



Pension Reforms Act 2014 in Nigeria: A critique on matters arising

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Abstract

One critical area that has assumed much prominence and has received much attention at governmental circle in developing world is pension administration. Nigeria is not an exception in this trend, and in response, the federal government-initiated pension reforms through the Pension Reforms Act 2004 which was a dramatic departure from the previous pension scheme in the country since independence in 1960. However, after 10 years of its existence or operation in the country, the pension reform was repealed and replaced with the new Pension Reforms Act on 1 July 2014 arising by its condemnations and cynicisms by the workers and retirees. After 7 years of the operation of the Act, this study, therefore, aimed at critiquing the PRA 2014 vis-à-vis its provisions and implementation. To facilitate the study, primary and secondary sources of data collection were adopted with qualitative content analysis technique for presentation of findings. The theoretical framework for this study is the Marxist theory of capitalism by Kari Marx. The findings in the study showed that there were gaps and loopholes in the PRA 2014 and its implementation which negatively altered the noble objectives of the reforms, thereby failed the yearning expectations of workers and retirees. The study, therefore, suggested the need for further review and amendment of the provisions in the PRA, 2014 by the nation's National Assembly to take care of the identified loopholes and gaps in the Act. There is also a need for sincere political will by the three tiers of government in Nigeria, and holistic synergy among the stakeholders to nurture the scheme to an enviable world Standard. This is by strict compliance in implementation of the provisions of the Act (as amended) which has been the bane of the present PRA Act 2014.

Key words: Pension Operators, Pension Scheme, PRA, 2044/2014, RSA.

1. Introduction

Nigeria, a developing economy to keep pace with the global dwindling national resources, its government is constrained to continue in any economic excess and indulgence. The fact remains that the misapplication of the nation's resources by the successive governments since independence in 1960 has greatly impacted negatively on the nation and its people till

today. Therefore, in these inclement socio-economic situations the country found itself largely revolves on efficient and effective utilization of her dwindling national resources to turn the economy around, which is good governance. The truth is that, the hallmark of good governance is a result-oriented public bureaucracy which can only justify its existence by the socio-economic impacts it

delivers to enhance the quality of life and living standard of the people. It is consequent of the belief above that urged the administration of President Olusegun Obasanjo to have a resurgence of interest on how to prevent all forms of leakages and unethical practices in the process of governance in Nigeria. The highlights above justified the wave of diverse administrative reforms initiated by the government of former President Olusegun Obasanjo. One of this dramatic and drastical reforms introduced was the Pension Reform Act, 2004 (PRA 2004). This reform constituted a major landmark in the contemporary Nigeria, which was a deliberate departure from previous governments and administrative reforms in the country. In other words, the PRA 2004 was revolutionary in nature in the history of pension administration in Nigeria.

It should be noted that in the history of the pension administration in Nigeria, the PRA 2004 which introduced the pension scheme in the country which was Defined Contributory Pension Scheme (DCPS) unlike the old scheme that was largely Defined Unfunded Benefits (DUB). The nature of the new pension scheme introduced in Nigeria was contributory, fully funded, based on individual accounts, privately managed by the Pension Funds Administrators (PFAs), with the pension funds and assets held by the Pension Funds Custodians (PFCs), and under the supervision and monitoring of a regulatory body, National Pension Commission (PENCOM). The pension scheme being contributory; the pension stakeholders and public perceived the reform as a welcome development, and the spirit which gave birth to the PRA 2004 was adjudged commendable. It was believed at its inception that the new pension Scheme would sanitize the pension administration in the country. In the history of pension administration in Nigeria, the performance

of this pension scheme was generally accorded being laudable and lofty by pension stakeholders when compared with the previous pension reforms since independence of Nigeria in 1960. For instance, the first set of retirees under this new pension scheme began to reap the pension benefits of the contributory pension systems in 2007. And by May 2012, at least about 33,000 pensioners had started to gain the benefits of the new pension regime (Fapohunda, 2013).

However, the prevalent open abuses, gaps and lapses attributed to the Act or reform and its implementation, especially by pension operators after ten (10) years of its operation, which the pension stakeholders and public spirited people could no longer stomach, began to attract massive criticisms and condemnations. The outcome was strong outcry and agitation for urgent amendments of the PRA, 2004. For example, according to Fapohunda (2013), she opined that through her study, there was no much evidence to show that the pension scheme was leading Nigeria in the desired direction. On his own, Ojo (2013), alerted that, almost a decade after the establishment of the PRA 2004, the woes of Nigerian workers were not yet overcome. That the action and inaction of some pension administrators laid the unfortunate foundation for the scandalous deeds trailing the country pension sector. The view of Ojo was corroborated by Fapohunda that numerous scandals have trailed the pension scheme, as the sharp practices of the old scheme have already crept into the new scheme due to the lack of transparency, and abuses associated with the pension operation. It was widely reported that ₦151 billion were stolen due to the grey schemes in pension funds which was investigated by the Economic and Financial Crimes Commission (EFCC). The sharp corruption cases were also reported by Adebayo et al (2012) in

their research that massive mismanagement of funds associated with the defined benefits scheme (DBS) was alarming and outrageous that created doubt and misgiving in the PRA, 2004. In response to the general outcry and agitation to address the gaps and lapses in the pension reform 2004, that Pension Reform Act, 2014 was signed into law by President Goodluck Jonathan which automatically repealed the Pension Reform, 2004 aimed at improving, and tightening the nuts and bolts of the previous pension scheme. Thus, the PRA 2014 was widely applauded and adjudged as a great step in the right direction.

