THE JURISPRUDENCE OF OLD AGE INCOME: AN EXAMINATION OF PENSIONS AND GRATUITY IN NIGERIA AND GHANA*

Abstract

This paper examined the pensions and gratuity regimes in Nigeria and Ghana, canvassed the position that the abolition of gratuity in Nigeria, first by the Pension Reform Act, 2004, and by the Pension Reform Act, 2014 is socially inappropriate, as a pension scheme without gratuity does not gratify or appreciate the worker for years of meritorious service to fatherland. It is further argued that the Ghanaian three-tier pension regime, though assures of certain benefits, is bureaucratically suffocating, and that the allocation of Social Security Number (instead of a Retirement Savings Account, RSA) upon registration into a pension scheme is misleading. The payment of their gratuities, and pensions has been attended with sundry forms or irregularities in Nigeria. Again, it was discovered that some people feel that the payment of gratuity and a contributory pension scheme are mutually exclusive, but that is not correct. The recommendations made in the paper will help in improving the productivity of workforce. The National Pension Commission (PenCom) needs to be alive to its regulatory obligations. In conducting this research, the paper adopted the comparative analysis approach, and reliance on analysis of texts and statutes.

Keywords: Defined-Benefit-Pension, Contributory-Pension-Scheme, Gratuity, Pension, Old Age Income, Social Security.

1. Introduction

The need for social security, for every citizen, especially senior citizens, seems to be an intuitive and spontaneous obligation for every society. In traditional African societies, it was (and still is in modern African societies), the duty of family and community members to take care of aged, disabled, weak, vulnerable and invalid members of the society. This is because these conditions come with physical, emotional, psychological and rational constraints. But as humanity developed into states and nations, it has become the duty of governments to provide social security for her citizenry. Though it is the agender of social security to guarantee the welfare of its entire citizenry, this paper focusses on the component of citizens who have worked for either the public or private sector, and their wellbeing/welfare thereafter. Income security at old age is an intrinsic component of social security, from which ever perspective that one may choose to view it. It is a truism that income security at old age is an essential component of social and political stabilization. Accordingly, a number of international instruments have affirmed the need for nations and their governments to pay sufficient attention to issues of pension and gratuity for senior citizens. Some of these instruments include: International Labour Organisation (ILO)'s Social Protection Floors Recommendation, 2012 (No. 202), the Universal Declaration of Human Rights, 1948, International Covenant on Economic, Social and Cultural Rights, 1966, the ILO Social Security (Minimum Standards) Convention 1952 (No. 102), the Income Security Recommendation, 1944 (No. 67), the Medical Care Recommendation 1944 (No. 69), the United Nations Sustainable Development Goals (SDGs), etc. For instance, the objective of the 17 SDGs is to *'… end poverty, protect the planet and ensure that all people enjoy peace and prosperity.'* The UN set the year 2030 for the attainment of this lofty objective. Security of gratuity and pension for retired and senior citizens are directly related to SDGs 1 (no poverty), 2 (zero hunger) and 3 (good health and wellbeing).[1] SDG 1.3, for instance, aims to implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve sustainable coverage of the poor and vulnerable. The pillars of the SDGs could be summarized into people, planet, prosperity, peace and partnership (SDGs 5Ps). A cursory perusal of the pillars of the SDGs, prima facie, indicate that the whole gamut of the vision and mission of the SDGs relates directly and indirectly to guarantee of social security in nations, including the security and protection of old age income. The international community is, therefore, not treating with levity the issue social security at old age.

