

Nurturing a Positively Sensitive and Inclusive Society: A Human Rights Framework for the Protection of Older Persons in Nigeria

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Abstract: Globally, the population of ageing persons is increasing. It is estimated that there are over 962 million people over the age of 60 in the world who make up 13 per cent of the world global population. Domestically, the number and proportion of those aged 65 years and above make up an approximated 140, 431,70 million which is an approximated 4.3 per cent of the total population in Nigeria. The human right of older people is, however, yet to receive adequate human rights attention, despite the significance of this population. Many older people suffer human rights violations ranging from discrimination, social and political exclusion, poverty, neglect, isolation and undignifying abuse. This is worse for the poorer ones who are forced to live in deplorable accommodation and environments, especially in rural areas or urban ghettos and slums. The government is yet to develop suitable policies, laws and socio-economic and welfare programs that will effectively cater for the human rights interests of the elderly people and the society is not sensitive to their plight. This study examines the human rights-related problems and challenges of older persons and calls for a specific human rights approach to elderly well-being in Nigeria. The study highlights some of the ways which the Nigeria Government can develop lasting and beneficial economic and socio-welfare policies and programmes for older people. It further recommends a human rights-based framework that will meet the economic, health, social, psychological and mental wellbeing, needs and other challenges of aged people.

Keywords: Human Right, older persons, human welfare.

I. INTRODUCTION

Growing old is a beautiful privilege of life. Old age, also known as 'senescence', 'elderly', or 'aged' is the last or final part of the normal life span of human beings (Encyclopaedia Britannica). While some dread the natural process of ageing by seeking out medical procedures and cosmetic solutions to halt or slow down the physical effect of ageing, this natural stage in life is worthy of celebration and reverence. In many parts of the world, old age is associated with wisdom and experience. With old age comes a wealth of life experiences; people have learned how to navigate the intricacies of life, to deal with social conflicts, to traverse through the different phases and stages of life. In some traditional African societies, old age is a coveted status that influences social roles and interaction (Eboiyehi, 2015; Lumun, 2013). In some communities in Nigeria, gerontocracy- a social structure where power is held by the oldest members of society- remains tenacious (Okoduwa,

2006). In Esanland of Edo State, for example, the oldest persons in the various communities are highly honoured as the 'Odionwele' at the village level. Such respected elders are tasked with being custodians of custom, norms and values of the people, as well as exercising control as a cohesive force. They even determine disputes in their villages and communities at times. They are considered as being next to the ancestors and enjoy social grace as the first choice in all matters (Okoduwa I A. 2006). Same is true for some Igbo traditional settings that accord much honour to old age, in a way that inspires the younger generations to look forward to that stage of life (Echeta & Ezech, 2017). While in other Nigerian societies, older persons are seen as feeble and often segregated from active participation in the social life of society (Araromi, 2007; Mudiare, 2013). Some are subjected to physical, psychological/emotional abuse, violence and neglect by family members, dependents and care-givers (Mudiare, 2013). A study of elderly persons in rural communities of North Central Nigeria revealed that 49.1 per cent of the older population fared poorly in four measures of well-being: physical, social, psychological and environmental (Adebowale, et al, 2012). There is also a noticeable lack of government intervention and institutional framework and arrangement to cater for the aged in Nigeria (Echeta & Ezech, 2017; Ajomale, 2007). In the same vein, the awareness of the plight of older persons is low (Ajomale, 2007). Consequently, there is a need to draw the attention of society and the government to the vulnerabilities and challenges of older persons, towards creating and sustaining human rights-oriented policies and programs that will assist the aged members of society and prevent their abuse.

The underlying rationale for this study is to recommend a human rights-based framework that will protect and promote the civil, political, economic, social and cultural rights of older persons in Nigeria. This article starts by examining the various human rights issues and trends confronting the ageing population in Nigeria. It stresses that older persons face diverse challenges that should be viewed through a human rights prism. These challenges require strategic approaches at the national and indeed, the global level. The second part considers the rights of the old people by examining the national and international policy effort to address the human rights needs of older persons. The third part makes a case for a

law that will cater for Nigeria's rapidly ageing population against discrimination, poverty, loss, social violation, destitution, illnesses/disease, abuse, neglect and the vicissitude of life. It is argued that human rights can influence the way that the government and indeed everyone else promotes, consider, protect and fulfil the rights of senior citizens in the country. Consequently, the study recommends a human rights-based framework that will protect the civil, political, economic, social and cultural rights of older persons in Nigeria. The study also suggests that governments at all levels should develop lasting and beneficial economic and welfare programmes, social security and policies for the senior citizens of the country.

