# THE PENSION REFORM ACT 2004 AND WELLBEING OF NIGERIAN RETIREES: A SOCIOLOGICAL EVALUATION OF ITS PROVISIONS.

**Olanrewaju Emmanuel Ajiboye (Ph.D)**
Department of Sociology, Faculty of Social Sciences
Lagos State University, Ojo
Nigeria

## Abstract

*Over the past three decades, the living conditions of older persons in Nigeria had deteriorated due to the erosions of their economic power, changes in the family structures and roles, particularly on the care of older members of the immediate family and unsustainability of the pension schemes and inability of government to fulfil her expected role in the care and support of older persons in the country. Worldwide, older persons are regarded as vulnerable group, hence, it has been accepted that older persons, the children and women are in dare need of government attention. This is because poverty ravages this class of people than any other categories in contemporary world especially in developing countries. Various efforts by various successive regime in the country at addressing the needs of older members of the society have proved abortive. For instance, pensions of public servants in Nigeria that are supposed to serves as means of sustenance in their old-age were poorly handled by Nigerian government and its corrupt officials. However, the emergence of full-fledged democracy on May 29, 1999 rekindled the hope of older persons as government introduced in 2004 new Pension Policy. Theoretically, this paper takes a critical look at the 2004 pension policy of the government on the wellbeing of Nigerian retirees. It uses Marxist theory to analyze the issue. The paper concludes that an evaluation of the scheme revealed that the Policy may not be able to achieve its targeted objective to large extents.*

**Key Words:** Social Security, Pension Reform Act 2004, Older Persons, Wellbeing, Nigeria

## 1. Introduction

Social security systems have become major elements of social development in the twentieth century, with particularly important effects on the well-being of older persons in our society. The past few years in Nigeria have witnessed concerted efforts by the various successive governments in the country at improving the living standards among the older category, particularly with similar shifts in pension reforms, its payments and the maturing of pension plans. Although, less markedly than in the more developed countries, social security has also played an important role in the development process of many Third World Nations (Nitsch and Schwarzer, 1995; Holmann and Hinz,2005; UN, 2007). Social security is the range of collective social protection measures designed to provide compensation for loss or reduction of income. It meant to affect financial hardships suffered by workers as a result of deprivation. Its primary objective is to ensure freedom from want by collective provision for those who, because of misfortune, are temporarily or permanently without sufficient resources for their subsistence. Social security is therefore, a basic social protection provided to vulnerable members of the society against deprivation and destitution. More recently however, governments in the developed as well as in developing countries have come to view changes in the regulation of laws of their social security systems as key factors in the reform of the State.

This paper critically examines the case of pension reform in Nigeria, and specifically its Pension Reform Act, 2004, as an example of this type of reform, in particular, emphasizing those aspects that could, at least both in practice and theory influence the living conditions of the older persons in the country. Attempt was further made to analyse the early results of the 2004 Nigerian pension reform with a view to find out how effectively the scheme has been able to secure the retirees at their later year. In order to achieve this important objective of the paper, relevant literature were reviewed so as to findout about the general performance of the scheme and also determined the gray areas that requires urgent intervention. It may not be an easy task to measure the success of pension reform—whose effects are felt only in the long run—especially when it involves changes in the objectives that gave rise to the institution itself, and where previous experience is practically limited or non-existent. Therefore, rather than presenting a conclusive analysis of the consequences of 2004 pension reforms on the household structure of older persons in Nigeria, the intention is to review the preliminary performance of the Act and further provide insights for future research concerned with the relationships between transformations in the pension systems and the well-being of the Nigeria retirees.

## *2. The global wave of pension reforms*

According to Alo (2004), many countries of the world are currently grappling with pension reforms in the face of pressures from ageing populations. In most cases, the reform is either to increase the length of contribution to qualify for full pension or to reduce the rate of pension or both. But virtually in all cases, the trend is towards the adoption of tiered systems in which public pensions are complemented by private pensions and individual savings. This is what obtains in Canada with the Canadia Pension Plan (CPP). In Nigeria's 2004 Pension Reform Act, it is termed the "Contributory Pension Scheme".

Among the Organisation for Economic Cooperation and Development (OECD) countries, France, Italy and Belgium have turned to tax incentives to encourage private insurers to manage an added tier of retirement, while Germany and Sweden are offering incentives to encourage private savings for retirement. Denmark and Finland, on their part, have made additional savings mandatory. The British government is set now to launch a Pension Protection Fund to safeguard the benefits of workers. The Fund, in its initial operating years is expected to be funded from a flat-rate levy on all firms. Presently, the Costa Rican government is considering a number of radical options to reform its pension system. Interestingly, the United States, which has maintained a relatively stable pension regime since 1983, recently embarked on a study of worldwide pension reforms with a view to fine-tuning its own pension system.

It shouls therefore be mentioned at this juncture that the Nigeria's Pension Reform Act 2004 is in line with global practice. It is heartening to observe that, while there has been an under current of criticisms towards the reform, none has queried the necessity for a change in our pension system. It therefore, follows that we can work towards its perfection over time as we brainstorm and critically evaluate the provisions of the scheme with a view to provide panacea to the gray areas.