Nigeria has had a chequered and beleaguered pension history which had been attended with excruciating experiences for the beneficiaries of its pension systems. Pension in Nigeria has been attended with all forms of malfeasances ranging from corruption,[2] administrative irregularities, absence of inter-agency coordination, lack of data, poor budgetary allocations, etc. This ugly scenario, plus the dynamic nature of the society and the pension industry, has led to the establishment of various pension schemes in Nigeria. Essentially, the pension schemes in Nigeria have been attempts by successive regimes to respond to the need to be responsive to the welfare of citizens during old age. In Ghana, the government has also not lost sight to the fact that it is its responsibility to provide social security to its citizens. The Ghanaian constitution provides this as a fundamental objective and directive principle of state policy. Though two different sovereignties, Nigeria and Ghana share a number of similarities including socio-economic and politic-cultural policies and traits. Ghana has had its own fair share of disruptive pension policies by way of parliamentary repeal and amendments of legislative instruments regulating its pension systems. We shall herein examine the pension systems and gratuity systems in Nigeria and Ghana, for the purpose of exposing some strengths and weaknesses in each, and for improving the regulation and administration of pension and gratuity in the two jurisdictions. This way, apart from helping to guarantee social security for citizens at old age in both jurisdictions, some part of the aim and pursuit of the Sustainable Development Goals which is to *'… end poverty, protect the planet and ensure that all people enjoy peace and prosperity'* by the year 2030 is being met.

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[1] UN (2015). Transforming Our World: The 2030 Agenda for Sustainable Development. Resolution Adopted by the UN General Assembly on 25 September 2015, 42809, 1-13 > https://doi.org/10.1007/s13398-014-0173-7.2....accessed 10/12/2024

[2] E Ntekim

2. History of the Nigerian Pension Programmes

One of the rights that inures to every Nigerian citizen is the right to work, and the right to a decent pay. Closely linked to this right to work and right to decent pay is the right to old age income. By old age income here we are referring to gratuity and pension. The legislation that regulates pension and gratuity in Nigeria is The Pension Reform Act, 2014. However, they were several legislative regimes that served as precursors to the 2014 Pension Reform Act. In 1951, the British colonial masters introduced a pension program in Nigeria with the primary intent of protecting British citizens who would pick up public service jobs in Nigeria.[3] This pension programme was introduced through the instrumentality of what was then known as the Pension Ordinance. Though the Pension Ordinance was introduced in 1951, it had a retrospective effect from 1946, coming into existence through Government Circular No. 19 of March 24, 1945. The 1945 Government Circular transmuted to a legislative instrument in 1951 to be known as the Pension Ordinance of 1951 with retrospective implementation. This Ordinance had unjustifiable and limited coverage, as it was limited to the British citizens who agreed to work in Nigeria, and was later extended to include Nigerians who were working in revenue-generating offices such as the power sector, railway cooperation, and ports authority. The Ordinance clearly specified eligibility criteria for enjoyment of the pension programme, and conducts that could disqualify an otherwise qualified worker. After the Pension Ordinance, they were a lot of other instruments that regulated pension programmes in Nigeria. The first private pension scheme in Nigeria was established by the Nigerian Breweries in 1954 which operated the Defined Benefit Pension and Gratuity Scheme for its staff. Following the Nigerian Breweries lead, the United African Company (UAC) floated the next private pension scheme for its staff in 1957.[4]

In 1961, by an Act of Parliament, the National Provident Fund (NPF) Scheme was established. Nigeria had just gained independence, and was trying to be in tune with international best practices. The intendment of the NPF was to, as much as possible, bring Nigeria to tune with the ILO Convention No. 102 on social security. Established in 1961, the NPF Act was amended after one year to cover only employees in the private sector. It would be recalled that the 1951 Pension Ordinance was applicable to specific categories of persons: British citizens who picked up jobs in Nigeria, and Nigerians who worked in revenue-generating agencies. In the private sector, only NB and UAC had a pension regime for their staff. So, the entire pension regime in Nigeria under the provisions of the NPF was highly limited, unjustifiably discriminatory, and afflicted with humongous and colossal inadequacies. There was need for improvement. In 1979, through the instrumentality of Basic Pension Decree No. 102, the Civil Service Pension Scheme was established. This legislation was broader in coverage as it included all Public Servants apart from temporary and contract workers. Later in 1979, the Armed Forces Pension Scheme was introduced vide Decree No. 103 of 1979 but effective April 1974.[5] The pension history of Nigeria continued until 1985 when the Pensions Rights of Judges Decree No. 5 was proclaimed. The Police Pension Scheme, and other agencies pension scheme were also proclaimed under the Pension Act No. 75 of 1987. In a similar vein, the Local Government Staff Pension Board was proclaimed, while in 1993, the Police and other Agencies Pension Scheme Decree No.75 of 1993 which took effect from 1990 was established.[6] All these pieces of legislations, decrees, laws and enactment governed and regulated the various Pension programmes in Nigeria until June 2004. In 2004, the Pension Reform Act 2004 was enacted.[7]