By making links between the challenges of the elderly and their human rights, it is the hope that this article will inform discussions on how to achieve progressively, the realization of the human rights of the elderly in Nigeria.

II. AGEING IN NIGERIA

Growing old is a lifelong process which 'entails maturation, change on physical, psychological and social levels' (Riley, 1978). Older people — are generally defined according to a range of characteristics including chronological age, change in social role and changes in functional abilities. There is currently no universally agreed cutoff for old age, but 60+ years is commonly accepted regarding to the older people (WHO; Animasahun & Chapman 2017). According to the World Health Organization (WHO), most countries have accepted the age of 65 and above as the definition of old age or elderly (WHO). Similarly, there is no official classification of old age in Nigeria, however, old age is frequently defined as 60 or 65, sometimes according to the eligible age of retirement (Ayodeji, 2015). The older adult population are further categorised into three life stages subgroup: the young-old (60 or 65-75), the middle-old (75-85) and the old-old (80 and above) (Little, W. & McGivern).

The number of older people aged 60 years and above has witnessed an increase in many parts of the world (UN, 2015a). It is said that 1 out of every 10 people on the planet is 60 years of age or older (Mertus & Flowers, 2015). According to the United Nations Department of Economic and Social Affairs, the total number of people belonging to the age group of 60 years and above in the world is projected to grow by 56 percent, from 901 million to 1.4 billion by the year 2025 (UN, 2015a). It is also estimated that the global population of older persons will double the size and increase to nearly 2.1 billion by the year 2050 (UN, 2015a). If the current trend of increased birth rates and lower death rates continues, by the year 2030, 1 out of 6 people will be aged 60 years or older and by 2150, 1 out of every 2 people will be aged 60 years or older (United Nations; Eidt, 2018). As women tend to live longer than men, they are a majority of older persons (UN, 2015a). The exponential statistics of these group of persons and the human right interests of this rising population cannot be ignored. The fast-growing number of older individuals can be linked to

better nutrition, sanitation, healthcare, education, good socio-economic policies and welfare programs (Lunenfeld & Stratton, 2013; Atumah & Ekele, 2019).

In Nigeria, recent reports have shown that the country ranked high among countries with the most proportion of older individuals in Africa (UN, 2015a). As of 2015, 4.5 percent of the population was 60 years and above and this estimate will likely increase to about 6.3 per cent by 2050 (UN, 2015a). Indisputably, Nigeria is one of the most populous countries in Africa, and it is no surprise that the country has one of the most significant populations of elderly persons in Sub-Saharan Africa (Atumah & Ekele, 2019; Mudiare, 2013). Demographic results as of 1 January 2020 indicate that the number of older individuals has increased to about 6,402,240 persons above 64 years old (3,093,424 males / 3,306,764 females) (Country Meter 2018). Life expectancy at birth for Nigeria is estimated at 47.6 years and the age dependency ratio is put at 5.6% (Country Meter 2018). Without doubt, therefore, aged persons in Nigeria need special attention towards ensuring that their rights, welfare and wellbeing are protected and guaranteed. The steady growth of the older population demands a change in the structure of the country towards addressing and ensuring that the rights of the aged are respected, protected and fulfilled.

III. MAPPING OUT THE ISSUES IN NIGERIA: CHALLENGES FACING THE ELDERLY

In Nigeria, the life expectancy has gone up to over 70 years today. The country is, however, poorly ranked for the quality livelihood of the aged. The Global Age Watch which measures and ranks countries according to the wellbeing and welfare of their older populations ranked Nigeria low, at 86 overall (HelpAge International, 2015). Literature also suggests that a majority live in rural areas; about 40% live at or below the poverty line and 60% of women 65 years and above are widows (Eboiyehi, 2013; Ebingbo, et al. 2017). Each person experiences age-related changes based on many factors, as such, older persons are not a homogenous group that can be subject to the same experience. The experiences of aged persons, even if they are the same age, differs between men and women and from one society to another. Nevertheless, older persons often share the same or similar experience of being stereotyped, abused-emotionally, financially and socially-discriminated and suffer social/political exclusion (Human Rights Watch).

The challenges faced by older persons are classified into four broad categories for analytical convenience.