But a handful of scholars who worked on this PRA 2014 have only concentrated their efforts on the contents or thrust of the reforms or the differences between the PRA 2004 and PRA 2014. Many of the writers were in the academics, hence they hardly have the knowledge of the attendant gaps associated with the pension policy itself and its implementation, except by some few bureaucrats in the public sector, in which the writer of this paper is one of them. The current state of knowledge is that it has now become public that the pension benefits under the new pension scheme are far below that of the old scheme existing before the PRA 2004, hence the criticisms and condemnations of the new pension scheme in Nigeria. This situation informed the concerns of the serving workers and retirees, and their agitation or quest for further review of the present PRA 2014 on which the relevant stakeholders are presently discussing the way forward.

It is, therefore, in the context of the background above that this research is carried out for in-depth study analysis of the pension reform. This study is also strongly prompted by the fact that hardly one could read or lay hand on the PRA 2014 in academic journals unlike the PRA,

2004 that has attracted enormous attention and researches in the academic clinic. Worst enough, majority of my erstwhile colleagues in the public sector have neither seen or laid hand on this Act, even among my present colleagues in the academics. And that is the major gap which the study wanted to bridge. The objectives of the study is to provide highlights and in-dept insights of the thrust of the PRA 2014, and its attendant criticisms by the primary stakeholders, conceptual clarification, theoretical framework of the study, and at the end proffer necessary recommendations that could translate the new pension scheme into world class model. The major focus of the objectives are to provide answers to the followings:

- a. What were the thrust of the PRA 2014?
- b. Did it meet the expectations of the primary stakeholders (serving workers, and retirees)?
- c. What are the attendant gaps in the PRA 2014?
- d. What are the way out for the PRA 2014 to be result oriented?

2. Methodology

The study adopted qualitative research method using secondary sources such as books, journals, official publications and websites of PenCom and National Bureau of Statistics, Nigerian Constitution, newspapers etc. Key Informants Interview (KII_s) method was also employed which served as the primary data to elicit information from relevant stakeholders in the pension scheme such as, some staff of the Pension Funds Administrators (PFAs) like the Trustfund, PAL and Fidelity located in Osun State, WhatsApp Platforms of the retired Directors. Thus, a total of seven (7) KII were conducted through the use of purposive sampling who were asked some questions relating to pension matters in Nigeria to complement the data generated through the secondary

source. The study employed descriptive method and content analysis technique for presentation of report of the findings.

3. Literature Review

3.1 Pension Reform Act 2014

The Pension Reform Act 2014 (PRA 2014) was a parliamentary law that created a new law or changed the existing Pension Reform Act, 2004 law. The PRA, 2014 was a Bill that was submitted into the National Assembly by the National Pension Commission (PenCom), a regulatory body of pension administration in Nigeria in 2013 which was considered for legislation by both the two upper legislative bodies, that is, the Senate and the House of Representatives. It was giving a presidential assent, signing into law by President Goodluck Jonathan on 1 July 2014 which repealed the Pension Reform Act, 2004. The PRA 2014 which repealed the Pension Reform Act No 2 of 2004 governs and regulates the administration of Contributory Pension Scheme (CPS) in Nigeria. The Act is of the objective of improving the Uniform Contributory Pension Scheme, and the retirement benefits, for persons in the public and private sectors of the economy in Nigeria. It is to be noted that the Act exempted persons in the Armed Forces, Intelligence and Secret Services from the scheme.

3.2 Reform and Pension Concepts

Administrative reform is often born out of the desire of a nation to improve the efficiency and effectiveness of its public bureaucratic set up. Introduction of reforms in any country usually takes into consideration the socio-economic, political, cultural and historical evolution of such society. Reform is a concept in public administration and management. Hahn Bee Lee (1970) conceived reform as an effort to apply new idea and combination of ideas to administrative

system with a conscious view to improving the system for positive goals for development. On his own, Dror (1970) perceived reform as a directed change of the features of an administrative system. Reform, according to Sleva (1980), is of the view that an organization is a social system which is dynamic and that all organizations as of necessity “must either adapt to the inevitable change that occurs in their basic environment. This observation is applicable to both the private and public sectors. That, every administrative reform basically aims at making the organizational members adapt to new patterns of behaviour and organizational structure. It can be deduced that administrative reform is a deliberate effort to bring about new values, new orientation and new techniques on an existing governmental system. Hence, countries all over the world embarked on reforms with a view to restructuring the machinery of their respective governments and the human resources therein, so as to enhance their competence and capability for effecting political, economic and social changes.

The concept pension is an element of social security benefits. which is multi-dimensional vocabulary. Generally speaking, pension means a form of official obligation in an employment relation. It is legal and economic responsibility in an employment obligation in which employers of labour either in the public or private sector are mandated to fulfill their contractual relationship with their employees. According to Bertrand, Mullainafthan and *Miller (2003)*, pension is a systematic plan by an employer of labour to give benefits to their employees when they decide to leave the job by retirement. Schwarz (2006) perceived pension as a design or plan to provide an income to those individuals who suffer a loss in earnings capacity through advanced

age, experience of a disability or death of wage earner in the family. But, it should be noted that many individuals who go on retirement in this modern time are workers who are relatively healthy, and are not tired of working. Hence some of them engaged in another form of employment after official retirement. Adesina (2010) described pension as a form of monthly, periodic, regular and installment payments payable to retirees from the day of their retirement to death and haven satisfied necessary conditions as laid down by his employers. It is a regular form of financial support aid or assistance giving to retirees.

