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An Overview of the Nigerian Contributory Pension Scheme (2004 and 2014 Pension Act)

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Abstract
The dejection and helplessness of pensioners waiting to be paid pension benefit under very frustrating verification process occasioned by impunity in pension fund administration led to the Pension Act of 2004. This ushered in the Contributory Pension Scheme that replaced the Defined Benefit Pension Scheme with attendant review in 2014 to check mismanagement. This paper critically examines the contributory pensions scheme; identifies its inadequacies and also highlight the lapses of the old defined Benefit pension scheme. Information was obtained from secondary source and personal encountered with pensioners. In course of this study it was discovered that the contributory pension scheme was selectively implemented, not including all the Government Parastatals, there is a wide financial disparity between the old and new pension scheme, absent of life span annuity and also discovered is the current mode of diversion of pension assets.; This paper recommend the wholestic implementation of the policy by the Government, the financial disparity in the pensioner take home should be bridged up by increased financial involvement by the Government and to fore-stall financial misappropriation, interests and commissions accruable to pension fund asset should be disclosed on regularly. The Contributory Pension Scheme is a welcome idea which when properly implemented will eradicate the pensioners harsh life thereby making their dream a reality.

INTRODUCTION

The issue of pension has received much attention in many countries over the past decades. In fact, in recent times, pension has increasingly attracted the attention of policy makers in many countries as a means of facilitating privately funded retirement income savings by an ageing workforce (World Bank 1994).

The issue of pension in Nigeria has become one of the salient issues in the Country today as result of the failure of the Country's pension system. Pensioners lives in pain and anguish everyday. Their pains is intensified when they recalled how they spent several years working tirelessly and loyally for the country they believed in, but only to be paid back in such manner. They have been denied their rights after retirement. After retirement when they need it mostly, thousands of them died while waiting for the stipend that was not forthcoming. Families have been separated owing to their present situation of not meeting their financial obligations. Some as a result been mentally traumatized. (Ebun, 2012)

The administration of pension and gratuities to pensioner has for several years been a nagging problem especially in the public sector. The payment of pensions and gratuities has been very erratic and irregular. Thus pension liabilities have grown so much that the government was not been able upset the liability. This situation has condemned many pensioners of the civil service into untold hardship, object poverty and squalor. Many pensioners have resorted to begging for survival while some have died waiting for the payment of their pensions and gratuities (Eyamfi, 2003). The defined benefit had become unsustainable with outstanding liabilities nationwide estimated at N2.3 trillion, the Federal Government find it difficult to grapple with the enormous amount involved. This is as a result of the increase in pension entitlement (Emola and Obasi, 2011).

The increase mad it difficult for government to fulfils its pension obligation because of the embezzlement of pension fund by those entrusted with the administration of the fund. This further plugged the pensioners into abject poverty due to neglect caused by lack of payment. Put into words, the pension scheme failed.

The Federal Government of Nigeria being aware of the plight of the retired workers came out in 2004 with a new Pension Reform Act which is described contributory, fully funded, privately managed pension scheme that is based on individual's accounts. It ensures that every one who has worked received his or her retirement benefits as and when due to alleviate poverty on retirement and curb the situation where pension entitlements are delayed or not paid. An employee contributes a percentage of his salary and the employer contributes a percentage of the employees salary toward the retirement benefit of the employee. The total contribution will be paid out by the employer directly to a pension Assets Custodian (PAC) and will be managed and invested by the Pension Fund Administrator (PAC) of the employee choice. Thus to gives the employee immediate ownership of his or her pension benefits (Aibieyi, 2009)

Before the 2004 Pension Reform Acts, the Defined Benefit Pension Scheme Acts practiced in Nigeria till

June 30, 2004. Tax active workers pay for the benefit of retired worker. Under this system, retirement of benefit are a function of the rate of growth of the taxbase, which in turn depends on the rate of growth of the labour force worker.

This paper critically examines the Contributory Pension Scheme and to ascertain default, that is hindering the general acceptance of the scheme.

