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Industrial Training Fund Act

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Abstract. The Industrial Training Fund was established in 1971 by the Federal Government of Nigeria under the supervision of the Federal Ministry of Industry Trade and Investment. The purpose of the Industrial Training Fund is to promote and encourage the indigenous trained personnel. The existence of this parastatal was later reviewed and a low was enacted by the National Assembly to be referred as an Act to be called the "Industrial Training Fund Act of 2004" and 2011 the Industrial Training Fund (Amendment) Act (ITFAM) amended the ITFA, further amplifying its implementation. In the foregoing, the promulgation of this Industrial Training fund is to regulate as an Act to promote the needed skills and manpower development. The ITF Act is also mandated to carter for Students Industrial Work Experience Scheme (SIWES) and other needed manpower development to boost the economy of Nation – Nigeria. However, in all these, the ITFA lacks implementation. Whilst it has been argued that the ITFAM rather drives the ITFA away from its sole objective, the more pertinent question is: does Nigeria actually still needs the ITF? This article will attempt to show that the ITF is an anachronism and a regulatory overhang, as its underlying objective could still be achieved without the institution. However, since employers with the more value-adding staff development plans will attract, motivate and retain the best talent, and consequently enjoy competitive market advantage, there is no need for any 'extraneous' regulatory interventions a la ITF in the business landscape. It is respectfully submitted that the ITF has outlived its usefulness and should therefore be scrapped, or at the very least be restructured to make the counter-arguments against its utility (as discussed above), less forceful. Government should focus more on creating the requisite enabling environment for exceptional operational performance by employers. This will in turn lead to increased tax contributions to the public fisc, for government spending accordingly, on determined priority areas

Key words: Industrial Training Fund Act, Employment, Industrialization, and Employee Empowerment

INTRODUCTION

The Industrial Training Fund Act, Cap.19 Laws of the Federation of Nigeria (LFN) 2004, (ITFA), originally enacted in 1971, established the Industrial Training Fund (ITF) to comprise sums provided by the Federal Government and contributions by employers with the sole objective of "promoting and encouraging the acquisition of skills in industry or commerce with a view to generating a pool of indigenously trained manpower sufficient to meet the needs of the economy" (Section 2 ITFA, as amended by section 3 ITFAM). In June 2011, the Industrial Training Fund (Amendment) Act (ITFAM) amended the ITFA, further amplifying its implementation (Afolabi, 2014).

Fortunately, the Federal Government of Nigeria is aware of the need to develop Technical Skills of her citizens in order to bridge existent Skill Gaps and Shortages. This is underscored by the declaration in its National Policy on Education that ‘Technical Education forms the basis of Nigeria’s Technological Development’. Thus, the government places emphasis on Technical Vocational Education and Training (TVET), establishment of Skills Training Centres and the need for Human Development Agencies (HDAs) to provide training to support the Education System. These efforts are in line with Ikem’s (2011) assertion that formal schooling should be complemented with higher and obviously more industrial training. Training by HDAs is highly necessary in view of the unimpressive output from the Nigerian Education System, where Technical Students graduate without acquiring requisite Technical Skills.

The foremost Human Development Agencies (HDAs) is the Industrial Training Fund (ITF) which was established by Decree No. 47 of 8th October in 1971, (now an Act of Parliament) with the aim of promoting and encouraging acquisition of Skills in Industry and Commerce to generate a pool of indigenous trained manpower sufficient to meet the needs of the Nigerian economy. Over the years, pursuant to fulfilling its statutory roles, the ITF has designed, developed and implemented various Training Programmes for the teeming workforce of the nation, some of which are technically inclined. It has also established Industrial Skills Training Centres where youth are trained in various technical areas. The Technical Skills Training Programmes (TSTP) are expected to bridge