From the capitalist perception, pension, according to Adebayo et al (2012) argued that, the payment of pension is a reflection of employers' benevolence towards employees. It is a form of compensation given by employers to their employees. It should be clarified that retirement and pension are like the two sides of the same coin. This implies that a worker must retire either voluntarily, involuntarily or mandatorily before qualifies for pension. Conceptually, retirement means whenever a worker ceases to work in the service of his/her employer. According to Ogunbameru (1999), retirement is a situation in which an individual either voluntarily or involuntarily gives up his or her job after serving for an officially specified number of years (say 10-35 years) that will qualify the individual for gratuity and pension. Maidoki (1999) sees retirement as a time when a worker reaches the end of his working life, while Bur (2001) perceives it as the act of leaving the service either voluntarily or compulsorily where such an employee has completed a specified period of service years or is removed from office by way of retirement, lay off, termination, death, illness or disability or by voluntarily withdrawal from service. Retirement is seen as a fluid concept or mixed point of

view which connotes different things to employees, positivism or negativism. In the light of the highlights above, it, therefore, implies that one must be engaged in an employment relationship to enjoy pension benefits and must retire under pensionable circumstances.

By implication, from the various definitions of pension and reforms provided above, pension reform can, therefore, be defined as a deliberate conscious systematic plan or scheme instituted by the federal government to provide the employees of both the public and private sectors as a means to securing on retirement a standard of living reasonable with that which they enjoyed while in active service. It is a contributory pension programme put in place in 2014 by the federal government as a scheme aimed at improving or amending of what is wrong, corrupt, unsatisfactory to change to a better state, form, or improve by alteration, substitution, abolition or repeal the pension reform 2004 for result-oriented pension administration and social security service delivery for the retirees after retirement till death. Basically, the approach adopted for the pension reform 2014 was a radical approach, that manner of its introduction was through consultative manner that involved the full participation of the pension stakeholders in the country which made the reform intervention to be a combination of both the internal and external in characters and orientation to make it robust, lofty and sustainable. As a reform, the pension reform 2014 was promulgated on 1 July 2014 to correct the deficiencies, loopholes, gaps, abuses, lapses and inadequacies associated with the PRA 2004.

The PRA, 2014 is a contributory pension scheme; fully funded by both the employers and employees. The contribution rate is specified in percentage

while the pension payments to the employees are function of the amount of savings in the Retirement Savings Accounts of the employees. The pension payments are determined by both the contributions and the investment earnings on these contributory funds and assets. In other words, the workers' contributions are invested, and these investment earnings are an integral part of the pension benefits of the contributors.

3.3 Theoretical Framework

The theoretical framework selected for this study is the Marxist theory propounded by Karl Marx in the 19th century. Marxist theory is a political, social and economic model by Karl Marx which focused on the struggle between the capitalist and the working class. It is referred to as Marxism which is a class struggle and war between the bourgeois who owned full control over the means of production and the working class which could lead to revolution against the capitalist class arising from the exploitation of workers who gave their labour as exchange for wages and sustenance. The strength and large number of working class posed a great deal of fear and threat for the bourgeois class which prompted the introduction of welfare packages for workers by the capitalist class during the industrial revolution in Europe. To tame the revolutionary tendency of the large army of the working population, in capitalist societies, the governments of many countries established social security measures, such like pension, to cushion the biting impact of hardship and suffering of their employees after retirement. The Marxist theory sees the state as bourgeois exploiting workers in its organizations.

Relating the theory to the pension scheme initiated by the Nigerian government in 2014, it should be seen as instrument by capitalist government to serve its interest than that of the workers. The PRA 2014

(as amended) should be seen as a bait hence it was accompanied with astronomical increase in the cost of social goods and services no sooner than it was announced. The introduction of the Contributory Pension Scheme (CPS) by the Nigerian government is a new trend of bourgeois exploitation of the working class. In other words, instead of the Nigerian government to continue responsibility for providing pension benefits for its workers as it was in the defunct Defined Benefits of Pay-As-You-Go scheme, it mandated them to contribute a percentage of their meager salaries as or for their retirement savings. And in the end, beaucratic bourgeois class that are the top management officials and political public officials get higher pension benefits given the rate of contributions at retirement, comparing with the mega pension benefits of the individuals retirees.

The Marxist theory showed that the introduction of the new pension scheme in Nigeria is a reflection of bourgeois domination, oppression and exploitation disguised in form of pension reforms in a capitalist society like Nigeria. The truth is that the PRA 2014 absolutely represents the privatization of pension administration in Nigeria. For instance, the Pension Funds Administrators (PFAs), and the Pension Funds Custodians (PFCs) are bourgeois means of exploitation as they are business institutions, while the pension regulator, that is, the PenCom is a government bourgeois that represents its interest to oversee the continuation of the domination and exploitation of the Nigerian workers even after their retirement, which is quite unfortunate.

