

Pension Reforms in Africa: A Revisit of the Nigerian Pension Acts, 2004 and 2014

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Abstract

Pension remittances, compensation and benefits have been a bane in the pension regime in Africa. This has a negative effect on the rights and privileges of employees in the continent thereby being a hurdle and challenge to the development of employees after retirement. In Nigeria, until recently when the Pension Reform Act 2004 and later 2014 were signed into laws, the bane of the old pension sector regime was its non-contributory nature as well as share corruption and diversion of funds. On the other hand, the new contributory pension scheme under the 2014 Act is strong on corporate governance arrangement that are radically different from the past mismanaged public sector scheme. This paper therefore, sets to appraise the Acts, highlighting the challenges and opportunities therein. It is the position of this paper that deploying idle pension funds which amount to N7.77 trillion investible funds accumulated from the contributory Pension Scheme (CPS) goes a long way in addressing the shortage of critical development infrastructure in the country. It concludes by making recommendation towards improving the 2014 Pension Act.

Keywords: Pension: .Reforms .Scheme .Contributory .Development.

INTRODUCTION

In 2015, Nigeria hosted the World Pension Summit Africa Special. The summit is an annual event organized by the National Pension Commission, Nigeria and the World Pension Summit, the Netherlands to bring together leading players and decision makers in the pension industry in Africa, as well as key figures in finance and pensions from across the world. The maiden edition of the Summit, which held in July 2014 was adjudged as great success and had in attendance over 400 participants from across Africa.

The theme of that year's summit was "Building Sustainable Pension Systems in Africa" and aimed to focus on how to entrench enduring pension systems across Africa with particular emphasis on channelling pension funds toward addressing the huge infrastructure deficit in Africa. Global experts and thought leaders, together with key practitioners, debated and exchanged ideas on developing and structuring sustainable pension systems for African nations. A unique addition to the summit was the introduction of high level regional reports on the advancement of pension systems within the regions. This novel concept seeks to highlight developments within the pension space in Africa and how the inaugural edition of the Summit had assisted the various African countries in improving their pension uptake and the quality of services rendered by administrators and regulators of pension in their jurisdictions.

The World Pension Summit is the platform for and by professionals and the only truly global learning and networking experience. The first Summit was organized in 2010. The mission of the Summit is to offer a global platform to pension experts to learn from innovative ideas and new strategies, discuss the future of pensions with global thought leaders. Get fresh perspectives on how to tackle the pension challenges and how to achieve sustainable pension provision.

With people living longer, the relative and absolute number of retirees is growing while the contribution to pension funds is declining - a challenge for all pension stakeholders to secure an adequate pension provision. New responsibilities for the pension services industry, regulators, employers and employees, government and above

all citizens who should be more in control of their personal financial planning (The National Pension Commission, 2015).

Many countries have opted for various forms of contributory pension scheme where employers and their employees are supposed to pay a certain percentage of the employee's monthly earnings to a retirement savings accounts from which they would be drawing their pension benefits after retirement. Besides, pension funds are now among the most important institutional investment in the world capital markets (Klumpes and Mason, 2000). Nigeria opted for the contributory pension scheme following her pension's reform in 2004 and 2014.

Pension is the amount paid by government or company to an employee after working for some specific period of time, considered too old or ill to work or have reached the statutory age of retirement. It is a monthly sum paid to a retired officer until death because the officer has worked within the organization paying the sum (Adam, 2005). Pension is also the method whereby a person pays into pension scheme a proportion of his earnings during his working life. The contributions provide an income (or pension) on retirement that is treated as earned income. This is taxed at the investors' marginal rate of income tax. On the other hand, gratuity is a lump sum of money payable to a retiring officer who has served for a minimum period of ten year (now five years with effect from 1st June, 1992). A greater importance has been given to pension and gratuity by employers because of the belief that if employees' future needs are guaranteed, their fears ameliorated and properly taken care of, they will be more motivated to contribute positively to organization's output. Similarly various governments' organizations as well as labour unions have emphasized the need for sound, good and workable pension scheme (Adebayo, 2006 and Rabelo, 2002).