Being a young democracy that had just gained self-rule from the British colonial masters, technocratic, administrative and managerial inefficiency plagued both the public and private sectors in Nigeria. The pension systems were not insulated from these ineptitudes. Government after government, the need to improve on the efficiency of both the formal and informal sectors gained prominence. In 1992, the Federal Military Government set up a committee known as the Technical Committee on Privatisation and Commercialisation (TCPC). Given the government's drive to privatise public corporations and services, adducing the argument that government is not endowed with the wherewithal for effectively doing business, the TCPC recommended that pension administration in Nigeria should be partially commercialized. Against the backdrop of this recommendation, by Decree No. 73 of 1993, the NPF of 1961 was repealed, while the Decree established the Nigeria Social Insurance Trust Fund (NSITF) which took effect from July 1994. The NSITF Act also moved all the members of the NPF, and all its assets and liabilities of the NPF to the NSITF. By the provisions of the NSITF Act, all employers in the private sector, and all companies and partnerships registered under the Companies and Allied Matters Act (CAMA) were required to register under the scheme. The NSITF was mainly addressing the pensions and work-related mishaps in the private sector. The pension needs of most employees in the public sector remained largely skewed. A little above a decade after establishing the NSITF to replace the NPF, the pension system in Nigeria did not see much improvement. Especially in the public sector, pension and gratuity issues were attended with a lot of irregularities, such as queuing for hours unending for verification or payment, lack of adequate professional and technological facilities for verification, the menace of ghost pensioners, falsification of data and documents, lack of commitment to do the right thing, inter-agency rivalry, and lack of a central coordinating and regulatory body. It had become of imperative necessity to take a bold and courageous step to address some of the malfeasances just mentioned above. The pension sector had become embarrassing to the nation and government, and had unacceptably dehumanized most Nigerians, especially in their old age.

[3] EU Etuk 'Unending Reforms of the Nigerian Pension Act: The Dilemma of the Pensioners' (2022) Beijing Law Review 13, 26-277. See also IM Abada, ON Ifeoma, and PH Omeh 'Contributory Pension Scheme and Management of Retirement Benefits in the University of Nigeria, Nsuka: An Ethical Appraisal' (2018) *American Based Research Journal*, 7 (14-20).

[4] A Dahir-Umar Fighting for the Future: Nigeria's Pension Reform Journey (Lagos: Cable Books, 2023) p. 19.

[5] P Uzoma, *Insurance and Pension Practice in Nigeria, Reflections of a Nigerian Actuary* (Ibadan: Board Publications Ltd 1989).

[6] CS Ebere 'Pension Reforms in Nigeria'. A Paper Presented at a Seminar Organized by University of Nigeria, Nsukka, 2016.

[7] EU Etuk (n. 3).

The pension predicament continued to intensify in Nigeria, until the Chief Olusegun Obasanjo-led presidency constituted a committee to see to proffering a sustainable solution to the crisis. The Committee was set-up in 2000, and was headed by Chief Ajibola Ogunsola (a corporate sector heavyweight). It is alleged that the recommendations of the Chief Ogunsola- led Committee could not see the light of the day because the chairman was inclined to partially commercializing pension administration in Nigeria, meanwhile he was surrounded by civil servants as Committee members. The latter were averse and antagonistic to any form of privatization and commercialization of the pension sector.[8] The administration of Chief Olusegun Obasanjo, being determined to commercialise by privatizing most corporations, businesses and schemes, set-up another committee – the Pension Reform Committee - to ensure that the pension crisis of arrears, funding, regular payment, etc. were redressed. This committee was established in 2003, and and headed by Mr. Fola Adeola. While Chief Ajibola Ogunsola was the Managing Director of Niger Insurance Ltd., Mr. Fola Adeola was the co-founder of Guarantee Trust Bank (GTB). The Committee concluded its work, and submitted its report to the government. The committee report formed the basis for the preparation of an executive bill which was prepared and sent to the National Assembly in 2003, September. The bill was known as the Pension Reform Bill. The bill was passed by the National Assembly on June 23, 2004. Two days after its being passed by the National Assembly, the President assented to the bill, becoming an Act of the National Assembly on June 25, 2004, and to commence July 1, 2004.