3.1 Personal Level

This is the challenge that pertains to their personal lives and the struggles they encounter.

I. Isolation and Abandonment

At the personal level, older persons may experience isolation, loneliness, self-neglect and solitude (Abanyam, 2013;

Oluwagbemiga, 2019). This is more so for the illiterate ones, as the majority of uneducated people are more susceptible to the risk of social isolation and low level of societal participation (Atumah & Ekele, 2019). Isolation further exposes vulnerable older women to marginalization, discrimination, sexual abuse and violence (Mudiare, 2013).

In Nigeria, changes in family structure have altered the level of care and attention placed on the elderly (Eboiyehi, 2015). As people age, they crave more familial relationships, however, the increasing change in family structure from an extended family setting living in proximity to nuclear family structures of parents and young children may mean that older persons are forced to isolate from their younger generations. Care of older relatives is a value which was culturally rooted and highly respected (Eboiyehi, 2015). However, there is an observable progressive shift in function away from the traditional family, due to unemployment and economic problems, increasing number of females seeking employment to supplement the family income, urban migration influence by foreign culture, all contributing to the noticeable decline level of care-giving offered to older persons (Evbuoma, 2012). While people who are ageing prefer to live in the same familiar environment and locale, the quest by their younger relatives or children for a better life and adventure either entails that the older people are forced to move with them to unfamiliar territories or remain alone in their familiar neighbourhood. The increasing demands of work, social life and immediate family may also mean that less attention is given to the elderly even where they live within proximity. This decline in traditional social structure and economic situation of families has also led to an increase in the abuse, neglect, abandonment and isolation of the elderly (Mudiare, 2013). Sometimes, this is worse for older women, than men, who are at greater risk of being excluded from engaging in some social, civic and cultural activities and political affairs (Atumah & Ekele, 2019; Knaele, 2012).

II. Ageism, Prejudice and Stigmatization

Another significant challenge is stereotypes, ageism, prejudice and the stigmatization of old aged people- the negative perception of elderly people as physically and mentally unfit (Dionigi, 2015; United Nations, HelpAge International & AARP). Aged persons many face prejudice and unfair assumptions about their mental capacity and intellectual alertness (United Nations, HelpAge International & AARP). Moreover, old age aggravates stereotypes- gender, race, ethnicity, disability, religion and other existing disadvantages that individuals have had to struggle with throughout their lives (United Nations, HelpAge International & AARP). The WHO has made the observation that social isolation, neglect, and perception of the old, especially women, as weak, feeble and frail, inferior relegation of aged persons and erosion of intergenerational bond adds to their risk of abuse (WHO, 2018; WHO, 2002). This is more so, for women who are faced with discriminations and bias that are mainly rooted in culture and traditions (Togonu-Bickersteth, 2019). Due in part to

cultural misconceptions, superstitious belief and lack of understanding about old age-related illnesses such as dementia, depression, and Parkinson's disease, older individuals can also be the victims of stereotypes and face ridicule. These attitudes, discriminations and biases generally relegate them to inferior positions, makes them feel powerless, and most importantly, it violates their rights to human dignity. It has been observed that elderly women are more susceptible to being labelled witches, resulting in their neglect, beating, ostracization, banishment their communities and sometimes death (Eboiyehi, 2013; Mudiare, 2013). In 2015, for example, thirteen elderly persons were picked up from the street after being thrown out by their respective families for being 'witches' in Calabar (Okoroafor, 2015). In February 2020, a lady was seen flogging her elderly mother after her pastor accused the mother of being a witch (Azotani, 2020). The viral video attracted condemnation and brought to fore, one of the many challenges of older persons.

III. Poverty

Poverty, particularly in rural areas, is one of the most pressing problems affecting older persons in Nigeria (Atumah & Ekele, 2019). Because the elderly typically no longer work and their productivity slows down with age, they may suffer financial hardship and poverty, especially where the social welfare system does not adequately offer a form of social security to aid them (Gureje, 2008). Closely associated with their poor state is homelessness, malnutrition, lack of clean environment and sanitation (Akpomuvie, 2010). The lack of finance would also mean that they are unable to attend to chronic diseases and illnesses, seek treatments and purchase medicines to treat and maintain their health (Akpomuvie, 2010). In some rural settings, despite their poor state, they are often the main providers for the households, especially where they are the primary care-givers for grandchildren and other dependent relatives. The rights set of policies can equip older persons to address their challenges in time.