Skill Gaps in technical areas and equip the citizens with skills to meet the expanding, challenging and changing demands occasioned by globalisation, scientific and technological developments. Unfortunately, despite the efforts of the Industrial Training Fund, reports from various sources indicate that there is still shortage of Technical Skilled Manpower in many sectors of the economy. Industrial Training Fund Report (2009) indicated that there exists Human Capital Shortfall in performances across different sectors of the economy in spite of increased training efforts. The National Board for Technical Education Report (2011) laments that the Nigerian economy has been suffering from acute shortage of Technical Personnel while the Manufacturers Association of Nigeria's Economic Review (R. NO. 28, 2006), in Ikem (2011) echoes the same fact and notes that the Manufacturing Sector has been facing serious scarcity of Skills and other Skilled Manpower challenges. Whilst it has been argued that the ITFAM rather drives the ITFA away from its sole objective, the more pertinent question is: does Nigeria actually still needs the ITF? This article will attempt to show that the ITF is an anachronism and a regulatory overhang, as its underlying objective could still be achieved without the institution.

Overview of the ITF Regulatory Regime

The ITF regime mandates employers meeting prescribed thresholds (of turnover and employee numbers) to contribute one percent (1%) of their annual payroll cost to the ITF, not later than 1st April of the following year (Section 6(1) ITFA and 6 ITFAM; and Sections 16 ITF and ITFAM). One of the contribution of the ITF Act includes "underpayment and any interest or penalty payable or for late payment, as the case maybe" (section 14 ITFAM); whilst penalty for none or late payment is 5% monthly interest on the unpaid amount(s). Two key requirements merit special mention: training prescriptions and refund of contribution (Gabriel 2020).

A. Training

All employers are mandated to comply with set guidelines for systematic and effective training of their employees (Section 8 ITFAM). They include, having:

a. Training Policy (TP): The TP which represents the commitment of top management to staff training and development, should also specify various types of training including orientation and induction of new employers. A written TP approved by the management should be made known to the employees either by means of induction courses, hand-outs, manuals and bulletins and submitted to the Fund at the beginning of each year.

b. Training Plan: An Annual Training Plan (ATP) should be submitted to ITF and approved before the beginning of the training year. In the event of any change in the approved ATP, such amendments must be communicated to ITF not later than one month after such amendments or changes. Adhoc trainings must be communicated two or four weeks prior for local and foreign trainings respectively (Friday 2018).

c. Training Records: Employers are expected to keep and update all necessary records relevant to the training.

B. Obtaining Refunds from the ITF

Every employer is entitled to up to 50% refund of their contributions based on their approved ATP by the ITF, upon the ITF being satisfied that the employer's training is adequate and meets the ITF's onerous reimbursement criteria (Federal Republic of Nigeria, 2010; Friday 2018).[7] Furthermore, the ITF shall notify the Federal Board of Inland Revenue (FIRS) of any refund made to employers.

Does Nigeria Still Needs the ITF?

It goes without saying that human capital is critical to national development, and this truism is real across all geographies. However, whilst the objective behind the ITF is a noble one, but can be achieved even more efficiently without the ITF for the following reasons:

i) The ITF represents an 'unnecessary' incentive: Employers - as often reflected by their long term business strategy - already have sufficient motivation to develop their staff. They realise - without the ITF - that people is their most important factor of production, and that the employer's long term sustainable future (anchored on growth, profitability and competitiveness), cannot be achieved without people. Therefore, they will take a disciplined approach to human capital development because it makes unassailable business sense to do so: develop/train your personnel or be left behind and risk extinction. Often, the bigger and more structured the business, the more they tend to institutionalise training as a key part of their human capital cum business strategy;

ii) ITF contribution is an unnecessary addition to the list of taxes in Nigeria: The ITF contribution swells the numbers of payments to government by Nigerian businesses. In a sense, it smacks of double taxation because the typical employer would have already or will incur employee training costs, whilst still being required to contribute 1% of their annual payroll costs to government. Whilst it may be argued that the prospect of 50% refund enables employers claw back some of their ITF contributions, the considerable administrative energy and resources required to achieve could more often than not have been better focused on the employer's core business. Apparently, the foregoing contributes its quota to inhibiting Nigeria's investment attractiveness. In other words, Nigerian tax system would be much simpler without the ITF (Ikem, 2011). Similarly Nigeria's unimpressive ranking in the annual global tax comparative study, Paying Taxes will likely be better without ITF (Industrial Training Fund, 2009).