## *3. A Synopsis of Pension Reform in Nigeria*

The Nigerian social security scheme came into being in 1961 by the Act of Parliament, which establishee National Provident Fund. The Nigerian Provident Fund was a compulsory social security saving scheme to which both the workers and their respective employers contribute in equal proportions for the benefit of the workers. The scheme provided for lump sum cash payment to a member when his employment ceases due to old-age or disability. In order to have an in-depth knowledge and understanding of the direction of changes in pension reform, it would be germane to first of all understand the antecedents of pension system in Nigeria. In the public sector, (both civil and public services, statutory bodies), pensions were governed by the Pensions Act of 1979, later the Pensions Act of 1990 as amended by the Pensions Regulations of 1991. The Act provided for benefits in terms of gratuity and pension payments. Gratuity is a single, lump sum payment while pension is a periodic payment, normally on monthly basis for life. The scheme was a compulsory and non-contributory one, which created a right to monetary collection by public servants and an obligation on the part of government to make payment. Before April 1974, gratuity and pension for public servants were not treated as rights but as privileges. The applicable law provided that 'no officer shall have an absolute right to …pension or gratuity' [Section 6(1)]. However, effective from 1974, they became rights to which a qualifying public servant was entitled to claim from the government. The general pension scheme for civil servants was financed from government general revenue on a 'pay-as-you-go' basis and not from a special fund established for the purpose. Under the Pensions Act of 1979, both gratuity and pension were salary rate related and were financed wholly by the government without contribution by the workers.

In contrast, government parastatals tended to operate separate funded schemes which required setting aside on an annual basis, a percentage of the total basic salaries of their staff in a special fund under the management of a board of trustees. The National Provident Fund Act provided for private sector pension schemes. Originally, the National Provident Fund (NPF), a contributory scheme, which was established in 1961, also covered public servants. It was wound up for public servants after it had lost N17bn in corruption. Unlike the public sector, most in-house pension schemes in the Nigerian private sector were funded by both the employers and employees, otherwise, it is a contributory scheme. The employees were made to contribute a percentage of their monthly salaries, subject to a maximum pay while the employers also contributed a percentage of employees' salary to the scheme. Considering the small benefits resulting from the statutory scheme, individual companies tended to operate their own company administered contributory gratuity schemes to supplement the statutory retirement gratuity scheme.

The major advantage of the public sector over the private sector was that public sector employees enjoyed greater security of tenure with a guaranteed entitlement to both a pension and gratuity. In contrast to the public sector, private sector employers tend to have the right to hire and fire at will, with or without providing any explicit reasons. It should however be mentioned at this juncture that, shortcomings of the pre-2004 Nigerian pension systems, such as the existence of large-scale unfunded entitlements under the defined-benefit pension scheme for civil servants, matched by large-scale arrears of pension payments in all sectors of the system, were one reason the Nigerian reform was undertaken. Concern for a situation in which 'in some of our sectors, the pension bills are as high as the bills for wages and salaries which is neither feasible nor sustainable … The pension bill has continued to grow phenomenally and given the growing demand from other economic sectors, the government will need to share the burden'(FGN, 2001). However, the more prominent line of reasoning was that pension reform should allow Nigeria to use pension savings to provide long-term capital in order to develop financial markets and improve economic growth.

This may not be peculiar to Nigeria alone, evidences have shown that though there are certain differences in the content and speed of reform, there are also similarities between the reform processes in developed countries and in developing countries, particularly in the areas of the rationale for reform, the typology of reform changes and the political economy of pension reform. It has become a common knowledge that pension reform is a globalized idea, which is influenced by, and consistent with, neo-liberal ideology. However, a critical examination of the above issues suggests that the level of economic development places limits on market flexibility in developing countries and that the impact of pension reform will be more disadvantageous for the poor in developing countries such as Nigeria.

## 4. The Nigerian State, Social Contract and Living Conditions of Older Persons

The term 'state' denotes the territory and the administrative machinery available for high-level political decision makers (Head of State, Government) of a society to exercise sovereign political power (Kaufmann, 2002). There are a number of services, which are often provided by the state. Evidences abound that good governance concerns itself with the well-being of the citizenry, promotes development and economic growth (Kaufmann & Alia, 2002). This is true, particularly if good governance is considered to include the redistribution of incomes to those in need. State consists of institutions and organizations. An institution represents both the formal and informal rules of the game affecting the socio-economic performance of the nation and transactions. Organizations consist of groups of individuals bound together by common objective functions, like maintenance or changing the institutions by accordingly enforcing the formal and informal rules.

In Nigeria, the end of the European colonialism marked the birth of the new independent state. Since independence, the Nigerian society has experienced numerous changes of her political leaders and governments, while the state remains. Many Nigerians and other African political leaders believed that only gaining the independence and making plans and programmes would solve problems (Roland, 2004). As it turned out, the declaration of independence proved not to be a political solution. Independence solves nothing by mere definition. It is just a change of juridical status. It is not a source of better life for the citizens. It does not necessarily imply any greater independence for individual members of the society, irrespective of their gender and age. The poor are getting poorer, while the rich are equally getting richer. It may be important to the ruling group of the country, who may use the arguments above to appease the population in the beginning. This goes for the Nigerian government and other African countries, in particular. The problems were lack of investments in education, lack of interest in raising the levels of living standards and reduction in vulnerability of the subjects. A huge problem was that of solving the sluggish economic growth (Kohli, 2006).

