance approach, which promotes dialogue, persuasion and negotiation. Cooperative approaches discourage improved regulatory performance among better actors who feel are at a competitive disadvantage for investing in compliance while their competitors are unpunished for non-compliance (Shapiro and Rabinowitz, 1997).

But, there is a link between past penalties and improved future performance. A previous legal liability influences future level of compliance by a regulated entity (Simpson, 2002).

However, actions below prosecution such as routine inspections, administrative notices and penalties, public regulatory awareness campaigns, naming and shaming without enforcement have no beneficial impact (Gunningham, 2010; Baggs, Silverstein, and Foley, 2003). This requires the right mix of strategies for enforcing regulatory compliance. Accordingly, this implores state regulatory agencies such as the Reserve Bank of Malawi to adopt flexible and innovative strategies of social coercion that embrace the government, businesses and third parties such as civil society and trade unions.

5.4 Study Recommendations

5.4.1 Adoption of Responsive Regulation for Enforcing Compliance with the Pension Act

Irrespective of variations in pension systems and communication policies, information alone will not be enough to guarantee that individuals make pension-related decisions that are in their best interest (World Bank, 2019). Thus, government should consider deliberate involvement of other parties as alternative or proxy regulators, including non-state actors to achieve policy outcomes of the Pension Act at less cost. Such parties could include trade unions that play a role in influencing public policies on labour as the Pension Act. Gunningham, (2010) argues that this approach frees up scarce regulatory resources which can be utilised in circumstances where no alternatives to direct government intervention are available. Further, regulation and enforcement should use a number of different instruments implemented by a number of parties to deal with the rational courses of action by regulated entities and individuals. This follows

the reasoning by Gunningham, (2017) advocating for the use of multiple rather than single policy regulatory strategies for positive policy outcomes. Policy makers should make informed decisions and combine instruments in a manner that compensate for shortfalls of individual strategies (Bengtsson, 2010 et al).

It is important to build an integrated and inter-organisational approach to policy implementation which has been considered by game theorists and rational choice theorists as a process that involves bargaining and coordination of multiple, diverse and autonomous actors to protect their interests (Hermans, Cunningham & Slinger, 2012). Hence, the study recommends enhancing the capacity of state regulatory agencies as the Reserve Bank and adopting innovative ways for enforcing regulation.

5.4.2 Policy Review

The study exposed a number of challenges affecting enforcement of the Pension Act of 2010 in Malawi. Among them are legal lapses and stakeholder resentment. Regulation influences pension scheme's administrative efficiency, imposing limits on pension administrators' administrative and investment charges (Stewart & Yermo, 2009). Therefore, the efficiency and effectiveness of pension funds is secured by prevailing pension laws (Maina, 2014). In light of the legal challenges associated with implementing the Pension Act, a review of this public policy is recommended. The review should include clearly define roles played by each player in regulating and enforcing the Pension Act. The RBM, Ministry of Labour and Ministry of Finance come into perspective. Such a process would also include emphasising the regulatory and supervisory responsibilities of the Pension Act on the Ministry of Labour. According to Demaestri, (2003), pension fund regulation and enforcement should not be integrated with the supervision of financial institutions such as banks since their operations and mandates differ

significantly. Hence, another solution would also be establishing a statutory authority or agency for the supervision, regulation and enforcement of the national pension scheme. For the Pension Act and any other public policy to be meaningful and meet desired goals and objectives, it requires constant review since many dynamics occur during implementation. Therefore, policy makers and implementers of policy should structure the game in such a way that the desired outcome is achievable (Bardach, 1982).

5.4.3 Increasing Public Awareness on Social Security and Provisions of the Pension Act

The sustainability of a social security is more than an issue of financial sustainability; it is also a question of its social and political sustainability (ISSA, 2010a). In this vein, public perception towards the pension scheme also matter. It may lead to resentment towards a public policy. Perception is a process by which individuals organise and interpret their sensory impression in order to give meaning to their environment. However, what one perceives can be substantially different from objective reality (Stephen & Robins, 2005). Regardless of the objective reality, there is a human tendency to believe that what we see is the truth (Drafke, 2008). Studies have indicated that interest in pension, knowledge, and awareness are universally low (Debets, Prast & Rossi, 2020).

There is much evidence that general financial literacy has a positive effect on thinking about retirement in many countries (Lusardi & Mitchell, 2011). Therefore, deliberate effort has to be made to enhance financial literacy (Barret, Mosca, Whelan, 2013). This is to ensure that pensions have a desired effect, with employees having relevant information on benefits of any pension arrangement whether defined benefit, defined contribution or hybrid (Debets, Prast, Rossi, 2020). This study recommends that state agencies responsible for implementation of the

Pension Act such as RBM and Ministry of Labour, the Ministry responsible for Civic Education and other relevant state agencies and non-state actors including trade unions should step up efforts on pension awareness and financial literacy..

