REFOCUSING ON THE CHALLENGES IN THE NIGERIAN PENSION REFORM ACT 2004 - A NEW IMPERATIVE

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ABSTRACT

In the past years, the living standards of retirees in Nigeria had fallen abysmally. This was explainable by the erosion of the economic power of the retirees, the changes in their family structures and their roles, particularly in the care for the more elderly members of their extended families. The various efforts made by a number of successive regimes in Nigeria towards addressing the needs of these retirees yielded no meaningful dividends. The pensions of the retirees, which were meant to serve as a means of livelihood in their old age, were, on several occasions, carted away by the very government officials saddled with the responsibility of safeguarding and managing them. The dream of timely and regular receipt of pensions by Nigerian retirees became a mirage even after the Pensions Reform Act 2004 had been promulgated and became operational. Consequently, the Pension Reform Bill 2013 has been submitted to the Nigerian Parliament for consideration and enactment into law. This paper suggests some remedial actions to be taken by the relevant government organs with the intention of enabling the Government to put in place an efficient pension scheme for the Nigerian nation.

Keywords: Pension Reform Act, Pension Fund, Pension Scheme Challenges, Contributory Pension Scheme.

INTRODUCTION

Pension for retirement is regarded as one of the powerful security attributes which the International Labour Organization (ILO) Convention No. 102 approved. According to literature, several countries in the world are currently grappling with pension reform issues even amidst pressures from ageing populations. Olarenwaju (2011) opines that, in most cases, the reform would be either to increase the length of contributions to qualify for full pension or to reduce the rate of pension, or both. Generally, however, the trend has moved towards the adoption of a system in which public pensions are contemplated by private pensions and individual savings. This system obtained in Canada under the Canadian Pension Plan. For Nigeria's Pension Reform Act of 2004, it is called the Contributory Pension Scheme. Pension Scheme is widely accepted world-wide because of its overwhelming justification.

OBJECTIVES OF THE RESEARCH

This paper examines the issue of pension reforms in Nigeria, particularly the Pension Reform Act No 2 of 2004 and its 2011 amendment. It has the target of reviewing the initial implementation of the Act, its challenges and providing insights for future amendments and/or enactment.

LITERATURE REVIEW

Even though the Pension Reform Act 2004 was silent on the definition of the word "pension", the latter has been severally defined by some scholars thus:

- A fixed sum paid regularly to a person or to a person's beneficiaries especially by an employer as a retirement benefit (Blacks Law Dictionary).
- A contract for a fixed sum to be paid regularly to a person, typically following his/her retirement from service.
- An amount of money paid regularly by an employer or principal to a staff that is considered too old or too ill to work, etc.
- According to Imhanlahimi and Idolor (2011), and (Dalang, 2005) all the definitions of the term 'pension' point to the same idea basically-the social security of a retired person and his dependants.

On the other hand, where there is a **Pension Scheme**, it could be in the manner of a defined scheme where only the employer funds the scheme. It may be a contributory plan where both the employers and employees contribute in funding the scheme, or a non –contributory pension scheme. The non-contributory pension scheme requires cash transfers to beneficiaries. Such scheme is a social pension targeted at the elderly, the destitute, the unemployed and others with the objective of alleviating poverty or sickness, and reducing crime.

The Nigerian Pension Reform Act 2004 provides for a pension plan in which both the employer (public or private) and the employee contribute some percentages to the pension fund.

This **Pension Fund** refers to the investment fund within the pension scheme which is intended to accumulate during an individual employee's working life from his/her contributions and investment income. The investment fund serves as a means for providing income on retirement from the purchase of an annuity or in the form of a programmed withdrawal. Under this arrangement, there is the possible option of an additional tax free cash lump-sum being paid to the individual retiree.

TERMS IN PENSION SCHEME

Pension Assets: These are the assets which collectively make up the pension fund.
Pension Fund Administrator: means any corporate body granted licence by the Pension Commission to operate as a pension fund administrator.
Pension Custodian: This is a body corporate which has been licensed as the custodian of the pension funds by the Pension Commission.
Pensioner: This to refers to a recipient or beneficiary of the pension scheme.
Retirement Savings Account: This is an account opened with the Pension Fund Administrator as specified by the Pension Reform Act 2004.
National Pension Commission: This is the body which is charged with the responsibility for the enforcement and implementation of the provisions of the Nigerian Pension Reform Act 2004.
BGL: Is a research arm of the OECD which carried out an extensive research on the principles and plausibility of Nigeria's Pension Reform Act 2004 with its Nigerian branch office located in Lagos and its detailed report published in 2010.