Pension is and indeed must be a legitimate right of all workers (Aremu, 2015). It is a deferred payment, which both the workers and employers must set aside so that workers at old age will not be living on some charity as if they are destitute. The truth is that ultimately every working person must get fatigue one day; senility must eventually replace today's abundant energy. Hence the need to prepare for the proverbial raining day by setting aside some funds that will at least meet the subsistence needs of the aged workers. The only sustainable safe guard against workers being vulnerable to corrupt practices is a functioning pension system. The challenge lies in how to make this principle work in Nigeria and Africa as a whole.

Historical Development of the Pension Industry

According to Odia and Okoye (2012), one of the oldest documents to discuss social support was the Code of Hammurability by King Hammurabus of Babylon in the 18th century (Momoh and Idomeh, 2008). For instance, the code defined the rights of evildoers and orphans to the estates of their relations. Under these laws, local governments built large alms-house facilities that housed the people too old or unfit for work. Poor laws also established work houses and facilitated public housing for the employed. Moreover, these laws gave rise to the social insurance in Europe and social security in the United States (Momoh and Idomeh, 2008).

According to Odia and Okoye (2012), the pension system was introduced into Nigeria by the Colonial Administration. The first legislative document on pension in Nigeria was the 1951 Pension Ordinance which has retroactive effect from January 1, 1946. The Ordinance provided public servants with both pension and gratuity (Ahmed, 2006). The National Provident Fund (NPF) scheme established in 1961 was the first legislation to address pension matters of private organizations in Nigeria. This was the first social protection scheme for the non-pensionable private sector employees in Nigeria. It was mainly a saving scheme where both employee and employer contributed the sum of N4 each on monthly basis. The scheme, provided for only one-off lump benefit (Ahmad, 2006).

The NPF was followed by Armed Forces Pension Acts No. 103 also of 1972 and by the Pension Acts No. 102 of 1979, 18 years later. The Pension Acts No. 102 of 1976 which commenced on 1st April, 1974 encompassed the recommendation of Udoji Commission which included all consolidated enactments and circulars on pension as well as repealing existing 113 pension laws hitherto in force. Other Pension Acts included: Pension Rights of Judges Act No. 5 of 1985, the Police and other Government Agencies Pension Scheme enacted under Pension Acts No. 75 of 1978 and the Local Government Pension edict which culminated in the setting of the local Government Staff Pension Board of 1987.

In 1993, the National Social Insurance Trust Fund (NSITF) scheme was set up by the Decree No. 73 of 1993 to replace the defunct NPF scheme with effect from 1st July 1994 to cater for employees' in private sector of the economy against laws of employment in old age, invalidity or death (Balogun, 2006). In 1997, parastatals were allowed to have individual pension arrangements for their staff and appoint Boards of Trustees (BOT) to administer their pension plans as specified in the Standard Trust Deed and Rules prepared by the Office of Head of Service of the Federation. Each BOT was free to decide on whether to mention an insured scheme or self-administered arrangement. It must be recalled that the first private sector pension scheme in Nigeria set up for the employees of Nigerian Breweries was in 1954. The United African Company (UAC) scheme followed in 1957.