A Brief History of the Pension Decree 102 Of 1979

The Act was enacted in 1979 with retrospective effect from 1st April, 1974. This Decree repealed all pension laws from 1st January 1946 to 31st March 1974. Example of such repealed laws includes Pension act 1946, Pension Act 1958 and the Police Pension Decree 1996. Under this Decree, all enactments on pension, incorporated pensions and gratuity scales of all public offers recommended by the Udoji Public Service Review Commission Report 1974 was consolidated. It formed the basic pension law by which all recent pension laws are built. For instance, at the level of parastatal and Government owned Companies, the pension rules are replica of the pension act 102 of 1979. The Scheme spelt out conditions of payment of entitlements withdrawal from the scheme as well as forfeiture of pension right among others. Despite the above provision, the scheme was married with widespread corruption. There were rampant complaints of diversion of pension fund to other uses by pension officials (Femi 2001) Ctd in Bassey, Etim & Asiny 2010).

Problems with the Old Pension Scheme

One of the major problems of the pension fund administration in Nigeria was the non-payment or delay in the payment of pension and gratuity by the Federal and State Governments. For instance, the pension backlog was put at about N2.56 trillion as at December, 2005. In fact, pension fund administration become a thorny issue with millions of retired Nigerian workers living in abject poverty and they were often neglected and not properly cater for after retirement (Orifowomo, 2006).

Another problem that frustrated the successful implementation of the defined benefit pension is corruption. Nigeria is ranked the topmost corrupt Country of the World (Transparency International 2008). In the recent pension probe, Abdulrasheed Maima, the Chairman of the Presidential Pension Reform Task Team, which was set up under the office of the Head of Civil Service of the Federation, with the mandate to restructure the pension system in Nigeria, ensure that pensioners who have served the nation are no longer denied a meaningful life at old age. Some of the shocking experiences the team had, while also revealing how an average of N295 million to N300 million was being pilfered every other day through cheques and cash from the police pension account (The Guardian, 2012).

There has been little or absent of most pensioners records in pension officer all over the country. In most office, file were poorly handled leading to misplacement and loss of relevant documents. This improper record keeping aid fraud in the system according to the Chairman of the Pension Tax Force, over 71,000 ghost pensioners were discovered in the Civil Service, 2014 in the Police Pension Office while 133 were duplicated names, who collect multiple pensions monthly in the same police pension office (Abiosode, 2012).

Other problems were incompetence staff, administrative bottlenecks, bureaucracies etc.

CONTRIBUTORY PENSION SCHEME

The Pension Reform Act 2004

The Act was enacted in 2004 partly as a result of the failure of the past scheme to address the pension needs of Nigerians and partly as a result of the quest by stakeholders to evolve a scheme that can cater for both public and private sector employees. (Bassey & Other, 2010) It repealed the 1993 Nigeria Social Insurance Trust Fund Act.

The scheme is being managed by Licensed Pension Fund Administrators (PFAs), while the custody of the pension fund assets are provided by licensed pension fund custodian (PFCs).

MAIN FEATURE

1. It establishes a uniform contributory pension scheme for the public and provide sectors in Nigeria.
2. It prescribes that retirement benefits shall be funded by both the employer and employee.
3. It privatizes the management for all pensions in the country.
4. Pension funds are to be privately managed and invested by professional pension fund managers.
5. It provides for strict regulation of the activities of pension and fund administrators and custodians of pension fund assets under uniform law and regulations for both and private sectors.
6. It establishes a National Pension Commission charged with the responsibility for matters relating to the regulations, supervision and effective administration of all pension schemes and for matters connected therewith.

According to Ahmed (2005), states that the overall philosophy of the pension reform are to

1. Ensure that every person who worked in either the public office of the Federation, Federal Capital

Territory or Private Sector receives his retirement benefits as and when due.
2. Asset improvident individuals by ensuring that they save in order to cater for their livelihood during old age.
3. Establish a uniform set of rules, regulations and standards for administration and payment of retirement benefits for the public service of the federation, Federal Territory and the private sector.
4. Adopt major reform instead of cosmetic adjustments of the past.

OBJECTIVES OF THE PENSION REFORM

1. To establish sustainable pension system
2. To empower the worker to gain control over his retirement savings Account (R.S.A.)
3. It minimizes the incentives for early retirements.
4. Ensure transparent and efficient management of pension funds.
5. Promotes savings culture.
6. Secures compliance by all affected and promote wider coverage.
7. Establishes strong regulatory and supervisory framework (National Pension Commission, 2004)

NATURE OF THE SCHEME

Atom (2007) enumerated the nature of the scheme of contributory – full funded and based on individual accounts that are privately managed by pension fund Administrators (PFA), while the pension assets will be beheld by pension Assets Custodians (PAC).