THE MANAGEMENT AND OPERATION OF THE NIGERIAN PENSION SCHEME

The Nigerian pension scheme is a scheme which is put in place to assist workers to save and plan for their retirement so as to avoid old-age poverty and dependency. It is a long-term venture undertaken to ensure that people who can no longer work actively still live their lives with reasonable comfort.

At the apex of the management hierarchy exist the National Pension Commission. It has the responsibility to ensure that the operators of the pension scheme strictly follow the laid down rules and guidelines of the Commission. The operators deal directly with the contributors' salaries which are deducted (as a check-off) at the end of each month by employers and remitted to the contributors' respective pension fund accounts.

The operators have the responsibility to ensure the safety and wise investment of contributors' funds for maximum returns. In order to minimize the risk usually associated with such investments, the custodians have to be careful when investing contributors' funds and are required to follow the rules as laid down by the Pension Commission. The funds are invested in industries or sectors based on strict guidelines defined by the Pension Commission.

The operators are required to engage contributors through fora, phone calls and online customer care help-desks to answer questions which they might have and help them sort out issues. However, it is felt in several quarters that these overtures had made little or no impact in the past.

The Nigerian pension scheme which adopted the Chilean style experienced a modest growth upon the introduction of the Defined Contributory (DC) Scheme that replaced the pre-reform Defined Benefit (DB) Scheme. Pension assets grew from ₦265 billion ($1.77 billion) in 2006 when the scheme became generally effective to N1.3 trill ion ($8.67 billion) in September 2009. According to BGL Group (2010) registered contributions also increased from 932,435 in 2006 to 3,888,491 in September 2009 as follows:-

Year	Total Assets (₦ billion)
2004	47
2005	121
2006	265
2007	815
2008	1,072
2009 (September)	1,300

With only a total asset of $8.67 billion in 2009, the Nigerian pension asset was said to have the potential of growing to about $42.37 billion by 2015 (see BGL Pension Report, 2010). According to 2007 publications on RSA funds accounts, the statistics related to the top pension managers in Nigeria are as contained in table 1 below.

Table 1: Top Pension Manager in Nigeria

Pension managers	Total Contributions (₦million)	Total Contributors' Funds (₦million)	Total Investment (₦ million)	Funds Unit Price (₦)
Stanbic IBTC Pensions	63,214.24	73,562.63	73,650.99	1.50
Crusader Sterling Pensions	12,618, 87	12,211,68	14,135,26	1.54
ARM Pensions	18, 471,98	19,957.46	20,701.03	1.57
Sigma Vaugh Pensions	31,003.46	32.332.02	31,893.50	1.46
Leadway Pensure Pensions	19,889.16	21,219.02	20,866.87	1.31

Source: Published RSA Funds Accounts, 2007.

Furthermore, the pension report presented Nigeria's pension fund allocation formula as follows shown in Table 2 below:-

Instruments	Percentages
Government securities	34.34
Corporate bonds	0.03
Financial institution deposits	19.63
Equities	30.04
Investment funds	0.55
Foreign securities	3.57
Other instruments	11.84
Total	**100.00**

Source: OECD BGL Group, 2010.

The general challenge which was experienced in Nigeria, in particular, and developing countries in general, was the need to make pension management a competitive business by lowering entry barriers and restrictions on investible assets. By the year 2010, Nigeria had the following pension statistics as 2009 estimates and labour force estimates of 2008.

Table 3: Nigerian Pension Statistics as at 2010.

Item	Figure
Population (1)	141,100,000
Working population (2)	51,040,000
Number of pension contributors	3,888,491
Gross Domestic product ($billion)	175.40
Gross domestic product per capital ($)	1,176
Pension fund assets ($billion)	8.66
Pension fund assets (%of GDP)	4.94
Pension Assets per capital ($)	58
Pension assets per working population ($)	170
Pension assets per contribution ($)	2,227.09
Pension contributors (% of working population)	7.62

Source: The World Fact Book, 2010.