A social contract, on the other hand, is a voluntary agreement in which mutual benefit occurs between and for individuals, groups, government or a community as a whole. Some of the earliest evidence of social contract theory can be found in Hebrew scripture. The Old Testament, particularly Deuteronomy 28, talks about a covenant between humankind and God, establishing a theocratic state in which humankind has freedom within limits set by God, in order to establish harmony in creation. According to a number of theories, such as those of Hobbes, Locke or Rousseau, organized society is brought into being and invested with the right to secure mutual protection and welfare or to regulate the relations among its members (Webster, 2003). Jean-Jacques Rousseau (1712-1778) lived in France during the period known as the Enlightenment.

Rousseau tempered Hobbes' belief about the State of Nature by making a distinction between self-love, 'amour de soi', which is the need to care for oneself for self preservation; and amour-propre, a self-centered vanity that puts one's own needs and demands above those of others. He argued that all mankind is by nature equal and free, and that the only way authority can be justified is when the authority is generated out of covenants or contracts to submit individual free-will to the collective will. As self-interest is the focus of individual freedom, so general will, once established, is focused on the common good, understood and agreed upon collectively. Rousseau believed that young children could be taught benevolence by caring, empathetic parents, thereby altering the State of Nature (Kohli, 2006; Locke, 2003). In Rousseau's social contract theory, there exists a reciprocal relationship between the sovereign, responsible for the good of the individuals, and individuals committed to the common good. Rousseau's pure vision of the social contract could only exist in a strong direct democracy, not a representative democracy. Social contract theory set foundation concepts that became the underpinnings of democratic governance. The social contract philosophy influenced the implementation of democratic government in many countries (Steenbergen, 2005).

Social contract defines our expectations for ourselves as individuals and for our society as a whole, and what we desire from government and the economy. For the individual, the contractual rules involve the obligation to have an education, to work when work is available, to take care of one's family, and to raise children with the same sense of responsibility. For the employer, the rules include the obligation to pay a fair wage, prompt and regular payment of both gratuity and pension to the retirees, to treat workers with dignity during and after they might have disengaged from active service, to compete on fair terms, and to respect common assets. The government's role is to create adaptable institutions to manage and enforce those obligations (Roland, 2004). The state plays a pivotal role in structuring the existential realities of its citizenry because of its monopolistic control over valued social resources in the society. When these responsibilities are balanced and well understood, we have a sense that the social contract is working, even when the economy is underperforming. It is when they are out of balance that feelings of discontent arise; we hear mumblings that "the system" is not fair, or that the government is not working, and our economy loses some of its potential. In this sense, the social contract is both a political agreement and a set of economic and social programs. It is where politics and the economy, democracy, and regulated capitalism meet.

Our social contract, the formal and informal, public and private arrangements by which we ensure economic security and opportunity, has evolved over the course of African history in response to changing economic and political conditions and demographic realities. Over the past decades, transformations in the economy, in corporate governance, and in the nature of work have pushed the social contract out of balance. Unfortunately, these decades were also marked by political timidity regarding public action and have led to a period of drift. As a consequence, entry into the middle class is closing, Nigerian families are increasingly insecure, and inequality of income and wealth has reached unprecedented levels. According to Amaike (2008), the problems associated with perennial poor pension administration and pension arrears especially in the public sector in Nigeria are actually symptomatic of more fundamental structural lapses in the Nigerian state. The Nigerian state has been found to be insensitive to the needs and welfare of her older citizenry. The state has not been able to fulfill its terms of social contract to this older category of people in the country.

One visible area where Nigerian state has failed in the fulfilment of its term of social contract is the provision of enabling environment that could allow for the creation of wealth in the society. Even though, there has been a long time belief that structural reforms resulting from a social security crisis could somehow solve all the problems of previous systems. This would hold even when someone's work history included several periods of unemployment or informal employment, and salary levels continued to be precarious, such as in Latin America. The effectiveness of the private system, however, is based on regular contributions of sufficient levels of funds over the worker's professional life. This means the system will only function satisfactorily for those whose income already affords the ability to save. For lower-income workers, who typically have a less stable presence in the formal economy, chances are low they might set aside enough money in a fund to allow them to survive periods of unemployment or inactivity. The issue, therefore, does not boil down to defining ways of extracting compulsory savings from workers, but rather is a fundamental matter of creating conditions for workers to generate those savings. Such an environment, though, can only be derived through higher levels of work-related revenue or other forms of remuneration. Thus, the need to link reform of the social security system to a set of more encompassing reforms, including those of the health and employment systems, becomes more apparent.

In a way similar to what happened with the previous systems, the reformed systems seem to place emphasis on vertical growth to the detriment of horizontal expansion, which would allow a sustainable development phase. Until now, efforts targeting transfers from contributors have been much more significant than those focused on increasing the actual numbers of contributors. In reality, certain groups such as agricultural workers, the informal sector, the self-employed and so on, who have little political representation and who have traditionally been excluded from the pension and retirement systems, remain practically marginalized by the reformed systems, depending almost exclusively on the minimum pension guaranteed by the State (Lo Vuolo, 1996).