All workers in the Public Service of the Federation and all workers in the Private Sector where the total number of worker is five (5) are eligible to participate in the scheme. The only people exempted are all existing pensioners and workers with less than 3 years from 1st July, 2004 and the category of officers covered by Section 291 of 1999 Constitution (Judicial Officers).

The scheme provides that both the employer and employee contribute a minimum of 15% of the employee's basic salary, housing and transport allowance to Retirement Saving Account, (RSA) – 7.5% by the employer and 7.5% by employee in government ministries and agencies and private sector – 12.5% by employer and 2.5% by employee in Military. The employer may bear the full burden if he so wishes but the contribution must not be less that 15%.

The Act stipulated that an employee opens a Retirement Savings Account in his name with Pension Fund Administrator of his choice. This account belongs to the employee and remains his own for life. He is free to transfer his service at anytime whether from public to private or vis-a-vis without changing his account. Contribution should be remitted within 7 days of salary payment to the pension Asset Custodian who must notify the PFA who must the PFA within 24 hours of the receipt of the contribution. This is to enable the PFA credit the retirement of the savings account of the employees so that the PFA can invest the money in order to yield returns to the employee. The money can be used to purchase government bonds, stock, securities, etc

It is also stipulated that every employer maintain a life insurance policy in respect of every employee for a minimum of 3 times the annual emolument in case of the death of the employee in service. As employee who retires normally is not entitled to this insurance policy.

WITHDRAWAL FROM THE ACCOUNT

This can only be done only at the age of 50 or upon retirement which ever come later. And this withdrawal may take any of the following forms:

- Programmed monthly or quarterly withdrawal (to be arranged with PFA).
- Purchase of annuity for life through a licensed life insurance company wit6h monthly or quarterly payments.
- A lump sum from his account provided that what is left is sufficient to pay 50% of his monthly remuneration as at the date of retirement.
- Where an employee retire under paragraph (c) of sub-section 3 of the pension Act that is if under 50 years, lump sum withdrawal is 25% provided that no employment is secured within 6 month.

PENSION REFORM BILL 2014

The following are the major highlights of the Pension reform Act 2014.

(a) Upward Review of the Penalties and Sanctions.

- Pension Reform Act 2014 has created new offences and provided for stiffer penalties that will serve as deterrence against mismanagement of diversion of pension funds assets under any guise. Thus, operators who mismanage pension fund will be liable on conviction to not less than 10 years imprisonment or fine of an amount equal to three-times so misappropriated or diverted or both imprisonment and fine.
- Power to institute criminal proceedings against Employers for Persistent Refusal to remit pension

contribution.

- The 2014 Act also empowers Pencom, subject to the fiat of the Attorney General of the Federation.

(b) Corrective Actions on Failing Licensed Operators

- The Pension Reform Act 2004 only allow PenCom to revoke the license of erring pension operators but does not provide for interim remedial measures that may be taken by PenCom to resolve identified challenges in licensed operators. Accordingly, the pension Reform Act 2014 now empowers PenCom to take proactive corrective measures on licensed operators whose situations, actions or inactions jeopardize the safety of pension assets. This provision further fortifies the pension assets against mismanagement or system risks.

(c) Restructuring the System of Administration of Pension under the Defined Benefits Scheme (PTAD)

- The Pension Reform Act 2014 makes provisions for repositioning of the Pension Transition Arrangement Directorate (PTAD) to ensure greater efficiency and accountability in the administration of the Defined Benefits Scheme in the Federal Public Service such that payment of pensions would be made directly into pensioners' bank accounts in line with the current policy of the Federal Government.

(d) Coverage of the CPS and Informed Sector Participation

- The Act expanded the coverage of the contributory Pension Scheme (CPS) in the private sector organizations with three (3) employees and above, in line with the drive toward informal section participation.

(e) Upward Review of Rate Pension Contribution

- The Pension refund Act 2014 reviewed upwards, the minimum rate of pension contribution from 15% to 18% of monthly emolument, where 8% will be contributed by employee and 10% by the employer. This will provide additional benefits to workers. Retirement Savings accounts and thereby enhance their monthly pension benefits at retirement.

(f) Access to Benefits in Event of Loss of Job

- The Pension Reform Act 2014 has reduced the waiting period for accessing benefits in the event of loss of job by employees from six (6) months to four (4) months. This is done in order to identify with the yearning of contributors and labour.