5.5 Areas for Further Research

The study focused on analysing the strategies for enforcing compliance with Malawi's Pension Act of 2010. It was an academic attempt to determine the effectiveness of such strategies. The study engaged state regulatory and enforcement agencies of the Pension Act; the Reserve Bank of Malawi and Ministry of Labour and selected non-compliant public sector employers; BCC and MPC.

Blantyre City Council and Malawi Posts Corporation. Data was collected from 20 participants drawn from the four institutions. At the policy level, the Ministry of Finance provides policy direction on the implementation of the Pension Act of 2010. Besides, there are many employers in Malawi from the public and private sector. There are also pension administrators and pension funds participating in the pension sector regulated by RBM in respect of the Pension Act. It is evident, that the implementation of the Pension Act happens in a multi-sector network, with various players and stakeholders including employees and their trade unions. The general public is also not an exception.

Despite this, the study only provided space to four institutions; RBM, Ministry of Labour, BCC and MPC. The focus being on compliance issues mainly in terms of pension remittances and the strategies for enforcing such. Yet, the pension sector is broad covering such issues as portfolio planning and pension assets and investments which were not given adequate space

in this study. Hence, the study is narrow in depth and scope along those lines. Therefore, it is proposed that broader and inclusive studies in pension social security are conducted. Pension Funds and Pension Administrators could be included in the study. These are key players in ensuring compliance of the Pension Act of 2010. The researcher believes that there is still a gap in the area of pensions that could be filled by further studies at this masters level and beyond.

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APPENDICES

Appendix 1: Interview Guide for Labour office

An interview guide (RBM)

This interview guide has been formulated by Kingsley Clement Lupande, with an aim of obtaining data which will help in writing a thesis for submission in partial fulfillment of the requirement for the award of Master in Public Administration and Management. The data collected will be solely for the production of this academic exercise.

Questions

1. Would you share your understanding of the Pension Act?
2. Do you have any specific issues or challenges you handle on pensions?
3. How do you resolve such issues?
4. How do you work with RBM? Are you satisfied?
5. From your experience, are you satisfied with the level of compliance with the Pension?

END OF QUESTIONS

THANK YOU

Appendix 2: Interview guide - Interview Guide (Employers)

This interview guide has been formulated by Kingsley Clement Lupande, with an aim of obtaining data which will help in writing a thesis for submission in partial fulfillment of the requirement for the award of Master in Public Administration and Management. The data collected will be solely for the production of this academic exercise.

Questions

1. How many staff do you have on the payroll?
2. How many are on the national pension scheme?
3. What is your understanding of the Pensions Act?
4. How many are not on the national pension scheme and why?
5. What retirement benefits are there for those who are not covered on pension?
6. Do you provide death benefit to your deceased employee beneficiaries?
If yes, what is the minimum cover? – provide explanation.
7. Do you remit pension deductions to pension administrator/insurance company? If yes, when?.....(every 14th day of the month) latest? If not, why?
8. Has RBM or Ministry of Labour engaged you on pension matters your recently ((phone call, physical visit etc ...)? If yes, what was the purpose of the engagement.
9. Have you had any disputes with any of your employees on pension matters?
10. Have you had a case where your employees have reported you to government? (Ministry of Labour/RBM).

END OF QUESTIONS

THANK YOU

Appendix 3: Interview guide for RBM

This interview guide has been formulated by Kingsley Clement Lupande, with an aim of obtaining data which will help in writing a thesis for submission in partial fulfillment of the requirement for the award of Master in Public Administration and Management. The data collected will be solely for the production of this academic exercise.

Questions

1. What strategies does the Reserve Bank of Malawi put in place to enforce compliance of the Pension Act by employers?
2. Are there specific legal tools you use to enforce compliance of the Pension Act?
3. Are you satisfied with the progress you are making to ensure compliance with the Pension Act? Either yes or no, with explanation.
4. What support do you get from Ministry of Labour to enforce compliance of the at?
5. Are there any stakeholders that you are supportive or could be supportive in your effort?

END OF QUESTIONS

THANK YOU

Appendix 4: Interview guide for employees

This interview guide has been formulated by Kingsley Clement Lupande, with an aim of obtaining data which will help in writing a thesis for submission in partial fulfillment of the requirement for the award of Master in Public Administration and Management. The data collected will be solely for the production of this academic exercise.

Questions

1. What is your understanding of the Pension Act?
2. Have you had any issues with your employer on pension?
3. Do you get updates or statements on your pension account?
4. What is your view on efforts by government to ensure that Pension Law is followed?