4. Thrust of the PRA, 2014

The PRA 2014 that was a parliamentary Act was signed into law on 1 July, 2014 repealed the PRA 2004 now served as the enabling law for the administration of the

defined contributory pension scheme in Nigeria. The key objectives of the PRA 2014 are to ensure contributors receive their pension benefits as and when due, and to assist improvident individuals to save in order to cater for their livelihood during old age. The PRA 2014 has some salient amendments which consolidated changes made into the previous Act 2004 which were found robust and laudable to all the pension stakeholders in the country. The fundamentals of the PRA 2014 are highlighted below:

i. Transitional Arrangement and Repositioning for the Private Sector and PTAD.

The Act permitted the existing pension schemes in the public and private sector to continue co-exist with the new PRA 2014 as long as they are sustainable till the death of the last pensioner in the scheme.

ii. New Provisions for PenCom

The PRA 2014 reviewed the provisions relating to the pension regulatory body and the National Pension Commission (PenCom). Some of the salient provisions are:

- (a) The Commission to have a Board, comprising the chairman, Director-General (DG) four full time Commissioners, and a representative from each of the pension stakeholders and other selected bodies.
- (b) The chairman and members of the Board are prohibited from owning controlling shares in any of the pension operators (PFAs, PFCs) either before or during their appointments and tenure; neither should they be Directors/shareholders in any of these pension operators within 3 years after their tenure.

- (c) The PRA stipulates requisite experience in the appointment of the Director-General of the Commission which is 15 years with cognate experience and professional qualifications in pension matters as against to 20 years experience, and just a university degree in previous Act, 2004.
- (d) The tenure of office of both the Director General and Chairman Board has been increased from 4 years to 5 years while that of the Commissioners is 4 years, but their appointments are renewable for additional term of 5 years and 4 years respectively.
- (e) The Commission is mandated by the Act to approve appointments of the Chief-Executive Officers, Directors and management of all the existing PFAs and PFCs.
- (f) The Commission is required to prepare and submit annual report of its activities and administration to the Public Account Committees in the two chambers of the National Assembly within 4 months after the end of the year. The Commission is also required to publish this same report in at least 3 national newspapers by June.
- (g) Representatives of Trade Union Congress (TUC); Nigeria Stock Exchange and National Insurance Commission are now included as members of the Board by the new PRA.

iii. Scope of Application

The coverage of the new Pension Scheme includes the employments in both the

public and private sector in the Federal, State and Local Governments of the Federation. In the case of the private sector, the PRA 2014 applies to employees who are in the employment of any organization in which there are 15 or more employees; organizations with less than 3 employees and self-employed persons have the option to decide whether or not to participate in the scheme in accordance with the guidelines that the PenCom may issue from time to time. This is stipulated in the PRA 2014.

iv. Rate of Pension Contribution

The monthly rates of contribution to the CPS are in the following rates relating to monthly emoluments:

- Minimum of 10 percent of each employee's monthly emolument by the employer
- Minimum of 8 percent by the employees.

However, employers and employees are allowed to increase their monthly contribution beyond the minimum rates according to the Act. Even, an employer may choose to bear the entire monthly pension contributions of total 20 percent rate contribution of their employees total monthly emoluments.

v. Tax Exception

The PRA 2014 clearly stipulated that contributions to the scheme are tax exempted. Also, all interests, dividends, investments, retirement Benefits and other income accurate are tax exempted.

vi. Time Frame for Remittance of Pension Deductions

The PRA 2014 mandated under obligation for employers to remit their monthly contributions directly to the Pension Funds Custodians (PFCs) within seven (7) days after payment of salaries, which notify the Pension Funds Administrators (PFA) of the receipt of the contributions, and

subsequently credit the Retirement Savings Accounts of the employees.

vii. Withdrawal from Retirement Savings Accounts

The provision of the Act stipulated that 50 percent of the amount in the workers' RSAs should be paid as lump sum to the retirees at retirement so as to cater for their immediate needs like buying car, doing business, renovation or completion of their residential buildings etc.

viii. Pension Protection Funds (PPF)

The Act mandated the PFAs to maintain a pension protection funds, which is a statutory contingency Reserve Funds of 1 percent of the total monthly wage bill payable to employees in the public sector; income from investments made; and annual pension protection levy as directed by the PenCom. This measure is to meet any claim that such PFA may become liable to in case of any shortfalls in the investments of pension funds. The statutory Reserve Fund is required to be credited with 12.5 percent of the net profit after tax of each PFA. The primary objective of it is to secure pension benefits of pension contributors into the pension scheme.

ix. Pension Dispute Resolution

Any employee aggrieved with a pension decision either with his/her employer or PFA, the Act accorded him/her the right to formally approach the PenCom for a redress. It is only when the employee or the PFA or employer is or are dissatisfied with the resolution of the PenCom that such party has the right to approach the National Industrial Court for necessary arbitration and conciliation which decision shall be final and binding on any of the party concerned in the pension dispute.

x. Group Life Insurance Policy

Every employer must maintain a Group Life Insurance Policy in favour of each of

its employee for a minimum of three (3) times the annual total emolument of the employee. And where the death of an employee occurs without life insurance cover put in place for the death, the employer shall be directly liable to bear the death benefit claims of such deceased.