Accordingly, the mere substitution of a public system by a private one would not be enough to solve today's major social welfare problems. In fact, such a transfer of administration might even further aggravate the problems of segmentation and social exclusion in Latin America, and lead to an even more severe impact on the public purse. The region's social heterogeneity and the narrowness of the formal economy make it difficult to solve the problem of guaranteeing income for retirees and the unemployed through a privately operated, individually funded investment model. In other words, the majority of the population cannot manage without a social welfare programme, or a public vehicle designed for the redistribution of income and wealth. If it is true that pension reforms in Latin America have been primarily motivated by the desire to improve benefits and augment the national treasury, the success of such reforms will depend on the ability of the region's policy makers to harmonize their strategies in terms of social security. Thus, they are expected to continually modernize and adapt the pension systems to current socio-economic conditions, to achieve a suitable and sustainable equilibrium between social and economic objectives.

The most direct effect of pension reform on the household structure of older persons refers to the influence it may exert on their financial autonomy. Should the benefits increase in value, and if the proportion of the older population who are covered increases, a greater share of older individuals would have better conditions for exerting their preferences in terms of household structure, which would probably increase the tendency for independent arrangements (living alone or with a spouse only) among older persons. On the contrary, if the benefits situation does not significantly improve, the majority of older persons will remain financially dependent on their family, and living arrangements in which they cohabit with relatives will persist or even become more prevalent.

When considering the effects of pension reform on the living arrangements of older persons, however, it is important to analyse older people's situation vis-à-vis the situation of the remaining population groups. There are cases in which the possibilities of older persons who are financially independent to opt for independent living arrangements are constrained by the less favourable situation of their immediate family. Saad (1996, 1998), for instance, found that while higher income of the elderly in the most affluent region of Brazil splits generations into different households, it stimulates co-residence between generations in the poorest region. According to the author, the exercise by older person of their preference for independent living arrangements is overridden, in the latter region, by the needs of their adult children. In this case, the modifications brought about by the 1988 Brazilian Constitution, which included the rural population in the retirement pension system and increased the pension value from one half to one minimum wage, has transformed the income of older persons into an important family asset in that region, particularly if compared with the poorer conditions of the younger generations (Souza, 1998).

However, this is not the case with Nigeria experience. The experience of Nigerians has been long queue of pensioners waiting for their pension or demonstration lack of payment of such. The conditions of living of older people who worked in informal sectors of the economy are even more precarious when compared with their counterparts who worked in the formal sector. This is because they have the opportunity of receiving pension at the end of their retirement from active service. Those who worked in the informal sector have no access to pension, and hence, their livelihood depends on the remittance from the adult children and extended family network. This further compounds their condition. Furthermore, the condition of the older women is even more precarious due to the cumulative effects of the discrimination against women in the society which has resulted in the feminization of poverty in old age.

## *5. Sociological Analysis of 2004 Pension Reforms Act and its provisions in Nigeria.*

The year 2004 will go down in history as an important watershed marking a crucial phase of the Nigeria's pension system.

Until June year 2004, Nigeria had operated particularly in the public sector, a defined benefit (DB) pension scheme, which was largely unfunded and non-contributory. The system was also characterized as a pay-as-you-go (PAYG) scheme since retirees were to be supported not by their previous contributions but by annual budgetary Provisions. Because it was largely unfunded, the Defined Benefit System led to massive accumulation of pension debt, which was estimated at more than one trillion naira. In response to the telling effects of such a system on the lives of our elderly people otherwise known as senior citizens and their families, the Government in 2004 decided to take measures aimed at reversing the situation through developing a system that is sustainable and has the capacity to achieve the ultimate goal of providing a stable, predictable and adequate source of retirement income for each participant. Thus, with the coming into force in June 2004 of the Pension Reform Act 2004, a new pension scheme came to replace the previous Defined Benefit scheme.

The new scheme is a defined contribution (DC) scheme, which as the name suggests, is contributory in nature, making it mandatory on employers and workers (in the public and private sector organizations with or more employees) to contribute 7.5% each of the emoluments of the employee into a Retirement Savings Account (RSA). However, for the military, the contribution rate is 2.5%, with the government contributing 12.5%. This system has a number of features making it an increasingly vital component of the pension systems of many countries not only in the Organization of Economic Corporation and Development (OECD) countries but also amongst the developing countries particularly in Asia and Latin America. It would be germane at this juncture to distinguish from the outset the basic differences between the two types of pension systems and also carry out a critical analysis of the pension reforms act 2004 so as to determine its impact on the living conditions of the elderly retirees in Nigeria.

## *6. The Provisions of the 2004 Pension Reforms Act*

The Pension Reform Act 2004 repeals the Pension Act 1990 and establishes a contributory Pension Scheme for employees in the public and private sectors. In both its objectives and features, the Act marks a turning point in Nigeria's annals of pension regimes. Below are some of the provisions and features of the scheme.