The Pension Reform Act 2004, for the first time introduced the Contributory Pension Scheme (CPS) as against the Defined Benefit Scheme (DBS). The fundamental objective of 2004 Pension Act was to take off a good chunk of the financial burden placed upon the government of Nigeria by the huge budgetary requirement that was required for pension overheads. Consequently, the major entrant into, and point of divergence from, the Pension Act 2004 and previous other pension regimes is the contributory pension component/provision. Though this legislation lessened the responsibility of government in terms of pension finances, it came bedeviled with other shortcomings. For example, the pension Act 2004 had a limited scope of application as it did not apply to Local Government, State and Judiciary workers. Furthermore, there was non-uniformity in the quantum of contribution, and the obliteration of gratuity.

3. The Nigerian Pension Reform Act 2014

Former President Goodluck Jonathan, on 1st July 2014, signed into law the new Pension Reform Act 2014. The Pension Reform Act 2014 repealed the Pension Reform Act, 2004, and it governs and regulates the administration and management of the Contributory Pension Scheme in Nigeria. The Pension Reform Act, 2014 sets out the regulatory framework for the administration of the contributory pension scheme for both the public and private sectors in Nigeria, as it encourages participation in the contributory pension scheme which applies to all employees in the public sector and those in private organizations that have 15 and above number of employees. The Act requires both the employer and employee to make a minimum of 10% and 8% respectively of the employee's monthly emolument, which is the contributory pension scheme. Pension funds can be invested to yield profits or dividends, this includes special investment funds and other financial instrument as approved by the National Pension Commission (PENCOM). Interests, profits, dividends, investments and other income accruable to pension funds or assets are exempted from tax. The Act provides for an employee who disengages from employment before the age of 50 and is unable to secure employment within four months of disengagement to be allowed to make withdrawals from the account not exceeding 25% of the total amount credited to the RSA.[9] There are penalties for offences of misappropriation of funds which include reimbursement or payment by a Pension Fund Administrator (PFA) or Pension Fund Custodian (PFC).[10] In a situation where the PFC fails to hold funds to the exclusive preserve of the PFA and PenCom or where it applies the funds to meet its own financial obligations, the Act permits disciplinary actions. The Federal High Court, States High Courts, Federal Capital Territory and National Industrial Courts have the jurisdictions to try such offences. A Pension Protection Fund has been created by the Act to protect the contributors' funds. Profits from this Fund are paid to contributors in the form of Minimum Guaranteed Pension.

Any member of board, employee or agent, officer engaged by a PFA or PFC is expected to maintain confidentiality with respect to information obtained in the cause of their duties, failure to comply will be sanctioned. No action can be taken against an officer or employee of PenCom for any act done in execution of the Act or any other law if not commenced within three months of the act or in the case of a continuous act, within six months after the act ceases. Funds contributed to PFAs shall be computed and credited into the respective Retirement Savings Account opened under the Act. Any individual who has retired before the commencement of the Act shall be entitled to make withdrawals from the account although not exceeding 25% of the total amount credited to the Retirement Savings Account. Any employee aggrieved with the employer or PFA is required to first approach the Commission for redress before exploring arbitration or initiating action at the National Industrial Court.[11]

In the Pension Reform Act, 2014, the compulsory payment of gratuity has been abolished. Upon retirement, a retiree's total retirement savings are computed, and a percentage given him/her as a lump sum. It could be 50% or 25% of total amount saved in his/her RSA. If the retiree is female, the balance, less the lump sum already remitted to the retiree, shall be divided by 12

[8] A Dahir-Umar (n. 4). Also, in 1988, the Federal Military Government had appointed Chief Ajibola Ogunsola to head a committee for the same pension reform in Nigeria. The contributory pension arrangement was suggested by the Committee, but its proposals did not see the light of the day.