iii) ITFA's requirements detract from reform efforts to improve ease of doing business: The same point applies to the other global study, Doing Business. As highlighted above, the ITF compliance requirements could be significant, both to small and big businesses. The latter would have more people to cover in their reports to the ITF whilst the former, even if they have few employees, may be burdened with ITF compliance at the expense of existential business issues. Alternatively, a small size employer is likely to take a pragmatic view and prioritise existential business issues, than ITF compliance. The recently signed Finance Act 2019 has eased tax burden on small and medium enterprises (SMEs), for example by prescribing exemption or preferential tax rates (Jason, 2000). However, the ITFAM sought to bring smaller employers (having at least 5 employees) into the ITF compliance net: it imposed compliance obligations on small time employers that in other climes, ought to be beneficiary of government grants. Whilst 'coverage creep' to smaller businesses would be less objectionable in the case of pensions, section 2(2)(3) Pension Reform Act 2014 raised the compulsory pension compliance threshold from employers having five (5) employees to employers with fifteen (15) employees. Meanwhile because of the ostensible benefits, subsidiary legislation allowed voluntary participation by employees of employers having three (3) employees (Manufacturing Association of Nigeria, 2006).

iv) The ITF is more of a clog in the wheel and unsuited regulator of specialist training: It is preposterous that in these days and age, employers would be required to provide prior notifications of training programmes to ITF before they could qualify for refunds or the quantum of refunds that ITF would grant to them. It is foreseeable that business exigencies may necessitate sending staff for training at short notice, including sometimes when the employer becomes aware of a training programme, close to the deadline. It is also a notorious fact that the wheels of public sector service delivery moves slowly in Nigeria. If as contemplated by ITFAM, all employers having at least 5 employees in Nigeria were to be ITF compliant, will the ITF be able to discharge its regulatory functions effectively in such scenario? Even if it were to leverage technology like the FIRS does, it would probably need to massively increase its personnel numbers - to solve an arguably unnecessary problem. Finally, given the specialised knowledge, cutting edge expertise and fast moving (obsolescence) trends in many sectors, what capacity does ITF have to evaluate the adequacy or otherwise, of their training programmes? In the circumstances, the ITF as regulator is most probably lagging behind its regulated entities, especially in specialist sectors (Manufacturing Association of Nigeria, 2006).

v) ITF presumes that on the job training is not a significant contributor to human capital development: The requirements for claiming refund of employers' contribution from the ITF does not give the necessary recognition to on the job training. Rather it emphasises formal, almost classroom type (offsite and onsite) training, by stipulating evidence of training and receipts etc as part of documentation requirements. Meanwhile, on the job training vide observance and practice can be most effective modes of training in some sectors. ITF's one size fits all's prescriptions in this regard are therefore unrealistic;

vi) 'Lean' government considerations: Globally, lean government focused on creating a business friendly environment towards their optimal contribution to the economy is becoming the more popular regulatory model. In recent history, the Federal (FG) Government has at one time sought to streamline its ministries, departments and agencies (MDAs). Maybe the functions of the ITF could be performed by agencies such as the National Directorate of Employment (NDE)? Can ITF not be rationalised/merged with agencies under the Ministry of Labour and Productivity, such as NDE and/or the Small and Medium Enterprise Development Agency of Nigeria (SMEDAN)?;

vii) Government should focus on developing public sector workers: It creates a moral burden for government that has not made an excellent showing in the training of its own public sector workers to seek to regulate the training of private sector workers. If the FG were to focus on human capital development in the public sector, it would have set a great example for private sector players (who by the way, have enough business rationale to develop their staff), to follow;