- It is a contributory pension scheme, which makes it mandatory for both the employer and the employee to contribute equally a minimum of seven and half percent of monthly remuneration to the employee's retirement benefits.
- The scheme applies to all employees, whether permanent, temporary, casuals, or contract, in both the public and private sectors of the economy.
- It makes it compulsory for every person in employment in Nigeria to save towards catering for their livelihood during old age.
- Provides for a uniform set of rules, regulations and standards for the administration and payment of retirement benefits for the public and private sectors. For instance, the Act provides for the establishment of the National Pension Commission (NPC) which is empowered to register and licence corporate organisations, that will act as Pension Administrators (PFA) and each PFA, in turn selects a custodian who manages the fund on its behalf.
- Stipulates 50 years as the age at which an employee is entitled to pension.
- Mandates all employers to maintain life insurance policy in favour of the employee for a minimum of three times tha annual total emolument of the employee.
- Allows for increase in the rates of monthly contributions, subject to agreement between the employer and the employee.
- Directs every employee to maintain Retirement Savings Account (RSA) in his name with any Pension Fund Administrator (PFA) of his choice.
- Makes pension deductions transferable from one employer to another because accounts, once opened, becomes personalized to the individual who can move it in and out of employment within the same sector or across sectors.

### *7. The Ambiguities in Pension Reform Act 2004 provisions and its implications on the wellbeing of retirees*

In spite of the various provisions of the 2004 pension reform, it would be pertinent to mention some of the fundamental ambiguities of the reform and its negative consequences on the retirees. This becomes necessary in order to determine the extent to which the reform can help secure the retirees old age on the one hand and also determine whether the reform would help to bring alive the hope of the Nigerian retirees or dash it.

Although, one would have said the various provisions of the scheme as highlighted above would bring succur in the later year for the retirees, however, the various challenges as would be discuss below have hampered the success of the scheme and its attempt at achieving its fundamental objectives. These ambiguities include:

**a. The reform is discriminatory in nature.**

The Act discriminates in favour of certain state employees including the military and the judiciary. Section 9 of the Act requires most public and private sector employees to pay seven and half per cent of their salary as pension contributions. In contrast, for military staff, the rate is reduced to only two and half per cent. The Pension Reform Act 2004 exempts two groups of state employees from the Act [S. 8(3)]. These are: • 'any employee who at the commencement of this Act is entitled to retirement benefits under any pension scheme existing before the commencement of this Act but has 3 or less years to retire shall be exempted from the Scheme' [S. 8(1)] and judicial officers1. Section 291(3) of the 1999 Constitution of the Federal Republic of Nigeria provides that any of the listed judicial officers shall 'be entitled to pension for life at a rate equivalent to his last annual salary and all his allowances, in addition to any other retirement benefits to which he may be entitled', provided he has been in that position 'for a period not less than fifteen years' [S. 291(3)(a)]. These discriminatory rates of contribution and benefits are in direct conflict with the Nigerian constitution and the principle of equality. The Preamble declares that the Constitution is based 'on the principles of freedom, equality and justice….'

**b. It abolishes the right to gratuity**

The Pension Reform Act, 2004 abolishes the right to a gratuity. A gratuity is a single, lump sum payment while pension is a periodic payment, normally on monthly basis, for the remainder of the pensioner's life. For workers whose poverty wages may cut short their life span, the abolition of the gratuity may significantly reduce their chance of benefiting from their pension savings. Thus the abolition of the gratuity discriminates against poorer paid employees.

**c. Ambiguity in the definition of minimum retirement age**

In the public sector, the statutory retirement age is either 60 years or 35 years of service, whichever comes first. In the private sector, retirement age varies between 55 and 60 years. The factor of 35 years of service does not apply to the private sector. After retirement, professionals with special skills may be employed on a contract basis. Section 4(1) of the Pensions Act (CAP 436 laws of the Federation of Nigeria) 1990 had clear provisions on the minimum retirement age. But the Pension Reform Act 2004 contains no specific provision on same. It only stipulates that no person shall be entitled to make any withdrawal from their retirement savings account before attaining the age of 50 years [Section 3(1)] This is the first of several examples of where the new Act makes the law less prescriptive and devolves aspects of the management of the pension scheme to regulatory bodies or individual employees. As a result, legal protection that previously existed for employees is removed. This is consistent with neoliberal aims of deregulation and a more flexible work-force.

Whilst Section 3(1) provides that no person shall be entitled to make any withdrawals from his retirement savings account before attaining the age of 50 years, Section 3(2)(c) states a contradictory provision permitting withdrawal from the retirement savings account by an employee who retires before the age of 50 years. Section 3(2)(C) provides as follows: 3(2)(C) … Any employee who retires before the age of 50 years in accordance with the terms and conditions of his employment shall be entitled to make withdrawals in accordance with Section 4 of this Act. Thus the Act accepts, that employees could retire before attaining the age of 50, in accordance with the terms and conditions of employment and that there is now no uniform retirement age (even in the public sector). Such issues have been deregulated and employers and employees are required to determine retirement age through negotiation and agreement.

**d. Delay in Payment of Retirement Benefits**

One of the key problems and hardships which the Pension Reform Act 2004 sought to remove was the non-payment of retirement benefit as and when due [S.2(a)]. In contrast, in Section 4(2) the Act legalizes delays in the payment of retirement benefits. Section 4(2) provides that when an employee retires before the age of 50 years in accordance with the terms and conditions of his employment [S.3(2)(C)], the employee may, on request, withdraw a lump sum of money not more than 25 percent of the amount standing to the credit of the retirement savings account provided that such withdrawal shall only be made after six months of such retirement and the retired employee does not secure another employment [S.4(2)]. It does not seem to matter to the lawmakers that a retired employee or members of his/her family may die within the six month waiting period before he/she becomes entitled to receive their lump sum!