[9] ES Ughulu and CB Uwamussi 'Pension Reform Act, 2014 and the Future of Public Service Prospective' *Global Journal of Social Sciences*. Vol. 22, 2003 1-7.

[10] E Okechkwu, U Okala, and B Ijeoma 'Pension Reform Act 2014 and the Future of Pension Administration in Nigeria' *Arabian Journal of Business and Management Review* (OMAN Chapter) Vol. 4 No. 2, September 2014.

[11] ES Ughulu and CB Uwamussi (n. 9).

(being number of months in a year), and by 20 (being the maximum number of years that the female retiree shall benefit from her retirement savings). The same arrangement applies to a male retiree. The only difference is that for the male retiree, the maximum number of years he is expected to draw from his RSA is 15 years.

4. Pension Administration and Management in Ghana

Pension administration in Ghana is governed by several laws and regulations to ensure the protection and welfare of retirees. The key legislations regulating pension administration in Ghana include:

i. National Pensions Act, 2008 (Act 766): This Act establishes the framework for the administration of pensions in Ghana. It provides for the establishment of a contributory three-tier pension scheme comprising the Social Security and National Insurance Trust (SSNIT), Mandatory Occupational Pension Scheme, and Voluntary Provident Funds.

ii. National Pensions Regulatory Authority Act, 2008 (Act 766): This Act establishes the National Pensions Regulatory Authority (NPRA), which is responsible for regulating and supervising the implementation of the National Pensions Act. The NPRA ensures compliance with pension laws, protects the interests of contributors, and promotes the sustainability of pension schemes.

iii. National Pensions (Amendment) Act, 2014 (Act 883): This amendment to the National Pensions Act introduces provisions for the establishment of voluntary pension schemes and enhances the governance and management of pension funds.

iv. National Pensions (Amendment) Act, 2019 (Act 1003): This amendment further strengthens the regulatory framework for pension administration in Ghana. It includes provisions for the registration and regulation of Provident Funds; tier-2 and tier-3 pension schemes, and introduces measures to enhance transparency, accountability, and governance within the pension sector.

v. Labour Act, 2003 (Act 651): Although not specifically focused on pensions, this Act contains provisions relating to employment conditions, including issues such as termination benefits, which may impact pension entitlements.

These laws and regulations collectively establish the legal framework for pension administration in Ghana, aiming to ensure the security and well-being of retirees while promoting the sustainability of pension schemes in the country.

Gratuity in Ghana

Gratuity refers to a form of monetary benefit provided to employees upon retirement or termination of employment. It is typically a lump sum payment made by an employer as a token of appreciation for the employee's service. The gratuity amount is often based on factors such as the employee's length of service and salary at the time of retirement or termination of appointment. Gratuity in Ghana is governed by the Labour Act, 2003 (Act 651), which outlines the rights and obligations of both employers and employees regarding employment matters, including gratuity. According to the Labour Act, employers are required to pay gratuity to employees who have completed a certain period of service, usually five years or more, unless the employment contract specifies otherwise. It is important for both employers and employees to understand the terms of gratuity outlined in the employment contract or collective bargaining agreement, as well as any relevant laws and regulations. Failure to comply with gratuity obligations can result in legal disputes and penalties. Overall, while gratuity is not mandatory under Ghanaian law, it is a common practice in many workplaces as a means of recognizing and rewarding employees for their dedication and service