xi. Pension Offences and Penalties

The PRA 2014 criminalized mismanagement, misappropriation or diversion of pension funds or assets by pension operators (PFCs), PFAs). The pension operator who violates the pension Act is liable on conviction to a prison term of not less than ten (10) years or a fine of an amount equal to three (3) times the amount misappropriated, or to both the term of imprisonment and the fine. A convicted operator in addition would forfeit any property, asset or fund with accrued interest or the proceeds to the federal government. The Act also imposes a penalty of at least ten million naira (₦10,000,000.00) on conviction where the PFCs fails to hold the funds to the exclusive preserve of the PFAs and PenCom, or where any person applies the fund to meet its own financial obligations such as the case of a Director, is ₦5million or a term of 5 years imprisonment or both.

xii. Pension Funds Investments

The PRA 2014 expanded the scope of investments in which pension assets can be invested in specialist investment funds such as infrastructure, real estate development and financial instruments the PenCom may approve and without compromising the need to protect and secure the safety of the pension fund assets.

xiii. Additional Obligatory To Employers

The new PRA 2014 compelled an employer to open a Temporary Retirement Saving Accounts (TRSA) on behalf of an

employee that failed to open an RSA within three (3) months of assumption of duty.

xiv. Pension Retirement Benefits

The holders of Retirement Savings Accounts (RSA) on retirement or by mandatory age of 60 years or 35 years of active service, whichever comes earlier to have opportunity to access their RSAs. The two options to be accessing pension benefits is either through programmed monthly or quarterly withdrawals through the PFAs or Annuity for life purchased from a life insurance company on either monthly or quarterly basis. Programmed withdrawals are calculated on the basis of expected life span while Annuity payments are calculated in accordance with the Commission's guidelines and is for life. There is also pension benefits that is called lump sum which payment sum is determined by the savings in the individuals RSAs but on a situation when an employee is dead, his/her pension benefits or entitlements under the Group life insurance cover maintained by his/her employer are paid to his/her named beneficiary. The saving, in his/her RSA is paid to the next of kin of the deceased or pension named in the valid Will or as directed by the court by his/her PFA only on receipt of a valid Will admitted to Probate or a Letter of Administration from a court of competent jurisdiction. This is in line with section 57 of the Insurance Act 2003, Section 8. And where a holder of a RSA is declared missing and is not found within 12 months from the day he/she was reported missing, thus the Commission would apply the provision of Section 8 of the PRA, 2014 to be the basis for processing of his/her pension benefits in his/her RSA.

xv. Equity Contribution for mortgage

The Act makes provision for payment of equity contribution to a mortgage scheme entered into by the holders of RSA. This is; however, subject to the Commission's guidelines to the PFAs of the contributors to determine a percentage for payment base on the balance or savings in the RSA. It is imperative to note that all the provisions highlighted in this study are cited in the provisions of the PRA 2014.

5. Critique on Matters Arising in PRA 2014

Haven highlighted the thrust and elements of the PRA 2014 above and in accordance with the topic and objectives of this study, it, therefore, becomes apt at this juncture to attempt to critique the provisions of the Act. This implies the examination, analysis and evaluation of the pension scheme law, which entails the formulation, implementation and evaluation of the reform or policy. It is a ground rule that in policy analysis, there is no way one can separate policy thrust from policy implementation. This means before-and-after-the-facts analysis of a policy, or say reform. This paper shall only make a brief analysis of the Act, considering this study is for a publication in academic journal that has conditional space or pages. It is apt to point out from the onset that the discussion of findings of this study relied much on the experience of the author as a retired bureaucrat (and that of his colleagues) and as one of the stakeholders of this PRA 2004/2014 in the public sector. Scholarly work on the PRA 2014 is quite scanty which hardly did justice to this topic. However, some public affairs analysts made useful critical comments on the PRA 2014 in the Nigerian newspapers which served as the secondary sources of data collection for this study.

Generally speaking, if all the pluses and minuses with regards to the PRA are taking into consideration, it can be inferred

that the performance of the pension scheme has been relatively good, given the prevailing operating environment. Without much doubt, the pension growth in Nigeria has been superb and encouraging since 2004 when the contributory pension scheme has been introduced. For instance, RSA enrollment has been growing by an average of 40,000 new contributors which the registration was about 8.14 million as at October 31st, 2019. The asset of the new scheme has grown value of ₦9.81 trillion which is equivalent to \$31 billion as at October 31, 2019. This growth is a robust phenomenal by whatever standards, that is sustainable. It has stemmed the growth of pension liabilities associated with pension industry in Nigeria in the past. This feat achieved in the pension industry, is still, however, very far away from reaching the target of 20 million RSAs in the formal sector by the end of 2019 as aimed under the PenCom's target, which would have tremendously increased the pension assets value in the country. Though, what Nigeria has achieved in pension industry is worthy of celebration as the industry has become a catalyst for economic development in the country, given that it has grown from a position of huge liabilities of over ₦2 trillion before the 2004 pension reform, to now industry with assets (Daily Independent, Monday February 10, 2020). However, the revelation that there were only about 8.8 million RSAs captured by the scheme leaves a lot to be desired, given about 60 million Nigerians of working status (Oyedele, 2020). The implication of this is that, attentively less than 5% of Nigerians were covered by the scheme leaving about 95% exposed to social insecurity in their old age.