From the foregoing statistics, it is obvious that less than 10% of the working population signed on to the Nigerian pension scheme.

PENSION SCHEMES OUTSIDE NIGERIA

There are notable examples of pension schemes in the globe, some of them are listed in Table IV below.

Table 4: Pension Schemes in parts of the World

Country	Name of the Pension Scheme
Argentina	Administration National de la Sequridad social
Australia	Superannuation in Australia – private and compulsory- individual Retirement Contribution scheme. Social Security – Public Pensions
Canada	Canada Pension Plan Old Age Security Quebec Pension Plan Registered Retirement Savings Plan Saskatchewan Pension Plan
Hongkong	Mandatory Provident Fund
India	Employees' Provident Fund Organization of India
Japan	National pension
Malaysia	Employees' Provident Fund
Mexico	Mexico Pension Plan
Netherlands	Algemene Ouderdoms Net
Newzealand	Kiwisaver
Singapore	Central Provident Fund
Sweden	Social security
United Kingdom	UK Pension Provision (General) Self-invested Personal Pensions
United States of America	Public Employee Pension Retirement Plans in the United States Social security

Source: Wikipedia, 2013.

THE GLOBAL PENSION MARKET AND THEIR CHALLENGES

The major challenges which pension managers face globally are to continue maintaining an appropriate level of investments and paying retirement benefits as at when due (BGL, 2010). This problem became more difficult to solve as the economic recession affected pensions schemes across the universe in several ways. In addition, the increasing pressure from regulations investment strategies and governance has also made the management of pension funds more onerous. The recession between end-2007 and end -2008 occasioned 18 percent fall to $25 million in the value of global pension assets- the largest decline for many years.

The global pension market is dominated by five OECD countries viz:- USA, UK, Netherlands, Japan and Canada. Those countries account for 75percent of the world pension assets. According to the study, the following countries adopted the Defined Contributory Pension Scheme:-

- The PAC notifies the Pension Fund Administrator (PFA), appointed by the employee, within 24 hours of the remittance of the contribution.
- The PFA issues a Personal Identification Number (PIN) to the employee, manages the contribution and credits the returns to the RSA. The Pension Asset Custodian, Pension Fund Administrator and employer's activities are regulated and supervised by the National Pension Commission.

The payoffs of benefits are placed in the following manner:-

- The retirement age is 60 years or 35 years of service, which ever comes first.
- Upon retirement, the employee meets the Pension Fund Administrator and both of them agree on the mode of withdrawal of pension based on the retiree's life expectancy. Withdrawal could be lump-sum or programmed withdrawals and purchase of annuity from an insurance company.

Ambiguities and Challenges

The pension reform Act 2004 has, right from inception, attracted a number of criticisms with regard to its ambiguities and shortcomings. For example, the Reform Act is viewed to be:-

- Discriminatory in nature. It discriminates in favour of certain classes of Nigerian employees- the military, the intelligence and secret services- who have been exempted from the pension scheme
- Abolishing the right to gratuity by retirees
- Ambiguous in the definition of minimum retirement age.
- Encouraging delay in the payment of retirement benefits. Section 4 (2) of the Pension Reform Act virtually legalizes delays in the payment of retirement benefits.
- More beneficial to the government than the workers and retirees. Government's financial commitment is reduced just as the retirees benefits slim down
- Occasioning the receipt of lower monthly pension benefits by the retirees when compared to what the Defined Benefits Pension Scheme provided.
- Devoid of more pension schemes in Nigeria. This situation denies retirees of more pension funds for their comfort and ability to meet their basic needs.
- Not providing retirees with adequate investment returns from their contributions.

The returns they receive are not commensurate with their contributions to the pension scheme.