The collection of retirement benefits, in Nigeria, the learned authors stated, have continued to cause a lot of suffering to retirees and their respective next of kins especially those in the public sectors. There are reports of many beneficiaries who died in retirement benefit queues after waiting for days to collect their benefits. Thus, the major problem of the pension fund administration in Nigeria was the nonpayment 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. Pension Fund Administration became a thorny issue with millions of retired Nigerian workers living in abject poverty and they were often neglected and not properly catered for after retirement (Orifowomo, 2006). Sadly, retirees went through tough times and rigorous processes before they were eventually paid their pension, gratuity and other retirement benefits. At one time the money to pay their benefit was not available and at another time the pension fund administrators were not there to meet the retirees' needs. Basically, the old scheme has been beset with a lot of challenges and funding of outstanding pensions and gratuities, merging of service for the purpose of computing retirement benefits. These problems coupled with the administrative bottlenecks, bureaucracies, corrupt tendencies and inefficiencies of the civil service, and the economic downturn have resulted in erratic and the non-payment of terminal benefits as at when due (Orifowomo, 2006; Abade, 2004). Other problems were: gross abuse of pensioners and pension fund benefits which were politically motivated in some cases, extended family and other traditional ways already broken down due to urbanization and increased labour and human mobility.

The old scheme was characteristically defined benefits, unfunded mostly pay as you go, discriminatory and not portable. The employee was not entitled to pension benefits if he is dismissed from service. Also there was no adequate provision to secure the pension fund. Following the unsatisfying nature of the old scheme, the unpleasant experiences faced by retirees and pensioners and the huge pension liabilities, it became apparent the need for reform and change. Therefore, the need for the Federal Government to guarantee workers' contributions and accruing interest in the event of failure of the PFA was advocated. Besides, it was estimated that over N600 billion (\$4.5 billion) investible assets could be amassed annually through the pension scheme in Nigeria. Hence, the government could not only pay the retirement benefits as they become due but also utilize the saved pension fund for long-term development purposes.

To remedy some of these problems, the Nigerian government passed into law, the Pension Reform Act 2004. The Pension Reform Act repeals all previous legislation

regulating the administration of pension benefits in Nigeria. Later in 2014 another Pension Legislation was signed into Law by President Goodluck Jonathan.

Issues, Challenges and Prospects of the 2004 and 2014 Reforms

The pension Reform Acts of 2004 and 2014 are the most recent legislations of the Federal Government of Nigeria which are aimed at reforming the pension system in the country. The philosophy underlying both are the same i.e. contributory in nature and encompass employees in both the public and private sectors. They were aimed at reducing the difficulties encountered by retirees in Nigeria under the old pension schemes. The new scheme is regulated and supervised by the National Pension Commission. The commission has the power to formulate, direct and oversee the overall policy on pension matters in Nigeria. It also establishes standards, rules and regulations for the management of the pension funds. It approves, licenses, sanctions and promotes capacity building and institutional strengthening of the PFA and PFCS.

Pension Act of 2004 signed in Nigeria 11 years ago by former President Olusegun Obasanjo represents a progressive labour legislation because it attempts to address the naughty issue of compensation after work. The principle of income adequacy for retiree is ever valid whether the scheme takes the form of publicly funded/administered pay-go defined benefit (DB) or privately administered mandatory individual defined contributions (DC). The bane of old public sector pension DB lies in its non-contributory character as well as sheer corruption and diversion of funds even allegedly for partisan political purposes. On the other hand, the new contributory pension scheme is strong on corporate governance arrangement that are radically different from the past mismanaged public sector schemes. National Pension Commission supervises the Pension Fund Administrators and Custodians. According to Aremu (2013), the successes recorded in the implementation of the CPS have resulted in a fully funded pension Scheme that delivers on the promise of timely payment of retirement benefits to retirees as opposed to the inefficiencies of the past. Pension assets have reportedly grown to some over N4.21 trillion as at March 2014. The proportion of the assets to Nigeria's GDP grew from 1.4% in 2006 to 9.5% in 2013, an average yearly growth of 30%. The CPS has generated appreciable pool of long term investable funds for the first time in Nigeria which could be utilized towards reducing the huge infrastructure deficits in the country through safe and secure investible instruments in tune with the recent change, Agenda of the Federal Government, (Aremu, 2014).