(g) Opening of Temporary RSA for Employees that Failed to Do So

- The Pension Reform Act 2014 makes provision that would compel an employer to open a Temporary Retirement Savings Account (TRS) on behalf of an employee that failed to open an RSA within three (3) months of assumption of duty. This was not required under 2004 Act.

(h) Consolidation of Previous Legislations Amending the PRA 2004

- The pension Reforms (Amendment) Act 2011 which exempts the Personnel of the Military and the Security Agencies from the CPS as well as the Universities (Miscellaneous) provisions Act 2012, which reviewed the retirement age and benefit of University Professors.
- The 2014 Act has incorporated the third Alteration Act, which amended the 1999 constitution by vesting jurisdiction on pension matters in the National Industrial Court. – (PENSION-REFORM ACT 2014)

FINDINGS

The following are the findings of the discussion on Pension Reform Acts of 2004 and 2014.

1. The contributory pension scheme is selectively Operated by the Federal Government of Nigeria

- According to Ogbinaka (2011) The Pension Act stipulates that every worker in both the Public and Private Institutions should be part of the scheme. Inspite of this provision, some institutions are exempted from the scheme the Military and Security Agencies as well as the review of the retirement age and benefits of University Professors.

2. There are currently more sophisticated mode of diversion of pension assets such as non-disclosure of interests and commissions accruable to pension fund assets.

- Jim Unah, Professor of Philosophy, University of Lagos, is a worried man, His worry emanated from some irregularities in the administration of his retirement salary account, RSA which he observed and drew the attention of the PFA and the National Pension Commission PENCOM. But they failed to act on his case for almost three years (Newswatch, 2011).

3. Workers contribution is too high. After the 8% and tax deducted from the worker's salary, the remaining take home salary will not be sufficient to cater for their needs mostly especially with the constant devaluation of the workers salary due to inflation.

4. The provision that an employee who retires under the age of 60 years (65 years Universities) cannot hope on his gratuity/pension upon his retirement to set up his own private practice or business is appalling.

According to Bob Ojujoh (2005), it is servitude to state that an employee who retires under the stipulated years cannot enjoy the fruit of his hard labour as this act is mot cruel. This engages an employee against his will or wish indirectly throughout his productive life until he would no longer be much useful to himself on leaving service cannot b e qualified by any better world than slavery.

5. Unlike the Defined Benefit Scheme backed by the Pension Act 102 of 1979 which provides that a retired officer earn pension for life, this new act negates this provision. Under this act, an officer is expected to enjoy programmed monthly or quarterly payments for the period calculated by the actuary on the basis of span of annuity from a life insurance company instead of the former life span retirement benefit (pension).
6. The disparity between the defined benefit and the contributory scheme in the payment of the gratuities and pension are of great margin. One would have expected that new scheme to be indeed pensionable to pensioners rather than plugging them more into poverty by receiving less.

CONCLUSION

In this study, it was discovered that the Defined Benefit Pension Scheme failed because of the misappropriation of Pension Fund by those entrusted in the administration of the fund. The contributory pension scheme and (the Pension Reform Act 2004 and 2014) is a welcome idea aimed at addressing the associated problems of the old pension system thereby making the dreams of pensioners a reality by guaranteed payment of their benefits as and when due.

RECOMMENDATION

Based on this study, the following recommendations are made.

1. The National Pension Commission should be primarily concerned with ensuring the safety of savings by the pension fund administrators and pension fund custodians in the following ways:
   (a) The Commission should be required on yearly basis make public the lists of pension fund administrators (PFAs) and pension fund custodian (PFCs)
   (b) The External Auditors of (PFAs) and (PFCs) should as a matter of urgency to always report specific problems to the Commission.
   (c) The Commission should be authorized to conduct inspections on the activities of the pension fund administrators, pension fund custodians and pension departments once or twice a year.
2. Pension Fund Administrators should be mandated to issue regular statement of account to the employees regularly.
3. The monthly deduction of 8% from the employees' salaries is too high and should be reduced.
4. The Commission can penalize any employer that violates the pension reform acts.
5. Any defaulting pension fund administrator and pension fund custodians should be made to face a stiffer sanction to serve as a deterrent to others.
6. The financial disparity in term of gratuity and pension between the old and new pension scheme should be worked on so as to make the new scheme actually pensionable.
7. The pension scheme should be implemented holistically, states, local government, federal parastatals and institution should be included.
8. The pensionable age of 60 years as a criteria for pension gratuity and pension should be reduced to 10 years of service as it was operated in defined benefit pension scheme.

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