Challenges

The challenges that existed despite the implementation of the Pension Reform Act 2004 include:-

- Inadequate and scanty information by the retirees from their Pension Fund Administrators.
- The distancing away of the private sector of the Nigerian economy from the scheme.
- The existence of traditional bureaucratic structures,
- Corruption
- Failure to fully integrate the informal sector, States and Local Government into the scheme
- The failure to diversity pension fund investments so as to provide adequate returns while guaranteeing safety of the pension assets. According to Imhanlahimi and Idolor (2011), the challenges of the Pension Reform Act 2004 pushed workers and retirees to begin to opt for the extant Defined Benefits Pension Scheme as against the new pension scheme
- The Act's failure to address emerging issues which had come to the fore due to the changing socio-economic realities of Nigeria.

The challenges for the Nigerian Pension Scheme include:-

- The unreliability of social statistical data which has resulted in a technical neglect of the informal sector by the pension managers. While the formal sector is not contributing to the pension scheme as expected, the statistical figures released which gave the impression that a larger portion of the working population was in the formal sector was questionable.
- Limited investment assets. While the restriction on equities prevented loss form equity crash in 2008, it also prevented the industry from benefitting from earlier boom (74 percent equity return in 2007) and a potential growth of the equity market.
- Stringent regulation. Requirements which affect competitiveness.
- Inadequate capacity and competence
- Sluggish adoption of the scheme by States.

METHODOLOGY

The methodology applied in this research is basically theoretical analytical approach. Relevant data gathered from secondary sources were generally reviewed and critically analysed to achieve the set objectives of the research.

DISCUSSIONS

A number of studies have tried to establish some empirical evidence about the current status of the Pension Reform Act 2004 on the extent to which it has attained its set objectives. Prominent among those studies include Nyong and Duze (2011) and Asuquo, Akpan and Tapang (2012) whose studies employed some statistical survey techniques to arrive at their findings.

Asuquo, Akpan and Tapang (2012) carried out their field survey in Cross River State of Nigeria whereby 800 pensioners were studied to determine the influence of pension reforms on the welfare of the retired civil servants in Nigeria with Cross River State as a case study. This study applied simple percentages and the Pearson product moment correlation coefficient as statistical tools for testing whether thereof the objectives of the pension reform 2004 were being achieved. Their research came up with the facts that in Cross River State of Nigeria as in most states that pensioners now do receive their pension with less difficulties and as at when due, and that the culture of saving for the rainy day have been inculcated into workers of that state.

However, most pensioners still queued for days before receiving their pensions and the process of compiling documents was so tedious that must retired pensioners were used to surrendering in the course of the process. Equally, Nyong and Duze (2011), on their own part, investigated the prevailing status of the Pension Reform Act 2004 in attaining the objectives for which it was promulgated as perceived by 3000 serving teachers and teacher pensioners. They conducted a field survey on 1500 serving teachers and 1500 teacher pensioners using structured questionnaires with the intention of finding out:

- ❖ Whether the trauma, pain and death associated with the past was being eliminated with the introduction of the Pension Reform Act 2004 and
- ❖ Whether there would be sustained and adequate funding of the pension Reform Act 2004 which would secure happiness for Nigeria worker at retirement. The target population comprised all serving federal and state public secondary school teachers between the ages of 55 and 59 and all federal and state public secondary school teacher pensioners of all ages in Nigeria.

Their research revealed that the objectives of the Pension Reform Act 2004 were yet to be significantly achieved. It was observed that retired persons still suffered trauma, pains and some even die before receiving their pension packages in Nigeria and that the sustainability of the Pension Reform Act 2004 was questionable. This research having reviewed the aforementioned researches on Pension Schemes in Nigeria and consequent upon the observation of the conspicuous shortcomings that exist in the Pension Reform Act 2004 and its management, it now becomes obvious that Nigerians should clamor for its replacement. This need becomes urgent and necessary, notwithstanding that its amendment took place just recently.

Likewise, the National Pension Commission submitted a position paper to the Senate Committee on Establishments and Public Service and the House Committee on Pensions. That was submitted at a joint public hearing on the bill for an Act to repeal the Pension Reform Act 2004 and enact the Pension Reform Act, 2013 to make provision for contributory pension scheme, (CPS) and for connected matters. By this position paper, the Pension Commission provided further clarifications to the Pension Reform Act 2013 bill which President Goodluck Jonathan had submitted to the National Assembly on April 17, 2013. The 65-page bill had at 30th May, 2013 passed first reading in the Senate and House of Representatives.