From initially licensed 26 Pension Fund Administrators (PFAs), 7 closed Pension Fund Administrators (CPFAs) and 5 Pension Fund Custodians (PFCs), it is presently reduced to 20 PFAs due to mergers and acquisitions, 7 CPFAs, 4 PFCs, 19 Approved Existing Schemes (AESs). The number of registered contributors was 6.02 million as at the end of March 2014 with the public sector (including States and LGAs) accounting for 49.71% of the total registrations while Private Sector accounts for 50.29%. In terms of Redemption of Retirement Bonds the sum of N404.32 billion was released by FGN into the RBBRF account with CBN from inception to December, 2013, N410.94 billion redeemed into Retirement Saving Accounts (RSA) of FGN mandatory/voluntary retirees and Next of Kin (NOK) of deceased employees. On payment of retirement benefits, a total number of 86,628 retirees on Programmed Withdrawal (PW) have been paid as at March, 2014 with FGN Retirees - 66,874, State - 3,746, and Private Sector - 16,008. Similarly, number of retirees on Annuity paid as at March, 2014 amounts to 9,212 (FGN Retirees - 7,270; State Government Retirees 940; Private Sector Retirees - 1,002). Lump sum payments (PW and Annuity) amount to some N236.19 billion while Annuity 367.52 million, (Aremu, 2014).

Issues in the New Pension Scheme

The new pension scheme is a contributory pension scheme for the payment of retirement benefits of employees who are eligible under the scheme.

However an employer could bear full burden of the scheme provided. Section 11(5) empowers the employer to deduct at source the monthly contribution of the employee in his employment and remit the said amount not later than 7 working days from the day the employee's salary is paid to the custodian specified by the Pension Fund Administrator (PFA). The PFC is to notify the PFA to credit the employee's retirement savings account (RSA).

There is 2% of total contribution fine on any employer who defaults for each month. The government contribution to the pension of public service employees of the Federation and FCT shall be a charge of the Consolidated Revenue Fund (CRF) of the Federation. The revision on the rate of contribution shall be agreement between the employer and the employee. To encourage the employee, the contribution to the new scheme is to be part of tax deductible expense in the computation of the tax payable by the employee. Section 29 (1) of the Acts empowers the CBN to establish, invest and manage the Retirement Bond Redemption Fund (RPRF) for the Federal public service and the FCT. The Federal Government was to pay into the fund an equal amount of 5% of the total monthly wage bill payable to employee and the public service of the federation and the FCT. The Redemption fund account was to be used by the CBN to redeem any bond issue in respect of accrued retirement benefit, Section 29 (3).

Unlike the old scheme, the Act specifies an institutional framework for the proper management and custody of the pension assets –mainly based on the key principle of "ring fencing" to ensure effectiveness and effect in the administration by all those concerned. First, the Pension Fund Administrators (PFA) opens and administers the RSA for the employee in liaison with PENCOM and appoints the pension fund custodian (PFC). They manage the pension fund assets and administer

On the other hand, the PFCs receive the total contributions and hold pension fund assets in safe custody on trust for the employees and beneficiaries of the retirement benefits. They also execute transactions and undertake other related activities on behalf of PFA. Both of them were to keep proper books of accounts and submit audited financial accounts not later than four months (120 days) from the end of the financial year (Sections 56 &57) to PENCOM.

Allowance was also given for closed pension fund administration whereby organizations manage existing scheme for employees in their outfits. There are severe sanctions for default (Section 64) by them. Only the Pension Commission was to regulate, and supervise the scheme; direct overall pension policy matters, approve, license and supervise the PFA, PFC and other institutions related to pension for maximum compliance. It has been argued that a two-tier system of the PFA and PFC was adopted to safeguard the fund, and their function interlock to act as a check against financial impropriety. Nevertheless since both parties assume joint trust positions, an incidence of financial impudence is reduced but cannot be totally ruled out. Others checks include: PFC guarantees, strict internal supervision, rigorous licensing procedures, Auditor report to PENCOM, etc.