Other fundamental challenges of the provisions of the 2004 reforms act include:

1. Management Structure of the Pension Fund;
2. Transitional Bureaucratic Structures;
3. Corruption - The schemes were infested with corruption such that more often than not, those entrusted with their management embezzled the funds without any prosecution. It thus resulted in the inability of workers retiring, either voluntarily or compulsorily, to collect their entitlements. Administrative bottlenecks and lapses causing delay in the processing of retirement benefits due to non-availability of vital records
4. Denial of Access to Court

## 8. Impacts of 2004 Pension Reforms on the Retirees Wellbeing.

Public pension rights have the potential to affect old-age mortality mainly through two mechanisms. First, the more generous the pension benefits, the higher the income in the older population. This provides more resources that can be invested in healthenhancing products and activities. Second, a more generous pension system may, in addition, have a redistributive impact, thus reducing income differences in society, and particularly amongst the elderly. Of particular importance is the potential of welldesigned pension programmes to reduce poverty amongst older population (Palme, 2006). There are many findings suggesting that lower income differences are associated with better health and lower mortality (Wilkinson, 1992), although the evidence is far from conclusive (Deaton, 2003). For historical and political reasons, countries have followed different paths in the development of pension systems, and these paths have led to somewhat different profiles in terms of the level and distribution of benefits. For the analytical purpose of the present article, we will focus on the two different goals of these development paths: basic security and income security.

Section 2(b) of the Pension Reform Act 2004 states that one of the objectives of the Pension Scheme established under the Act is to assist individuals by ensuring that 'they save in order to cater for their livelihood during old age'. However, the provisions of S.4 of the Act suggest that the real goal of the Pension Scheme under the Act is to provide a pool of funds for investors, rather than the concern for livelihood and survival of employees in old age. For example, S.4(1) (a) provides that: 4(1) A holder of a retirement savings account upon retirement or attaining the age of 50 years, whichever is later, shall utilize the balance standing to the credit of his retirement savings account for the following benefits: (a) programmed monthly or quarterly withdrawals calculated on the basis of an expected life span. Certain questions arise from the provision of S.4 (1) (a) above. How is the so-called 'expected life span' of the individual to be determined? Do employees at top management level and lower management level who belong to different income brackets tend to have the same average life span? What will be the criteria for calculating the 'expected life span' of individuals at lower and top levels of management?

What happens when the actual life span is shorter than the calculated 'expected life span' – who enjoys the surplus balance? What happens if the actual life span of the retiree is longer than the estimated 'expected life span' - who supplies the shortfall to maintain the retiree for the rest of his or her life? These are critical questions that the provisions of the Act do not answer. The Act is again reducing the regulation of pensions and so reducing the burden to business (to the detriment of its workers). Section 4(1) (b) provides another 'benefit' (read purpose) to which the holder of a retirement savings account 'shall utilize the balance standing to the credit' of the account – 'Annuity for life purchased from a life insurance company licensed by the National Insurance Commission with monthly or quarterly payments'. While individuals should be free to buy any form or type of insurance policy at any time in his/her lifetime, it is curious that the Act should require a retired person to acquire a particular insurance policy by employing the word 'shall' rather than 'may'.

The third 'benefit' for which a retired person 'shall utilize the balance standing to the credit' of the retirement savings account is provided in Section 4(1) (C). – collection of 'a lump sum from the balance standing to the credit of his retirement savings account provided that the amount left after that lump sum withdrawal shall be sufficient to procure an annuity or fund programmed withdrawals that will produce an amount not less than 50 percent of his annual remuneration as at the date of his retirement'. In the situation of a lack of any government welfare to provide social services for vulnerable groups, e.g. children and the aged, in the absence of any form of social security as a right, the tendency of retired persons in Nigeria is to use the lump-sum benefit received as gratuity to invest in some form of business activity to yield them income to supplement their pensions and so maintain themselves and their families.

We have shown earlier that the Pension Reform Act has effectively eliminated the right to gratuity. Section 4(1) (C) of the Act is now reiterating that a retired person can only collect a lump sum from the retirement savings account if the sum left after the payment of the lump sum will be sufficient to buy an insurance policy – an annuity – or fund periodic pension payments which are at least half the remuneration the person was receiving when in employment. When the combined effects of the provisions of S.4(1) (a), (b) and (c) are considered, it is easy to conclude that the Pension Reform Act 2004 appears less concerned with the care of retired persons than with the creation of a pool of cheap funds for the investors. It is within this context that S. 73(1) and S.74 can be properly understood. The two sections make provision for investment of pension funds within or outside the country. S.73(1) itemizes how the pension funds and assets 'shall' be invested. It provides: 73(1) Subject to guidelines issued by the Commission from time to time, pension funds and assets shall be invested in any of the following:

(a) Bonds, bills and other security issued or guaranteed by the Federal Government and the Central Bank of Nigeria.
(b) Bonds, debentures, redeemable preference shares and other debit instruments issued by corporate entities and listed on a Stock Exchange registered under Investment and Security Act 1999.
(c) Ordinary shares of public limited companies listed on a Stock Exchange registered under the Investments and Security Act of 1999 with good track records having declared and paid dividends in the preceding five years and so on.