One of the determinant variables for success or failure of any reform is the manner of its introduction to the target audience. It is a norm in the world, any public reform always has a

commencement day. The PRA, 2014 or the Act was signed into law by the President on July 1st, 2014 without providing the commencement date. The implication of this is that where no date of commencement is stated in an Act, it thus means that the date of Presidential assent shall be assumed commencement date. Since the commencement day was not inserted before the PRA 2014 was gazetted, it thus implies the commencement date was July 1st, 2014 when it was signed, since the regulatory body, PenCom did not issue circular on it. In the key informant Interviews (KII) with the office of three (3) Pension Funds Administrators (PFA) PAL, Trustfund and Fidelity, findings from respondents unfolded it that:

The manner of introduction of the pension reform 2014 was abruptly and sudden without any pre-alerts or information regarding it. This PRA 2014 did not give room for transition arrangement and proper planning by stakeholders, especially the affected employers. This manner also alienated the employees that were the target participants (KII, 2021).

That is, the PRA, 2014 alienated the pension contributors, and not surprising then the pension contributory rate of 10% by the employers of labour in both the public and private sectors in Nigeria to the RSAs has not yet been effected. It has been non-compliance. The that PRA, 2014 has not given room for proper transition planning, especially the private sector formal organizations which has continued to rub the employees of their rights in their RSAs, thereby depleting their pensions benefits at retirement. The constitutionality of the PRA 2014 is another concern. It is difficult to understand the competence of the National Assembly to legislate on the

pension bill for the private sector. The Nigerian constitution stipulates that the National Assembly can only legislate on pension, gratuities and other like payable out of Consolidated Revenue Fund (CRF) or any other public funds of the federation as stated in item 44 in the constitution.

The key objectives of the PRA 2014 as stated in Section 1 sub-section (a) have been breached with high impunity which makes the retirees not reaping where they have sown by the scheme, that is, not simply working well. The retirees have been left to suffer unnecessarily or die in the course of waiting for their personal RSAs which are not paid as and when due as stated by the Act. In the key Informant Interviews (KII) session held with the selected staff of the selected Pension Funds Administrators of PAL, Trusfund and Fidelity which responsible for the payments of pension benefits for the retired workers. Respondents revealed that:

This sad development was informed by the inadequate funding of pension benefits and the non-compliance posture of the employers. That, for example, the Federal Government has not been remitting the 18% rate mandated by the Act till today, and is not paying pension as and when due which is the key objective of CPS. A situation when the Federal Government remitted, it only remitted the 15% rate of the repealed PRA 2004. And worst still, occasions where employers of labour have deducted this same 15% rate from their workers' salaries, but remittance to the PFCs were not effected immediately. Likewise, State Governments and private

sector are also violating the law that mandated 18% as contribution rate for workers as they still also remit the old rate of 15% to their workers RSAs (KII, 2021).

The implication of this is that many workers are retiring with low pension benefits. And the non-remittance of the monthly deductions into the workers RSAs for months together with the shortfall of 3% (18%-15% = 3%) is depriving the employees the opportunity of earning on the monies that would have been invested by their PFAs on their behalf.

Besides, the delay of the Federal Government to be paying the 5% of the monthly federal wage bill into the redemption bond under the transitional provisions to cover the pension entitlements of workers who migrated from the Defined Benefits Scheme to the Contributory Benefit Scheme. This failure on the part of the Federal Government has been the reason delaying the prompt payments of pension benefits to retirees which is taking about 1¹/₂ years to access their benefits. The respondents in the KII held opined that:

Would the government adjust the pension benefits when eventually they are paid to include prevailing inflation rate and accrued interests? This is against the objective of the scheme, and such non-remittance of the pension funds is a criminal offence under the Act (KII, 2021).

Thus, if the Federal Government is defaulting in remittance of the pension funds that its Ministries, Departments and Agencies (MDAs) that have been deducted from the sources, that is, directly from workers' salaries, then it would be difficult for the pension regulator PenCom to

regulate the industry, or sanction private sector formal organizations that also defaulted. The truth is that, defaulters should not just remit the delayed pension funds they owed, but it should be on interest, because these funds would have been invested, and, thereby, attracting interests on the RSAs of the workers, as there is no ignorance before law. It is unfortunate that the federal government is not complying with its own laws as stated in Section 4 (1) of the Act. The government which signed the PRA, 2014 for remittance of 18% has not obeyed the law for about years now (2014 – 2020).

The KII conducted with selected staff in the former office of the author of this study National Orientation Agency (N.O.A) and selected group of public servants who formed the Association of Retired Directors in which the author of this study is a member on Pension questions, the KII findings from respondents revealed that:

In the absence of proper actuarial database and analysis on federal workers in the country, how then the Federal Government arrive at 5% monthly Retirement Redemption Bond for workers who migrated from the old pension scheme to the new contributory scheme. The government, on no statistical basis arbitrarily arrived at 5% of the monthly federal wage bill to be paid into the Bond. There was need for proper database on workers in the federal public service to realistically determined the mandatory remittance to the Bond. It is not logical also for workers' contributions to the pension scheme to be defined, while their benefits under the scheme are not as well defined like the



old pension scheme (KII, 2021).