The main concern of the new pension scheme is safety of the fund and the maintenance of fair returns on the amount invested (Section 72). The need for safety is emphasized in determining the quality of the instrument to invest in and a PFA is expected to adopt a risk management profile in making investment decisions with due regard to the credit rating of companies registered under the investment and Securities Acts of 1999. PFA was expected to appoint risk management and investment strategy committees. The risk management committee determines the risk profile of investment portfolio and ensures adequate internal control measures and procedures. The investment

strategy committee determines the portfolio mix consistent with the risk profile, evaluate and review the performance of investment on periodic basis.

Against the guaranteed structure, the PFA is to invest in the any of the following as specified by Section 73(1):

- (a) Bonds, bills and the securities issued by Federal Government or the Central Bank of Nigeria
- (b) Bonds, debenture, redeemable preference shares and other debt instruments issued by listed corporate entities in Nigeria.
- (c) Ordinary shares of public limited companies listed on the Nigerian Stock Exchange.
- (d) Bank deposits and securities.
- (e) Investment certificates of closed-end investment fund or hybrid investment fund
- (f) Quoted unitized investment (i) Bond and other debt securities issued by listed companies (ii) Real estate investment (iii) Other investments prescribed by the Pension Commission.

However, the PFA shall not:

- (a) Sell pension fund asset to: (i) itself (ii) any shareholders director or affiliates of the PFA (iii) any employee of the PFA (iv) Either of 1-3 or those related to them (v) affiliates of any shareholders of the PFA (vi) the PFC.
- (b) Purchase any pension fund assets and
- (c) Apply pension fund assets under its management by ways of loans or credits as collaterals for any loan taken by any PFA.

However, due to the impact of the global financial crisis on the Nigerian capital market in 2008, there were fears on how to invest over N700 billion pension funds on equity shares in the Nigerian Capital market because of the effects of institutional shareholdings and the global meltdown eroding such investments overnight (Daleng, 2006, Ahmad, 2008).

Challenges of the New Pension Scheme

According to Admad (2008), the transitional challenges in the new pension scheme include:

1. Knowledge gap and general misconceptions
2. Wide coverage in the informal and private sector, many of the SMEs, private, small business are not yet to buy the idea
3. Capacity building in the new pension industry.
4. Quantifying and transferring legacy funds and asset managed by employees, insurance companies and pension managers.

Conclusion

There is serious need for improved coverage in Africa, given that Africa today has the world's fastest growing population of people over 60. Life expectancy is increasing even with the healthcare challenges and the elderly are increasingly left to cater for themselves due to rural-urban migration. Getting people to save more for their future is a major challenge, coupled with the challenge of developing the required skill sets for proper investment and risk management of pension funds. Both Pension Fund Managers and Regulators need to develop the necessary risk management systems and skills to build the trust of pension contributors and better safeguard pension assets, while enhancing returns on investment.

Recommendations

The following are recommended:

1. The full involvement of state and local government in the new contribution pension scheme to include the large number of public sector employees currently not within PRA of 2014.
2. Adequate funding of the data base by PENCOM.
3. Intensified Public education and enlightenment
4. Strong support from and collaboration with stakeholders.
5. Consistent support and strong political will from the executive and legislative arms of government.
6. Development of a comprehensive accounting standard for retirement benefits