IV. Adjustment to Retirement

As people grow older, their sensory and perceptual abilities, physical flexibilities, muscular strengths and mental capacity tends to slow down with age, which makes them unsuited for certain activities (Encyclopaedia Britannica). It is for this reason that retirement is a part of ageing. The loss of work and career identity can stir up emotions as senior citizens adjust to new changes in life, especially where they have no meaningful alternatives to engage with. Proper financial planning and retirement savings, social welfare support, adequate pension, mental and physical preparations can help one adapt better to post-retirement (Ibeme, 2014). However, there is no concrete social security/assistance in Nigeria to support and secure the elderly against poverty and destitute (Ibeme, 2014). Even where the government has developed policy such as the Contributory Pension Scheme (insurance), it does not sufficiently cover many older persons and is mainly designed for those who work(ed) in the formal sector

(Oyerogba, et al, 2013). Thus the pension scheme is hardly adequate as it covers an insignificant section of the labour force in the country (Araromi, 2015). Moreso, it is yet to make an appreciable impact on the lives of older people. Invariably, many of the poor senior citizens, majority of the women, who have worked in the informal sector are left with no savings or access to a pension to fall back on in their old age (HelpAge International, 2008; Araromi, 2015).

3.2 Interpersonal Level

At the interpersonal level, older persons may face maltreatment or abuse including financial exploitation, physical, sexual, emotional and psychological abuse, and neglect, etc., with serious consequences (Yon Y, et al, 2018; WHO, 2018; WHO, 2002).

1. Abuse and Maltreatment

According to the WHO, elderly abuse is a 'single or repeated act or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.' (WHO, 2018). In other words, is either an intentional or unintentional act or omission which results in the harassment, threat, control cruel and violent treatment of the elderly, or any behaviour that is designed to threaten, intimidate or injure them (WHO, 2002; WHO, 2018). In Nigeria, the poor, uneducated and socially disadvantaged, especially women, are the most vulnerable and often on the receiving end (Ajomale, 2007). They denied their rights, deprived of respect and stripped of their dignities while being subjected to all kinds of inhuman and degrading treatments (Ajomale, 2007).

Abuse can manifest in several forms. Physical abuse includes the direct infliction of violence, injury, pain, physical coercion or restrains of the elderly person (WHO, 2002; WHO, 2018). Psychological and emotional abuse are characterized by any kind of verbal aggression, criticism, humiliation, intimidation, manipulation, bullying, harassment or infliction of mental anguish (WHO, 2002). This form of abuse may result in emotional trauma, post-traumatic stress disorder and anxiety (WHO, 2002). Financial and material abuse occurs in the form of deprivation, illegal or unauthorized use of the older person's property, pension, money or other valuables, manipulation of wills and funds (WHO, 2002). Sexual abuse is by way of unwanted, manipulated or forced sexual activity such as rape, sexual assault, molestation etc. (WHO, 2002). Neglect is where there is a failure to provide the necessary and adequate care giving obligation to the aged (WHO, 2002). All these forms of abuse subjects the vulnerable older persons to undue suffering, injury, unnecessary pain and trauma. It strips them of their dignity and is a gross violation of their human rights. This, in turn, could severely affect their health, and decrease their quality of life and even lifespan (WHO, 2002; Hudson, 1991).

As people grow older, they become frail, leading them to depend on others (Little & McGivern). This frailty means they

have to rely on others for basic care and support, even for everyday activities. This could also make them the subject of abuse and mistreatment particularly where they are financially dependent on others. The WHO has observed that their vulnerability is exacerbated by the physical and cognitive impairments associated with the ageing process, (WHO, 2002). This may also lessen their abilities to escape from or avoid abusive situations.

Maltreatment and abuse can be perpetrated by anybody; trusted caregivers, family members, friends, society, health professional's employees of care/residential homes and other institutions (Ajomale, 2007; WHO 2002; Mudiare, 2013). Many times, this abuse happens behind closed doors or unknown to other relatives and family members. In some cases, a family member saddled with the task of taking care of an elderly relative may simply lack the knowledge or time to fulfil the special needs and other requirements that are unique to senior citizens. Moving an elderly relative to a care home in Nigeria is considered an act of abandoning one's relative (Okoroafor, 2015). To avoid insuring this social disapproval, relatives would rather keep the aged at home or leave them in rural areas, rather than a residential care home that is specifically designed with nursing provisions and skilled to take care of the elderly. Moreover, private care homes, where they are available, are expensive, with little attention of the government directed to setting up and maintaining elderly care facilities to give them the specialist attention they deserve.