END OF QUESTIONS

THANK YOU

Appendix 5: Letter of Introduction



Principal
Prof. Richard Tambulasi, BA (Pub Admin), BPA (Hons), MPA, Ph.D
Our Ref: PA/1/1
Your Ref:

CHANCELLOR COLLEGE
P.O. Box 280, Zomba, Malawi
Telephone: (265) 01524 222
Fax: (265) 01524 046
Email: principal@cc.mw

Department of Political and Administrative Studies

12 January, 2021

TO WHOM IT MAY CONCERN

Dear Sir/Madam,

LETTER OF INTRODUCTION: MR KINGSLEY LUPANDE – MA/PAM/13/18

The bearer of this letter is **Mr. Kingsley Lupande**. He is a student in Master of Public Administration and Management programme in the Department of Political and Administrative Studies at Chancellor College.

Our students are required to write a dissertation in order to complete their master's programme. Therefore, Mr. Kingsley Lupande intends to carry out a data gathering exercise for this purpose in your office.

Any assistance rendered to him in the course of this exercise will be highly appreciated. Let me also point out that the information gathered will be treated as confidential and purely for academic purposes.

Yours faithfully,

Associate Prof. M. Chasukwa, PhD
HEAD OF DEPARTMENT



Appendix 6: Consent letter

IMPLEMENTATION OF PENSION ACT IN MALAWI: ANALYSIS OF STRATEGIES FOR ENFORCING COMPLIANCE.

I am a student of the University of Malawi, Chancellor College, pursuing studies for Master in Public Administration and Management. I am conducting academic research on the Implementation of Pension Act in Malawi: Analysis of Strategies for Enforcing Compliance.

I kindly request you to participate in this study by responding to the questions in this in-depth interview.

The purpose of the study is to analyse the effectiveness of the strategies for compliance with the pension act of 2010. It is expected that the interview session will take 1 hour of your time.

There are no any foreseeable risks to the study and you are not required to disclose your identity. However, I will take measures to prevent any risks that may arise.

Please sign this form in the space provided below if you have read and understood the information above and have agreed to participate.

Participant Declaration

I, have read the
above

information and confirm that I have understood the content, with proper explanation from the researcher in a language that I understand. I have asked questions for clarity and have been given satisfactory responses.

Any further questions that I might have concerning the research and or my participation will be answered by Kingsley Clement Lupande at kingsley.lupande@gmail.com or his supervisors, Dr. Tiyesere Mercy Chikapa or Prof. Dan Banik.

Participant signature:

Appendix 7: Permission to collect data.



MALAWI POSTS CORPORATION

HEAD OFFICE
Glyn Jones
P. O. Box 602
Blantyre
MALAWI

Telephone : +265 1 822 144
Fax : +265 1 820 188
E-mail : pmg@malawiposts.com

Ref. No. MPC/DDAHR/015

1st February, 2021

Mr Kingsley C. Lupande
Human Resource Management Officer
Ministry of Agriculture- Salima ADD
Private Bag 1
SALIMA

Dear Sir

RE: REQUEST TO COLLECT DATA AT MALAWI POSTS CORPORATION

Thank you for your email dated 26th January, 2021 on the above subject.

I would like to advise that Management has approved your request to collect data at Malawi Posts Corporation for your MPAM research.

For more information please contact the undersigned.

Yours faithfully,

Caroline Chiyanjano Matululu
DEPUTY DIRECTOR ADMIN AND HR
FOR POSTMASTER GENERAL

Appendix 8: Permission to Conduct Research



The Secretariat
Town Hall
Civic Centre
Kasungu Crescent
Private Bag 67
BLANTYRE
Republic of Malawi

Blantyre City Council

BCC/ADM/20/1

All correspondence to be addressed to:

The Chief Executive Officer
Phone: +265 1 870 211
Fax: +265 1 870 508 / 1 870 417
Email: bcachief@bccmw.com
Website: www.bccmw.com

21st April, 2022

Mr Kingsley Lupande
University of Malawi
Chancellor College
P.O. Box 280
Zomba

Dear Mr K. Lupande

RE: PERMISSION TO CONDUCT A RESEARCH

The above stated subject refers.

We are in receipt of the University of Malawi Chancellor College letter dated 02nd January, 2022 who are requesting Blantyre City Council to grant you permission to conduct research.

We are pleased to grant you permission to conduct the study at Blantyre City Council.

Relevant individuals or Officers are therefore advised to provide you with assistance that you may require towards your research.

Yours sincerely

A.M. NYENGO

DIRECTOR OF HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT

Taking the City Back to the People

Appendix 9: Thematic table

THEME	DESCRIPTION	
Sub-category	Description	Extracts of significant statements