References

- Abade, R. (2004). *Pension reforms act 2004: What's in it for you?* Retrieved on 16th March, 2015 from www.Newage-online.com
- Adams, R.A. (2005). *Public sector accounting and finance*. Lagos: Corporate Publisher Ventures.
- Adebayo, Y.K (2006). *Essentials of human resources management*. Benin City: Weliscops Services.
- Adegbayi, A (2004). *Pension industry development in Nigeria – the thrust of the pension reform act 2004*; legal & corporate service department, Leadway Assurance company.
- Admad, M.K. (2006). The contributory pension scheme: Institutional and legal frameworks. *CBN Bullion* ,30, (2), 1-18.
- Admad, M.K. (2008a). *Pension Reforms in Nigeria: Transition from the Defined Benefits to Defined Contribution*. A paper presented at the IOPS Workshop in Pension Supervision in Dakar on February 5, 2008
- Admad, M.K. (2008b). *Corporate governance in the pension industry*. A paper presented at the Adebayo Akerele Distinguished Lectures Series at the Faculty of Management Sciences, University of Benin in May 2008
- Akeni, P.O. (2009). *Pension fund administration in Nigeria: Problems and prospects of implementation*. Undergraduate project, University of Benin.
- Anthony, M.S. and D.F. Bubble (1997). *Financial markets, investment institutions*. 2nd editions The McGraw Hill /Firm.
- Aremu, I. (2014). *Africa special pension summit*. Available at <http://newdiaryonline.com/africa-special-pension-summitby-issa-aremu/>
- Balogun, A. (2006). Understanding the new pension reform act (RRA, 2004). *CBN Bullion* 30(2), 34-40.
- Dalang, L.D. (2006). Investment and risk management under the new pension scheme. *CBN Bullion*, 30(2) 32.
- Dostal, J.M. and B.H. Cessey (2007). *Pension reforms in Nigeria: How not to learn from others*. 57th Political Studies Association, Annual Conference 11-13 April, 2007, Bath.
- Gill, I., T Packard and J. Yermo (2005). *Keeping the promise of social security in Latin America*. Pal Alto: CA. Stanford University Press and World Bank.
- Holzmann, R and R Hinz (2005). *Old age income support in the 21st century: An International perspective on pension systems and reforms*. Washington D.C: World Bank
- Kantudu, A.S. (2012). *Impact of pension reform act 2004 on compliance with accounting standards on employee retirement benefits in Nigeria*. Available at <http://ssrn.com/absrtact=1106462>
- Clumpes, P.S.M. and S. Mason (2000). *Fair value reporting by pension fund managers*. UK: Evidence Research Report ACCA
- Momoh, A. and A. Idomen (May 5, 2008). Rationale for pension reform in Nigeria; *Business Day* NASB (2010): Statement of Accounting Standard 8: Accounting for Retirement Benefit
- Odia, J.O. and Okoye, A. E. (2012). Pension reforms in Nigeria: A comparison between the old and the new scheme. *Afro Asian Journal of Social Sciences*, 3 (3.1).

- Oreagba, F. (2006). *Capital market reforms: the Nigerian experience*. A paper presented at the ASEA Conference from 17-20th September, 2006.
- Owojori, A. (2008). *Risk management in pension fund administration in Nigeria*. Adekunle Owojoro & Co Nig.
- Orifowomo, O.A. (2006). *A critical appraisal of pension system reforms in Nigeria*. 10 GON Z.J.INT'L available at <http://www.gonzagajil.org>.
- Pencom (2006). *The future of pension management in Nigeria*. A paper presented by the National Pension Commission for the Nigerian-South African Chamber of Commerce on Tuesday 22 August 2006.
- Pension-Reform Act (2004). The Federal Republic of Nigeria Official Gazette FGN Lagos.
- Rabelo, M.F (2002): Comparative regulation of private pension plans, Frabelo @fgvsp.br
- Resvine, L.D., N. Collins and W. B. Johnson (2002). *Financial reporting and analysis*; Pearson Educational Inc., Upper Saddle Rivers, New Jersey
- Robolino, D. (2005). Parametric Reforms Objectives, Options and Experience: A Paper Presented at World Bank Core Course on pensions, Organized by the World Bank Institute, Washington DC from 7-18 November.
- World Bank (1994). Averting the Old Age Crises Policies to Protect The Old and Promote Growth; *The World Bank*; Washington D.C.
- World Bank (2005). Pension reform and the development of pension systems: an evaluation of the World Bank assistance, Washington D.C.
<http://worldpensionsummmitafricaspecial.com/en-us/africaspecial/>