Other interpersonal challenges include workplace discrimination – older people may face prejudice when applying for jobs, seeking promotions, accessing training or maybe harassed in the workplace due to their advanced age.

3.3 Third: Institutional, Legislative and Policy Level

This is the challenge of policies, facilities, social/public welfare and the law.

1. Laws

The laws, rules, policies, procedures in Nigeria simply do not cater to the right and interests of the elderly. Due to the traditional concept of family harmony, the Nigerian government and political leaders believe that the provision of care is the responsibility of families and less policy consideration has been directed to catering for the rights, needs and welfare of older persons. For example, there is no specific law to prohibit, deter and punish elderly abuse, although the Constitution somewhat recognizes the welfare of older persons. Like children, elderly persons are among the most vulnerable of the population yet, the criminal statutes are yet to create offences specifically targeted against their mistreatment and abuse. Policy emphasis is more on the protection of young people, vulnerable women and children. For example, in addition to the general prohibition of sexual assault, the Criminal Laws in Nigeria create specific offences and punishment for the defilement of minors and sexual

assault of women. Section 341 of the Criminal Code further penalizes the abandonment of children under the age of seven. However, the laws are yet to expressly focus on older persons who also fall within the category of vulnerable persons. Older women may be the **victims** of section 55(1) (d) of the Penal Code¹ that permits a man to physically chastise his wife as long as there is no 'grievous hurt', as no exception is provided for the wives that are advanced in age.

Nevertheless, the criminal statutes make provisions that can be interpreted in the interests of older persons and prosecute any abuse and neglect. For example, section 300 of the Criminal Code provides that it is an offence for any person having the charge of another who is unable to provide for himself the necessities of life, because of age, sickness, unsoundness of mind, detention or any other cause, to withdraw himself from such charge. The law further adds that it is immaterial whether the charge is undertaken under a contract, or is imposed by law, or arises because of any act, whether lawful or unlawful, of the person who has such charge to provide for that other person the necessities of life. This law effectively means that anyone who assumes charge or care of an aged person is held to have caused any adverse consequence which affects the life or the health of the person. Likewise, a breach of the duty to provide the necessities of life by caregivers leads to an offence in section 339 of the Criminal Code. Similarly, section 305A (2) of the Code provides that anyone who maliciously and intentionally breaches a contract of service knowing fully well (or having reasonable cause to believe) that the action will endanger health or human life is guilty of an offence. What this portends is that contracted caregivers may be liable where they unlawfully and maliciously break their contracts in a manner that exposes the life and health of older persons to danger. This protection is reinforced by section 305 which provides that when a person undertakes to do any act, the omission of which is or may be dangerous to human life or health, it is his/her duty to do that act. The person is held to have caused any adverse consequences which result to the life or the health of any person by reason of any omission to perform that duty. Noticeably, however, the law does not expressly impose this duty on relatives of elderly people to undertake and effectively carry out this duty, it only makes it an offence for those who have assumed this duty. Notwithstanding, these provisions of the law can be relied upon for the prosecution of those who maltreat, neglect and abuse the elderly. The Violence Against Persons Prohibition Act 2015 is another law that protects against the physical and mental violation of older persons, although not specifically.

II. Lack of Social Security and Welfare

A noticeable area of concern is the dearth of a good social security and welfare policy that older people can rely on, like

¹ Section 55 provides that nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done: by a husband for the purpose of correcting his wife such husband and wife being subject to any native law or custom in which such correction is recognized as lawful.

in Europe and many developed countries (Atumah & Ekele, 2019; Araromi, 2015; Adebowale et al., 2012; Animasahun & Chapman, 2017). Despite the growing impetus for action, the welfare of the aged has received limited attention as a matter of priority (Atumah & Ekele, 2019; Mudiare, 2013; Eze, 2013). Even where the government has put in place some policies, they either have no good coverage or are not implemented (Araromi, 2015). A visible area is the pension system and retirement benefit for the elderly. The Pension Reform Act of 2004 (PRA) established the Contributory Pension Scheme to regulate and supervise pension matters in both the public and private sector (Oyerogba, et al, 2013; Mudiare, 2013). Sadly, the pension funds are unreachable to many beneficiary pensioners, partly due to issues of governance, corruption and embezzlement of funds, and delay in payment of retirement benefits (Mudiare, 2013). The lack of transparency and the weak, ineffective and cumbersome administration of the scheme has also marred the effectiveness (Oyerogba, et al, 2013). It is therefore not strange to find people manipulating their ages and retirement records to remain in service, even when they are no longer productive (Oyerogba, et al, 2013).