The move to create pension funds, some of which are invested outside Nigeria will inevitably lead to an increase in the capital flight from Nigeria to the advantage of industrialized countries with more developed capital markets. It will reduce the funds available for investment in Nigeria whilst reducing the cost of capital in more developed countries. How this will benefit the majority of workers in Nigeria is not clear, but this is a development which is occurring in several other developing countries across Africa and other continents. To show the bias for creating a pool of investable funds rather than caring for employees at old age, Section 9(3) of the Pension Reform Act also strengthens the bias for the insurance sector of the economy. It provides that: 'employers shall maintain life insurance policy in favour of the employees for a minimum of three times the annual total emolument of the employee'. The question at stake therefore is that, why is it that this act is creating such a large boost in demand for their products?

Another noticeable implication of the pension reforms act of 2004 is the encouragement of Non-Remittance of Deducted Contributions which in itself would be detrimental to the wellbeing of the contributors and the retirees. This is because, the Pension Reform Act encourages corruption by providing such a weak penalty for failure by the employer to remit contributions (by employees and employers) to the Pension Fund Custodian within seven working days from the day the employee is paid his salary [S. 11(5)(b)]. The employer is empowered to deduct at source, the monthly contribution of each of the employees in his employment [S.11(1) 5(a)]. The penalty for non-remittance within the required timescale is payment of not less than 2 percent of the total contributions that remain un-paid in addition to making the remittance already due [S.11(7)]. With such a small penalty and the high cost of borrowing from the banks, employers are likely to prefer not to remit pension contributions and pay the cost of non-remittance.

## 9. Summary and Conclusion

In response to the plight of older persons and their families as aggravated by the failure of the previous pension schemes to guarantee retirement income, the Nigeria government in 2004 introduced a new pension scheme known as defined contribution scheme in the country. With the enactment of the Pension Reform Act in June 2004, a new pension scheme came into force. This paper analyses early results of the 2004 Nigerian pension reform. At the beginning of 2011, the internet survey of the new system of privately managed funded pension accounts covered around four million Nigerians in a country with a workforce of around 50 million people. Therefore, the paper found that, the reform has failed to contribute to basic social security in old age for the majority of Nigerians employed in the informal sector while the minority of covered workers are also likely to experience problems. The analysis of the early results of the Reformt indicates that, increased savings rates might not be desirable in a country characterized by large-scale poverty. Given the lack of basic social security in the present, forced saving for the future might not be rational or desirable either for individuals or for society at large. Using funded pensions to develop the Nigerian financial market to provide long-term funding for productive investment and higher growth in the future is an experiment rather than a precondition for development in the present.

The paper also found that a mismatch between the accumulation of pension savings and the failure to find appropriate investment outlets that would produce real returns to pension savers. In the light of all the above, the paper concludes that, there is a need to further review of the Act in the interest of equity, transparency and poverty reduction among the retirees in Nigeria.

Fianlly, to make the scheme different from the previous ones in the country Government must therefore continue to support all efforts to promote the success of the scheme. It is also hope that institutions set up to regulate the systems, the private sector organizations to manage the scheme and to report to the regulatory agency, and all stakeholders including the accounting profession, will continue to complement the efforts of government in our collective resolve to achieve a dependable, predictable and adequate pensions for all.

***REFERENCES***

Alo, Oladimeji (2004), Current Pension Reforms: Implications for Career Development in the Public and Private Sectors, A Paper presented at the 2nd State Conference of the Lagos State Branch of the Chartered Institute of Personnel Management of Nigeria (CIPMN)

Boeri, T. (2003). 'Social Policy Models in Transition: Why are they so different from one another?' in Holzmann, R., M. Orenstein, and M. Rutkowski (eds). (2003). Pension Reform in Europe: Process and Progress. Washington DC: The World Bank, pp. 157 – 170.

Casterline, J. B., and others (1991). Differences in the living arrangements of the elderly in four Asian countries: the interplay of constraints and preferences. Paper presented at the annual meeting of the Population Association of America, Washington, D. C., March.

Chlon-Dominczak, A. and M. Mora. (2003). 'Commitment and Consensus in pension Reform' in Holzmann, R., M. Orenstein, and M. Rutkowski (eds). (2003). Pension Reform in Europe: Process and Progress. Washington DC: The World Bank, pp. 131 -156

Da Vanzo, J., and A. Chan (1994). Living arrangements of older Malaysians: who coresides with their adult children? Demography, vol. 31, No. 1, pp. 95-113.

David (2005) A Brief History of Neoliberalism, Oxford University Press Holzmann, R., M. Orenstein, and M. Rutkowski (eds). (2003). Pension Reform in Europe: Process and Progress. Washington DC: The World Bank.

Duncan, G. J., and K. R. Smith (1989). The rising affluence of the elderly: how far, how fair, and how frail? American Review of Sociology (Annual Reviews Inc.), vol. 15, pp. 261-289.

Durán, Clemente R. (1996). Hacia una reforma de la seguridad social com visión ciudadana. Comercio Exterior (Mexico-DF), vol. 46, No. 9 (septiembre), pp. 717-721.

Elumelu, T. O. (2005). Investment, Finance and Banking in Nigeria: Evolution and New Opportunities. Power Point Presentation at the US-Africa Summit of the Corporate Council on Africa. Baltimore, June.