Pension Reforms in Ghana

Pension reform in Ghana has been a significant topic in recent years, aimed at improving the country's pension system to ensure adequate retirement benefits for workers. The reforms have focused on various aspects, including expanding coverage, enhancing transparency and governance, and improving the sustainability of pension schemes. One of the key initiatives in pension reform was the establishment of the Social Security and National Insurance Trust (SSNIT) in 1991. SSNIT is a statutory public trust responsible for administering the country's basic pension scheme. It covers formal sector workers and is funded through mandatory contributions from both employees and employers. In addition to SSNIT, Ghana introduced a tier-two Mandatory Occupational Pension Scheme in 2010 under the National Pensions Act, 2008 (Act 766). This scheme requires employers and employees to make contributions to privately managed pension funds. The aim is to provide more benefits in addition to the basic SSNIT pension.[12] Furthermore, the third tier of Ghana's pension system involves voluntary contributions to provident funds, mutual funds, or other pension schemes approved by the National Pensions Regulatory Authority (NPRA). This tier allows individuals to save additional funds for retirement, supplementing the benefits from tiers one and two. The pension reform efforts in Ghana have also included measures to improve governance and accountability within the pension industry. The NPRA was established as the regulatory authority responsible for overseeing the administration and management of pension funds. It ensures compliance with pension laws and regulations while safeguarding the interests of pension contributors. Despite these reforms, challenges remain, including low coverage among informal sector workers, inadequate contributions, and sustainability concerns due to demographic changes. Efforts to address these challenges continue, with a focus on expanding coverage, increasing awareness about pension benefits, and strengthening the regulatory framework. Overall, pension reform in Ghana reflects the country's commitment to ensuring retirement security for its citizens. By enhancing the pension system's coverage, governance, and sustainability, Ghana aims to provide adequate and reliable income support to retirees in the years to come.

[12] SSNIT – Social Security and National Insurance Trust: SSNIT Ghana.

5. A Comparison of the Nigerian and Ghanaian Pension Regimes

There exists a single composite document in Nigeria that regulates and governs the management and administration of pension in Nigeria. This document is known as the Pension Reform Act, 2014. Before the enactment of the Nigerian Pension Reform Act, 2014, there existed the Pension Reform Act, 2004 which regulated the management and administration of pension in Nigeria. By the provisions of the 2014 Act's explanatory memorandum, the Pension Reform Act, 2014 completely repeals the Pension Reform Act, 2004. The said provision reads: 'This Act repeals the Pension Reform Act No. 2, 2004 and enacts the Pension Reform Act, 2014 to continue to govern and regulate the administration of the uniform contributory pension scheme for both the public and private sectors in Nigeria'.[13] The situation in Ghana is different. Ghana does not have a single composite document that regulates the management and administration of pension therein. The legislative precursor to the Ghanaian National Pensions (Amendment) Act, 2014 is the National Pensions Act, 2008. While the Nigerian 2014 Act repeals the 2004 Act, the Ghanaian 2014 Act amends the National Pension Act, 2008. The Act's explanatory memorandum reads: 'An Act to amend the National Pension Act, 2008 (Act 766) to reduce the age for exemption for the first-tier Scheme and to provide for related matters'.[14]

Another salient provision in the Ghanaian Pension Act 2014 is the allocation of a social security number. Section 61 of the Ghanaian National Pension Act, 2008 provides that a worker, to whom the Act is applicable, shall be allocated a social security number. However, subsection 2 of the said section quickly qualifies that the social security number shall be used primarily for the working life of the worker, and for the purpose of the application of the Act. The idea of a social security number, in other climes, is a number that is allocated to the citizen of a particular country from the time of his/her birth, and simply by virtue of being a citizen of such a country. Though called a social security number, the Ghanaian identification number that is allocated a worker upon signing up to an applicable tier of a pension scheme is not different, pronto, from the Retirement Savings Account (RSA) number that is allocated in Nigeria to a worker that subscribes unto the contributory pension scheme. This number is not so much a social security number as it is a retirement savings account number. Worthy of note is the fact that while both Nigeria and Ghana operate the contributory pension scheme, Ghana operates a three-tier pension scheme. Thus, S. 1 of the Ghanaian National Pension Act, 2008 provides:

1. There is established by this Act, a contributory three-tier pension scheme consisting of:
   a. A mandatory basic national social security scheme;
   b. A mandatory fully funded and privately managed occupational pension scheme; and
   c. A voluntary fully funded and privately managed provident fund and personal pension scheme.[15]

Mention must also be made of the fact that, while it is 18.5% of an employee's basic salary that is contributorily saved for his or her pensions upon retirement in Ghana, the situation is different in Nigeria. In Nigeria, it is 18% that is contributorily saved as employee's pension upon retirement. Again, the burden of contribution for the workers' pension is heavier on the employer in the Republic of Ghana than the employee. While the employer contributes 13.5% the employee contributes 5% of the employee basics salary, to the latter's retirement savings account. However, S. 4 of the Nigerian Pension Reform Act 2014 makes elaborate provisions on the nature of the contributary pension scheme. It provides thus:

> 4(1) The contribution for any employee to which this Act applies shall be made in the following rates relating to his monthly emolument.
> a. A minimum of 10% by the employer, and
> b. A minimum of 8% by the employee
> (2) The rate of contribution mentioned in subsection (1) of this section may upon agreement between any employer and employee be revised upwards, from time to time, and the commission shall be notified of such revision.
> (3) Any employee to whom this Act applies may, in addition to the total contributions being made by him and his employer, make voluntary contributions to his retirement savings account.
> (4) Notwithstanding any of the provisions of this Act, an employer may agree-
> a. On the payment of additional benefits to the employee upon retirement; or
> b. Elect to bear the full responsibility of the scheme, provided that in such a case, the employer's contribution shall not be less than 20 percent of the monthly emolument of the employee.
> (5) In addition to the rates specified in subsection (1) of this section, every employer shall maintain a Group Life Insurance Policy in favour of each employee for a minimum of three times annual total emoluments of the employee and premium shall be paid not later than the date of commencement of the cover.
> (6) Where the employer failed, refused or omitted to make payment as at when due, the employer shall make arrangement to effect the payment of claims arising from the death of any staff in its employment during such period.
> (7) Subject to such guidelines as may be issued, from time to time by the Commission, the categories of persons covered under section 2(3) of this Act or persons exempted under section 5 of this Act shall be entitled to make voluntary contributions under the scheme.

Section 4(1) shows clearly that though the employer's contribution being 10% is more than that of the employee being 8% in Nigeria, but when juxtaposed with the Ghanaian pension regime, the Ghanaian employer contributes more than the Nigerian employer for the employee's pension.

[13] See the explanatory memorandum of the Pension Reform Act 2014.
[14] See the explanatory memorandum of the Ghanaian National Pension Amendment Act, 2014.
[15] S. 1 of the Ghanaian Pension Act, 2008.

6. Conclusion and Recommendations

Pension management and administration is a very intricate and complex programme. This is not surprising as it has to do with old age income which is closely linked with the existence and survival of senior citizens. We have looked at the pension culture in two jurisdictions: Nigeria and Ghana. While there are significant areas of convergence and similarity between the two jurisdictions, there are areas of substantial divergence. The categorization of tiers of pension schemes is absent in the Nigerian pension culture, yet it is a prominent and distinguishing aspect of the pension system in Ghana. Though the Ghanaian model has its advantages, it could also lead to bureaucratic burdensomeness and clumsiness. Prior to the operation of the provisions of the Pension Reform Act, 2004, payment of gratuity was a prominent aspect of the pension arrangement in Nigeria. The PRA, 2004 made the payment of gratuity voluntary to employers. Gratuity cannot be contributory (otherwise it will defeat the essence of gratuitous payment), it can only be paid by the employer, in appreciation for meritorious service to the nation, company, firm, corporation, partnership, etc. The PRA, 2014 which repealed the 2004 Act still retains the voluntary payment of gratuity. Though this research did not consider the payment of gratuity in the private sector, there is no known ministry, department, agency or parastatal in the Nigerian public sector that pays gratuity to its employees upon retirement. Consequently, technically, payment of gratuity, though made optional in Nigeria, could be said to have been abolished.