Furthermore, the lack of political will, indifference and conflicting priorities of successive government have contributed to the absence of national age policies and laws that will secure the human right and wellbeing of its ageing population (Echeta & Ezech, 2017; Mudiare, 2013). According to Mudiare, one of the key reasons for the structural neglect of Nigeria's ageing population by the government and policymakers is that the relevant authorities 'are not sufficiently sensitized to the scope, nature or seriousness of older people's problem nor to the broad economic and social development implications of leaving these problems unaddressed in the context of rapid population ageing' (Mudiare, 2013). Due to the low minimum wage, irregular pension system, poor economy and reliance of many on the informal sector of the economy, older persons are invariably subjected to economic hardship and poverty (Mudiare, 2013). This leaves them as a burden to society, their children and relatives. It is therefore not strange to find older persons in poor living standards and squalor.

III. Facilities and Care Institutions

Another issue is the lack of access to appropriate and adequate aged care facilities and health care services (Atumah & Ekele, 2019). As humans age, they undergo both intrinsic and extrinsic changes that affects their health. In many cases, older persons are prone to illness, chronic diseases that increase their morbidity (Animasahun & Chapman, 2017). They would, therefore require specialized healthcare and treatment. For instance, dementia and Alzheimer's is a severe decline in mental ability that commonly affect the elderly (WHO, 2019). Most patients would require the attention of specialist services and care at some point in their illnesses. As observed by Atumama, Ekele and other scholars, Nigeria cannot boast of adequate specialist healthcare professionals such as

geriatricians, geriatric nurses and gerontologist for its older citizens as can be found in many developed countries (Atumah & Ekele, 2019; Adebowale et al., 2012; Animasahun & Chapman, 2017). Few of the specialized healthcare facilities catering to the health care needs of the elderly are set up and managed by the private sector, which has a severe financial implication (Okoroafor, 2015). Thus, even where the healthcare system and services are available, there is the enduring problem of quality, access and affordability. There is also no regulation and monitoring of the services they offer.

3.4 Fourth: Cultural and Community Level

Older persons may be limited or lack the opportunities to participate in social, community or public life. Given the cultural and religious values of Nigeria, older persons used to enjoy a certain degree of respect and dignity in some traditional communities. However, modernization/, economic priorities and change in family dynamics have greatly altered the social status of elderly persons (Animasahun & Chapman, 2017, Lumun, 2013). It used to be that the life experiences, wisdom and knowledge were regarded as valuable and revered (Megret, 2010). Before the advent of western form of education, many Nigerian communities had an informal system of education that was passed committed and passed down from memory through generations (Adeyemi & Adeyinka, 2002). Older persons were regarded as a repository of traditional knowledge, folklore, tradition, this allowed them to remain productive members of the society and gave them a sense of importance. As society has become more technologically advanced and oriented, the reliance on older person's social contribution has changed as well as their social influence, status and standing. This, in turn, gives them a feeling of irrelevance and affects their self-worth. The changing mores and values of society towards the western moral norms and way of life further isolates them from interacting with the younger generations, especially since older persons are more resistant to change. The absence of meaningful activity invariably leads to disenchantment and social isolation.

Cultural values and traditions norms are also factors that impede on their human rights. As Olukayode writes, adverse widowhood practices and rituals where women are made to; drink disgusting water used to wash the corpse of their husbands, shave their hairs, wear black/white clothing for a long period, sleep on mats or floors, locked up and secluded, forced to stay for days without washing up, sleep in the same room with the corpse, among many others, are some of the culture/tradition based practices militating against women's rights (Olukayode, 2015). These in addition to native law and customs that prohibits a wife's inheritance of husband's properties or even allow wife inheritance, since she is considered a chattel of the husband, combine to weaken the will and bargaining power of elderly women (Animasahun & Chapman, 2017; Eboiyehi, 2013).

All of these issues affect the human rights of this vulnerable category of persons and results in their inability to freely exercise or enjoy their rights. A human rights approach can help to address the legal, social, cultural and structural barriers that older persons encounter in Nigeria. It can clarify the legal obligations of the government and relevant authorities to uphold, respect and protect these rights.