According to Hassan (2013), the bill provides among others as follows:- "Any Pension Fund Administrator or Pension Fund Custodian or person or body, who misappropriates or diverts pension funds commits an offence under this Act… "the individual or group will also be liable on conviction to a fine of an amount equal to three times the amount misappropriated or diverted or to a term of not less than 10 years or both fine and imprisonment". The bill also requires the Accountant-General of the Federation to make payment of retirement benefits into individual bank accounts of retired persons covered under section 5 of the Act. In addition, it also requires that such payment should be submitted to the Commission and the Pension Transitional Arrangement Directorate of the Federation and Federal Capital Territory established under section 42 and 44 of the Act respectively. The draft law also seeks to relax the qualification requirement for a director-general of the Nigerian Pension Commission.

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Among others, the objectives for opting to have a second look at the Pension Reform Act 2004 are as follows:-

- To respond positively to calls and agitations of the Nigerian public for a pension law which addresses emerging issues which come up due to changing socio-economic realities of Nigeria,
- To determine the suitability and/ or adequacy of certain provisions of the PRA 2004
- To identify ways to completely integrate the informal sector, States and Local Governments into the scheme
- To examine ways to diversify the pension fund investments, to provide adequate returns while at the same time ensuring the safety of the pension assets, and
- To draw lessons from other jurisdictions on how to promote best practices in the pension industry; as well as harvest inputs from all state holders and professionals in order to conduct a comprehensive review of the pension law (Nigerian Pension Commission, 2013).

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

The surest manner that most old people who have retired from active service solve their financial and other problems in Nigeria is mostly through pension packets. However, it is sad to observe that these monies do not usually reach them as at when due because of the manner in which government and some of its employees handle pension issues. Consequently, some individuals in service who are due for retirement manipulate and lower their age records in order to prolong their retirement dates and remain in service-even when they are no longer productive. Hence, they constitute wastages in the economic system. Thus it becomes necessary that adequate provisions be made and effective financial security be provided for old age in Nigeria.

This paper therefore joins Ojudu (2013) in agreeing that it is improper and economically wasteful to allow the bulk pension fund accumulated all the while to remain idle. It will benefit Nigerian workers and retirees more if such fund is invested in the capital market real sector-especially in housing, agriculture and information technology. Furthermore, this paper also agrees with the Pension Fund operators Association of Nigeria (2013) that there still exist a whole lot of people working without pension fund accounts and who need to be educated on how it works. The old scheme (Defend Benefits Scheme) has generated a lot of bad publicity. This needs to be cleaned up so that people will be able to embrace the envisaged scheme. It is equally advisable that the new pension scheme be made to include those individuals in the vocational type industries such as vulcanizers, hair dressers etc.

It is expected that, this time that the bill for a new pension act is being considered, Government should seek opinions and perceptions of public servants across the length and breath of Nigeria so as to enhance its acceptability, workability and workers' motivation. There should be a review of the benefits accruing to retirees also such that the new packages receivable by them will not be less than what they should have received under the extant Defined Benefits Pension scheme.

The contributory pension scheme ought to be run under strict constitutional provisions, which states that pensions should be reviewed after every five-year period or whenever workers' salaries are increased. Just as provided in the pension reform Bill 2013, Government should check-mate the contributory pension scheme operators and every person involved in the management of contributors' funds and met out strict penalties to anyone convicted of embezzling, misappropriating and /or diverting such funds. The habit of taxing voluntary contribution as provided in section 7 (2) of the Pension Reform Act 2004 should be discouraged.

In conclusion, pension reform is one of the veritable administrative measures which result-oriented governments execute-especially in those countries which are interested in both the motivation of the workforce and the overall well being of their retirees. This article observes that the Nigerian pension scheme is yet to achieve this laudable objective. All the same, it is envisaged that the anticipated Pension Reform Act 2013 will satisfy the yearnings of Nigerians in general and the Nigerian retirees in particular, provided that the management and operators of the pension scheme will have the commitment and will-power to implement the Act religiously. The Pension Reform act 2013 is likely to engender:

- Improved workers' standard of living
- Increase in liquidity and savings rate , and
- The deepening of the activities of the Nigerian capital market

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