Tied up with this, KII findings showed that:

The new scheme has not made provision for gratuity payment as in the old scheme for initial resettlement or rehabilitation of workers immediately after retirement, which helps them a great deal to cope with the cessation of monthly salaries. The lump sum should be funded outside the RSAs. The abolition of gratuity in the new pension scheme has negatively impacted the morale of workers in the public sector with its attendant effects (KII, 2021).

Tied up with the above, the Act stipulated that 50 percent of the workers' Retirement Saving Accounts (RSAs) should be paid as the lump sum for the retirees at retirement. The respondents interviewed when asked question on retirement benefits lamented that:

The Pension Funds Administrators (PFAs) only paying them 20 percent of their RSA at retirement which is even not paid as and when due, but taking over a year for payment (KII, 2021).

And making comparison between the monthly pension payment under the old and new scheme, the workers under the new scheme have been greatly shortaged. For instance, a corporal in the army on retirement is being paid ₦5,000.00 monthly as pension under the new scheme while his counterpart under the old scheme was being paid ₦35,000.00 monthly as pension. This disparity informed the decision of the Nigeria Armed Forces to pull out of the new contributory pension

scheme (The Punch, Monday 16, 2010). At the same time, the gratuities and pension of workers under the old scheme, has calculation table and formulae which helped workers to easily compute their personal pension benefits. The retirees under the new scheme did not know how their pension benefits are calculated, be it the lump sum or monthly pensions. This absence of open calculation unlike in the old scheme is reminiscent of draconian military posture. The confidentiality or secrecy involved in the calculation of the pension benefits of the holders of the RSAs is in conflict with the provisions of the 1999 Constitution (as amended) and the Freedom of Information Act (FOIA) in which Fundamental Human Rights are critical provisions. The absence of transparency in the process gives room for sharp practices or suspicious. The author of this paper was a victim of the situation.

The PRA 2014 increases the rate of contribution for employers and employees to a minimum of 10% and 8% of employees' monthly basic, housing and transport allowances. The provision in the Act added that the employers who elect to bear the full pension cost of their employees are required to contribute a minimum of 20% to the scheme (Section 4 (1)). The curiosity here is that if the total rate of contribution by both the employers and employees is 18%, why does the provision of the Act suddenly jumps it to 20% an addition of 2% if it is indeed the prerogative of the employers to bear the full responsibility of the employees' total contributions. What rationale must have informed this additional 2% by the same Act. This is conflicting provisions in the Act, which is a deliberate confusion for employers. Besides, the additional 3% over the 15% contributory rate in the repealed PRA 2004 is draconic and dictatorial as the drafters of the Act did not obtain the consent of the employers or

their inputs into the Act, who are critical stakeholders in the pension industry (National Bureau of Statistics, 2016). The implication of this imposition of 3% additional responsibility is that it definitely increases the cost of employment for the employers which could force them to take drastic measures to reduce the staff strength. Also, probably because these employers were not involved in the decision, informed their resolve of non-compliance with the PRA 2014 mandate of remitting 10%, still remitting the old rate in the PRA 2004. From the highlight above, it is not difficult to see that the PRA 2014 is somehow fraudulent and was not meant to serve the interest of the employees. In the absence of gratuity, according to some retired Directors interviewed, the lump sum payments by the PFAs to the holders of the RSAs should be subject to negotiation. The holders of the RSAs are the owners of their funds, and at retirement, some of them need enough money to have shelters or cars, or engage in large scale farming or other business ventures (KII, 2021).

The Act enlarges the scope or coverage of the scheme. That the Act shall apply to where the employers have minimum of 15 or more employees, and employees of organization with less than 3 employees (Section 2 (2)). The Act reduces from minimum of 5 employees (PRA 2004) to 3 employees to which the scheme applies to enroll with regard to the informal private sector. Thus, the Act enables wider participation, which does not exclude the artisans, one man business, from the contributory pension benefits to secure future for many Nigerians. The Act supposes to make provisions for whistle-blowers and their protection in an industry with huge pension assets in trillion of naira. Also in the Act, it reduces the number of years of experience of the Director-General from 20 years as

stipulated by the PRA 2004 to 15 years with relevant educational and professional qualifications in pension matters, but just requirement of a university degree. This paper believes that a person to be appointed to the office of the Director-General of the Commission does not even need to have 15 years recommended by the Act. The requisite should be a person of competence, high public integrity with cognate experience in pension matters and a university degree as obtainable in the cases of financial regulatory institutions such as the Central Bank of Nigeria Act, Nigeria Deposit Insurance Corporation Act, Securities and Exchange Commission Act, Corporate Affairs Commission Act. And as captured by The Punch Editorial of August 22, "Appointing a pension fund Chief Regulator should not be reduced to contemptible patronage or despicable cronyism" (Punch, 2014).

The provisions of Sections 4 (5), 8, 9, 4 (6), 120) are very exciting to workers which relate to the Group life insurance policy, and employee declared missing, are in favour of workers. The insurance policy is 3 times annual total emolument of each worker based on the annual total emolument of an employee in case of death. In as much that these provisions are good but the payments of benefits to the estate of deceased employees under both the pension contribution and Group life insurance cover have been a nightmare to claimants or the family of the deceased as revealed by the KII held with selected retired workers in Osogbo. The respondents claimed that "it requires a Letter of Administration from the courts which is an open ended journey as it can take months or a year plus with attendant legal and probate fees. It takes a long time to claim the death benefits by the family or representative of the deceased or missing worker, while the benefits remain in the cover or savings of the PFAs awaiting

issuance of the letter of Administration, which has cumbersome processes” (KII, 2021).