viii) Government can fund ITF's interventions from corporate and other tax sources: Doubtless, the government may want to continue ITF's interventions like the Students Industrial Work Experience Scheme (SIWES) in line with its Social Investment Programme (SIP). However, it can be done by budgetary allocations, which always reflects government's priorities. Instructively, no employer is directly mandated to fund the FG's SIP initiatives like N-Power, social transfers and school meals - these are funded from the budget. It is also trite that businesses that are not overly burdened with regulation are likely to be more profitable and therefore pay more taxes from which government would fund its budgets;

ix) Many employers are already helping with human capital development beyond their organisations: Most of the major employers already fund student' scholarship and bursary programmes, 'adopt' some public schools/provide other episodic significant assistance, undertake or sponsor apprenticeship schemes, offer internship and National Youth Service Corps (NYSC) members work experience amongst other corporate social responsibility (CSR) initiatives that they do not benefit from directly. Some of their staff that they invest heavily in their training and development leave to work for other employers (including sometimes the public sector), or to start their own ventures. All these are examples of laudable contributions by employers. Not the least is that all corporate employers also pay 2% of their assessable tax to the coffers of the Tertiary Education Trust Fund, via the FIRS (Federal Republic of Nigeria, 2010). Rather than granting tax deductibility for ITF contributions, would it not be more efficient to scrap same or at least totally exempt employers from contributing if they can show in previous year that fully trained their employees?;

x) Refund is an acknowledgement that ITF contributions is unnecessary/inefficient: In 2017, NSITF reimbursed N6.4 billion to 430 companies (Industrial Training Fund, 2009). As mentioned earlier, given the strong imperatives for employers to develop their staff, provision for refund in the ITFA smacks of buyer's remorse - that the contributions should not have been mandated in the first place;

xi) Nigeria has liberalised its investment environment: Further reinforcing the thesis that the ITF is an anachronism is the fact that Nigeria has been liberalising its investment environment since the mid-1980s. The time of "command and control", paternalistic thinking driven economy, typified by strict foreign exchange controls, restriction or curtailing of foreign investments into certain sectors, excessive regulatory burden, etc is gone. ITF is part of that obsolete architecture and ought to be either removed or at least revamped, given our current investment promotion stance.

xii) ITFA/ITFAM may be unconstitutional: Whilst conceding this may be quite a stretch, ITF contributions is arguably oppressive, expropriatory and therefore unconstitutional as it entails government forcefully taking money from employers' whether or not they train their staff (National Board for Technical Education, 2011). Aggrieved employers may have a credible narrative in challenging the legislation as unconstitutional for being oppressive, and not an acceptable exception to justifiable government expropriatory action. Apart from the fact that government's locus standi to complain about the adequacy of employers training of their own employees may be suspect, the courts may not be persuaded that mandatory employer contributions to the IFT is the best solution in the circumstances (Jason, 2000).

Conclusion

Viewed against government's recognition of the need to promote a free market economy as a fulcrum for accelerating Nigeria's development - where growth and expansion would largely be driven by innovation and competition - the ITF idea has become outdated. Today's global reality is that private sector capacity development initiatives, rather than public sector led variants, are more optimal and impactful and should therefore be promoted. Since employers with the more value-adding staff development plans will attract, motivate and retain the best talent, and consequently enjoy competitive market advantage, there is no need for any 'extraneous' regulatory interventions a la ITF in the business landscape.

It is unreasonable to posit that absent of the ITF, employers are not incentivized enough to adequately train their staff, when they know the impact of training on their brand equity. They also want to entrench their market positions hence they institute policies and desire awards that acknowledge them as employers of choice. Again, considering a wide array of alternative policy instruments available to government, the case against ITF contributions has become more compelling.

Recommendations

It is respectfully submitted that the ITF has outlived its usefulness and should therefore be scrapped, or at the very least be restructured to make the counter-arguments against its utility (as discussed above), less forceful. Government should focus more on creating the requisite enabling environment for exceptional operational performance by employers. This will in turn lead to increased tax contributions to the public fisc, for government spending accordingly, on determined priority areas.

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