IV. THE FRAMEWORK FOR THE HUMAN RIGHTS PROTECTION OF OLDER PERSONS

The aforementioned challenges that old people face has far reaching implications for their human rights. Human rights are the indivisible, inalienable and inherent rights of all human beings, regardless of their age, sex, ethnicity, religious inclination, group, age or another status (Aduba, 2016). The rights are conceived as universal rights that everyone should enjoy equally across the world. They are formulated as the freedoms and entitlements of individuals and groups that also enjoy the recognition and protection of the law (Baer, et al. 2016; Fredvang & Biggs, 2012). All human rights are interrelated and interdependent in that the enjoyment of one right enhances the enrichment of others and the violation of one affects the others (Megret, 2010). These human rights are found in several international and national legal instruments.

While the guarantee, fulfilment and respect of all human rights are important for older persons, certain rights, entitlements and freedoms are particularly relevant to older people. They include; the right to life, an adequate standard of living including access to adequate, nutritious and quality food, clothing and housing. Others are; the highest possible standard of physical and mental health, work and fair working conditions for those still working, right to human security, human dignity, right to be safe and free from violence, cruel, inhuman or degrading treatment including neglect, and all forms of physical and psychological abuse. Other significant rights range from privacy and family life; right to own and inherit property; freedom from discrimination based on age or any other status, movement; access to adequate social security assistance and protection; and the right to liberty, redress and fair hearing, etc. The opportunity and freedom to make effective decisions concerning their well-being and to fully participate on the basis of equality in all spheres of society are also central to their human rights (Fredvang & Biggs, 2012).

4.1 The International Protection of the Rights of Older Persons

The guarantee of the germane human rights of the older person is beginning to garner concrete international attention, although this has not always been the case (Doron, et al, 2012). Human rights generally, including those of older people are contained in several human rights treaties and international instruments. While there is presently no specific formal draft treaty or Convention for older persons that have been agreed upon by the United Nation's (UN) General Assembly, the general rights of older people are contained in several international instruments (Doron, et al, 2012). These

rights have been expounded upon by treaty-based bodies, including the UN's General Comments, General Recommendation and Special Recommendations by treaty-monitoring committees, to countries and charter-based bodies, such as special procedures and the Universal Periodic Review (UPR) (UN OHCHR, 2012; UN OEWG, 2012; UN, 2012; United Nations Human Rights Council, 2013; United Nations General Assembly, 2012; United Nations, 1991). Other human rights documents refer to ageing and older persons (Baer, et al. 2016). In 2014 for example, the Human Rights Council announced the first Independent Expert on the enjoyment of all human rights by older persons (United Nations Human Rights Council, 2013; United Nations Human Rights Council, 2011).

The Preamble of the Universal Declaration of Human Rights (UDHR) of 1948 reaffirmed the support of nations to guarantee fundamental human rights, the dignity and worth of the human person, the equality of men and women and the promotion of social progress and better standards of life in larger freedoms of all persons, which includes the aged. The UDHR goes on to make several human rights provisions in this regard. Particularly, Article 25(1) of the UDHR emphasizes the right of everyone to security and adequate standards of living for oneself and family, this right is significant to older persons as it underscores the importance of necessities that are essential for their welfare. Other pertinent provisions include: the right to life, liberty, non-discrimination, fair hearing and due process, political participation human dignity and security, health, food, housing, etc. Although it is not a binding legal instrument, the UDHR has acquired the status of customary law and greatly influenced the creation of several binding treaties and Conventions (Hannum, 1995).

The general framework for the protection of the economic, social, cultural rights of the elderly persons is further contained in the International Covenant Economic, Social, Cultural Rights (ICESCR) of 1976. The important specific rights for older persons in the ICESCR are: the work-related rights (Articles 6–7); the rights to social security and insurance (Article 9), an adequate standard of living (Article 11), to food (Article 11), the highest attainable standard of physical and mental health (Article 12)(United Nations Human Rights Council, 2011) and to take part in cultural life and enjoy the benefits of scientific progress and its application. (Article 15). Although the ICESCR makes no direct reference to older persons, the Committee on Economic, Social and Cultural Rights (CESCR) linked and explained their specific rights in General Comment No. 6 on the 'Economic, Social and Cultural Rights of Older Persons' in 1995. Similarly, the CESCR'S General Comment No.20 on 'Non-discrimination in Economics, Social and Cultural Rights' underscores the need to address and eliminate all forms of discrimination against older persons. Paragraph 29 specifically states that 'age is a prohibited ground of discrimination in several contexts'.