The arrangement for voluntary payment of gratuity in Nigeria as provided in the PRA, 2014 is considered herein to be insensitive. In the first instance, some scholars have tended to suppose that the payment of gratuity, and contributory pension system are mutually exclusive. This is not correct, as payment of gratuity and the CPS can run pari passu. It is understandable to appreciate the fact that any social security scheme must be in tandem with the prevailing and idiosyncratic circumstances of the country. The relevant questions to be asked in this paper are:

a. Is it proper to pay gratuity?
b. Is it sustainable to pay gratuity in Nigeria?
c. Is payment of gratuity obtainable anywhere else?

It is the position herein that payment of gratuity is proper. Gratuity is the lump sum money that is paid to an employee upon retirement. It is a kind of appreciation for meritorious service that an employee has rendered, unblemished, to an employer. Derived from the term 'gracias' or 'gratitude', gratuity is the money paid to the retired employee in a manner of saying thank you for good service to the employer. Show of gratitude is proper. As a matter of fact, many countries around the world show gratitude to their citizens for merely being their citizens. That is why they have social security network schemes like unemployment benefits, health insurance schemes, education schemes, etc. The appropriateness of payment of gratuity in Nigeria to retired employees should be adjudged from the perspectives of unblemished service, membership of the Nigerian community, and appreciation for meritorious duties. By way of addressing the issue of the sustainability of the payment of gratuity, it is important to pay attention to the human and natural resources that Nigeria is endowed with. The poverty indices that various organs have usually referred to are mainly occasioned by the greed and corruption of Nigerian leaders. Therefore, rather than 'abolish' the payment of gratuity in Nigeria in order to solve the problem of funding the CPS, governmental policies and measures should be put in place to 'abolish' greed and corruption. Payment of gratuity, given the enormity of resources in Nigeria, is sustainable. The last poser has to do with what is obtainable in other climes. Our research shows that both in Africa and other parts of the world, payment of gratuity is still being made in other countries. Pakistan, Mauritius, Malaysia, India, Egypt, Morocco, Qatar, Oman, Saudi Arabia, United Arabs Emirate, among other countries have sustained payment of gratuity to their retired employees. Though Ghana has similar legal provisions on payment of gratuity to Nigeria, it is the contention here that the technical abolition of payment of gratuity in Nigeria is not justifiable.]

The apparent discrimination between the anticipated residual number of years to live after retirement, for male and female (15 and 20 years respectively) in the Nigerian pension law will need periodic review. In fact, if the discriminatory retirement ages for the different workers in different careers are put into consideration, the more reason why a review of the Nigerian law is of imperative necessity. The legislations on retirement ages obviously took career considerations more seriously than old age considerations. The National Pension Commission (PenCom) is the regulatory body saddled with the responsibility, *inter-alia*, to supervise the operations of the Pension Fund Administrators (PFAs) and Pension Fund Custodians (PFCs), and to ensure the overall implementation of the provisions of the Pension Reform Act 2014. Unfortunately, a vital provision of the Pension Reform Act 2014 which provides for the pensionability of employees who work in an organization with up to 15 staff is observed more in default than in compliance. There is the need for PenCom to wake up and be alive to its responsibilities, especially as it appertains to pensionablity of employees in an organisation with up to 15 staff. S. 4(4)(a) of the Pension Reform Act 2014 cleverly technically abolishes the gratuity components of old age income. This is so because the said section makes it optional for any employer who deems it fit to confer any additional benefit(s) to an employee who retires to do so. The non-mandatoriness of payment of gratuity to an employee who retires is a seeming show of ingratitude to senior citizens' meritorious service to fatherland. Again, it is necessary for the Nigerian employer to increase its share of the contribution in the contributory pension scheme. This is seen to be imperative because of the meagerness of what the Nigerian pensioner takes home as monthly pension upon retirement. Furthermore, the Ghanaian example, where the employer contributes 13.5% to the employee's RSA comes in as a ready example.