Federal Government of Nigeria (2001). Blue Print on the Contributory Scheme: Summary of Proceedings at the National Workshop on Pension Reforms, 11 – 13 September 2001. Federal Government of Nigeria. Pension Reform Act 2004. Harvey,

Kaufmann, F.-X., Kuijsten, A., Schulze, H.-J. and Strohmeier, K. P. (Eds.) (2002). Family Life and Family Policies in Europe: Problems and Issues in Comparative Perspective (Vol. 2). Oxford: Oxford University Press.

Knodel, J., and others (1991). Familial support and the life course of Thai elderly and their children. Comparative Study of the Ederly in Asia Research Reports. Ann Arbor: University of Michigan, Population Studies Center.

Kohli, A (2006), Demographic of Ageing and the Pressure on Health of the Older people in Phillipine, Comparative Health Journal, March 2006.

Laczco, F. (1990). New poverty and the old poor: pensioners. incomes in the European Community. Ageing and Society, vol. 10, pp. 261-277.

Lo Vuolo, Rubén M. (1996). Reformas previsionales en América Latina: una visión crítica en base al caso argentino. Economia e Sociedade (Unicamp: Campinas-SP), vol. 6 (junho), pp. 153-181.

Locke, J. (2003) Two Treatises of Government and a Letter Concerning Toleration. New Haven, CT: Yale University Press.

Morrison, Malcolm H. (1986). Work and retirement in older society. In Our Aging Society, Paradox and Promise, A. Pifer and L. Bronte, eds. New York: Carnegie Corporation, pp. 341-365.

Nitsch, Manfred, and Helmut Schwarzer (1995). Recent developments in financing social security in Latin America. Discussion Paper, Lateinamerika-Institut, Berlin, August.

_____ (1998). De paradigmas e mitos: notas sobre os fundos de pensão chilenos. Revista de Economia Política (São Paulo- SP), vol. 18, No. 2 (abril-junho), pp. 96-105.

Oliveira, Francisco B., Kaisô I. Beltrão and Mônica G. Ferreira (1997). Texto para discussão, no 508. Rio de Janeiro: IPEA.

Pinheiro, Liliana (1999). Informalidade é uma bomba para a Previdência. O Estado de São Paulo (29 de agosto).

Quin, J. F., and R. V. Burkhauser (1994). Retirement and labor force behavior of the elderly. In Demography of Aging, Linda G. Martin and Samuel H. Preston, eds. Washington, D. C.: National Academy Press, pp. 50-101.

Roland, John.(2004) Constitution Society. The Social Contract and Constitutional Republics. Accessed 14 September 2004.

Ruiz-Tagle, Jaime (1994). La evolución del nuevo sistema de pensiones en Chile. In Economia y Trabajo en Chile, Jaime Ruiz-Tagle and Mario Velázquez, eds. Santiago de Chile: PET . Fourth Annual Report.

Saad, Paulo M. (1996). Living arrangements of the elderly in north-east and south-east Brazil, 1980. Anais do X Encontro Nacional de Estudos Populacionais, Caxambu, MG: ABEP.

_____ (1998). Support transfers between the elderly and the family in north-east and south-east Brazil. Austin: University of Texas, Ph. D. dissertation.

Souza, Marcelo M. (1998). A importância dos rendimentos dos idosos nos rendimentos das famílias. Como Vai? População Brasileira (Brasília, DF), ano 3, vol. 3 (dezembro).

Steenbergen, James B.(2005) Enlightened Self Interest. Learning to Give. http://www.learningtogive.org/papers/concepts/enlightenself-interest.html.

Uthoff, Andras (1997). Reformas a los sistemas de pensiones, mercado de capitales y ahorro. Revista de la CEPAL (Naciones Unidas), vol. 63 (diciembre), pp. 29-50.

Muller, K. (2003). 'The Making of Pension Privatization in Latin America and Eastern Europe', in Holzmann, R., M. Orenstein, and M. Rutkowski (eds). (2003). Pension Reform in Europe: Process and Progress. Washington DC: The World Bank, pp. 47 – 78.

Ney, S. (2003). The Rediscovery of Politics: Democracy and structural Pension Reform in Continental Europe in Holzmann, R., M. Orenstein, and M. Rutkowski (eds). (2003). Pension Reform in Europe: Process and Progress. Washington DC: The World Bank, pp. 79 – 110.

Nigeria Labour Congress (NLC), Trade Union Congress (TUC) and Congress of Free Trade Unions (CFTU). (2004). Text of a Press Conference on the New Pension Act, 2004. July.

Nwabueze, B. O. (1993). Military Rule and Social Justice in Nigeria. Spectrum Law Series. OECD Pensions at a Glance: Public Policies across OECD Countries, 2007 Edition, OECD Publishing Orenstein,

Palme. A. (2006). 'Mapping the diffusion of Pension Innovation' in Holzmann, R., M. Orenstein, and M. Rutkowski (eds). (2003). Pension Reform in Europe: Process and Progress. Washington DC: The World Bank, pp. 171 – 194)

United Nations (2007), World Economic and Social Survey 2007: Development in an Ageing World. Economic and Social Affairs, United Nations, New York.

United Nations (2007), World population monitoring, focusing on the changing age structures of populations and their implications for development. Report of the Secretary General, New York.