The provisions by the Act to criminalize an attempt to commit an offence, and imposing the same penalty as the offence itself which goes with 10 years imprisonment and a fine of 3 times the amount misappropriated, and as well refund the money with accrued interest to the PENCOR. The respondents from the KII held with selected retired Directors from the public service through the WhatsApp platform of this group, opined that this stiff sanction are welcome development to guide against sharp practices by the pension operators aims at securing and protecting pension funds. But respondents queried that of what use is the PRA 2014 if its provisions could be violated with minimum impunity as witnessed since inception of CPS in Nigeria? Offenders or violators have not been seen or heard sanctioned or punished. That federal government that is to prosecute offenders is also known to be guilty of some of the provisions of the Act (KII, 2021). This sad situation shows absence of political will in the part of government and pension regulator, PENCOR. This only points clearly to the fact that business ventures are hardly run by government agencies which have informed privatization policy in the past. The take home here is that the so called pension laws are weak, toothless bulldogs.

6. Conclusion and Recommendations

The Pension Reform Act 2014 (PRA, 2014) which repealed the Pension Reform Act; 2004 was aimed at consolidating the gains or successes recorded by the PRA 2004 and as well to overcome the flaws, and inadequacies associated with the said repealed PRA 2004. It is the position of this paper which is also its contribution to academic knowledge that as the

Contributory Pension Scheme (CPS) gradually gaining public confidence and the pension industry assuming prominence in Nigeria, expectedly, issues or challenges are bound to arise, which are not unusual with any developing social systems. Nevertheless, if the pluses and minuses are put into arithmetic judgment with regards to the pension reform contents and implementation in Nigeria, the truth is that the new pension scheme has significantly minimized the plight of pensioners in the country when compared with the experience of their counterparts under the old scheme. Though, there might be delay in payment of pension benefits to the holders of the Retirement Savings Accounts (RSAs) and other loopholes and lapses, the reality on ground is that once the pensioners are pay-rolled, these pensioners collect their monthly pension benefits as and when due, though incredibly small to their expectation. In all outlooks, the implication of this pension reform is that it is evolutionary and revolutionary in nature in the history of pension administration in Nigeria.

The new contributory pension scheme has come to stay in Nigeria, but to be able to gain strong confidence among the employees and the retirees who are its major critics, and to make it sustainable, it requires purposeful commitment from the government at each level and other stakeholders in the private sectors to ensure: - promoting sound corporate governance and pension values by the operators; commitment and sincerity to real compliance with the provisions of the PRA 2014 by all the stakeholders which is the only pillar the success story of the scheme rests upon or depends; the employees or holders of the RSAs to take ownership of the CPS as their role is critical to the success of the system by monitoring compliance of remittance of their deducted pension benefits; the

regulatory body; PenCom to develop and adopt various strategies for regular synergy and engagements with other pension stakeholders or operators to ensure absolute compliance with the provisions of the Act; all-inclusiveness of pension stakeholders and relevant bodies in the next pension review and amendment; pension funds to be seen for investments, and not for borrowing by the government; the federal government to set a good example by prompt remittance of pension contributions for it to have the gut to sanction other stakeholders for non-compliance; the governments should see to prompt payment of pension contributions as a statutory obligation, and as a statutory right of the retirees, not as a favour or use to canvas votes during elections; the pensions should be increased concomitantly with every National Minimum Wage review or every 5 years where there is no salary review as prescribed by the 1999 constitution (as amended) to avoid stagnation in pension benefits; the PFAs should oblige the retirees to know or see calculation template how their pension benefits in form of lump sum and pensions are calculated; late remittance of pension contributions by employers should not only be sanctioned, but payments should also be paid along with interest on it.

In addition, the federal government must restore the payment of gratuity to workers at the point of retirement. The PRA 2014 did not state in its provisions the stoppage of gratuity to workers, and should not be confused with the lump sum being paid workers at retirement which is the portion of their retirement savings. Gratuity payment would definitely motivate the workers to put in their best in the system, and also go a long way to check sharp corruptive malpractice. Notwithstanding the matters arising from the reform contents and implementation of the PRA

2014 in Nigeria, and the unforgettable experience under the old Defined Benefits Scheme before the PRA; 2004. It is, therefore, not out of place to remark that the reforms not only laudable, and has in-built framework to ensure sustainability, provided all the identified minuses in the reforms are quickly rectified by the urgent amendment of the Act by the National Assembly to gain the support, confidence and trust of both the serving workers and retirees in the Contributory Pension Scheme (CPS). The limitation of this study is that the research did not cover all the serving workers and retirees retired from both the public and private sector organizations while the Key Informant Interviews (KII) conducted also limited to sampled pension operators (Pension Funds Administrators (PFAs)) selected for this study. However, the responses from the selected respondents represented the general situations or occurrences on the Contributory Pension Scheme in Nigeria. On the whole, the author suggests that other interested scholars should carry out further studies on the matters arising in this research, especially on related pension issues like the pension investments in which the pension funds of both the workers and retirees are being invested.

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