The International Covenant on Civil and Political Rights (ICCPR) 1976 also offers another a generic protection of the civil and political rights of older persons. Notably, older persons are guaranteed the freedom of expression, assembly and association (Articles 18–19, 21); participation in the affairs (including political participation) of their own country (Article 25); Liberty, the security of person, dignity and respect (Articles 9 and 10); right to equality without discrimination and equal protection of the law (Article 26); privacy (Article 17) and freedom of movement (Article 13). The Covenant also recognizes and calls for the enhancement of their right to life (Article 6), and most importantly, freedom from abuse, torture, unlawful interference, degrading treatment, enslavement or unlawful attacks on their honour and reputation. (Articles 7, 8, and 17). The rights contained in both Covenants are supplemented in their Optional Protocols with additional rights. State parties to these Covenants are required to undertake immediate and progressive measures to guarantee the promotion, enhancement and enjoyment of these rights.

Other UN treaties and instruments refer to the rights of elderly persons. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which applies to all elderly women and specifically, refers to 'age' in Article 11, in the context of the equal rights of women and men to social security and paid leave. The Convention on the Protection of the Rights of Migrant Workers and the Members of their Families (ICMW) also includes 'age' in the list of prohibited grounds of discrimination in Article 7. Article 25(b) of the Convention on the Rights of Persons with Disabilities (CRPD) 2008 further makes reference to older persons on the right to health services, and in Article 28(2)(b), their right to access to social protection and poverty reduction programs is mentioned. The rights of aged people are also embedded in other human rights Conventions, specifically, Article 26 of the Convention on the Rights of the Child, Article 5 (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 27 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The explicit human rights of older persons are also increasingly being integrated into international human rights discourse. For example, the 2002 Madrid International Plan of Action on Ageing (MIPAA) has emphasized the need to guarantee the 'full enjoyment of economic, social and cultural rights and civil and political rights of persons and the elimination of all forms of violence and discriminations against older persons' (UN, 2002b). Moreover, The Open-Ended Working Group on Ageing for the Purpose of Strengthening the Protection of the Human Rights of Older Persons" (OEWGA) has debated extensively on a substantive content of a treaty for elderly persons. The fundamental rights affirmed by the proposed treaty would be extensions of those secured by other multilateral treaties, though with a focus on specific issues faced by older persons. Other important

frameworks for the rights of older persons include; The 1982 Vienna International Plan of Action, the 1991 UN Principles for Older Persons, the 1994 International Conference on Population and Ageing, Older Persons and the 2030 Agenda for Sustainable Development 23 Development Programme of Action and the 1999 UN International Year of Older Persons.

Despite the importance of this category of vulnerable people, the international community and United Nations is yet to formulate an age-specific Convention that will offer support, draw attention to the specific human rights issues that older persons face and strengthen the protection and promotion of their rights (Doron, et al, 2012). While the forgoing assessment indicates that several human rights instruments that generally offer protection of the rights of older persons, there is a need for a Convention that explicitly centers on their rights. At the moment, however, they can rely on the many treaties and Conventions that offer generic human right protection and other soft law provisions that target them as a group.

4.2 The Rights of Older People in Nigeria

As stated earlier, the rights, welfare and needs of the aged are yet to receive the necessary legal backing in Nigeria, despite their weak and vulnerable nature. Although the Constitution and other laws have provided an important framework for anchoring the rights of older persons and guiding actions to be taken to guarantee their right, the provisions are limited and rarely implemented.

The Nigerian 1999 Constitution recognizes older persons and makes reference to their rights in Chapter II. Section 16 of Chapter II provides that the state shall direct its policy towards ensuring 'old age care and pensions, and unemployment, sick benefits and welfare of the disabled [...]' This blanket provision seeks to protect the old people from economic hardship and care-related impediments due to their vulnerable nature. As an important step in realizing the human rights of the elderly, Section 17 (3) Further directs the state to ensure that it's policies provide the opportunity for securing adequate means of livelihood, just and humane conditions of work, protect the health, safety and welfare of all persons in employment; and ensure equal pay for equal work without discrimination on any ground whatsoever, including age. Interestingly, Section 17(3)(d) and (f) aims to ensure that there are adequate faculties and health facilities for all persons to live a decent and dignifying life and the young, children and 'the aged are protected against any exploitation whatsoever,' especially, 'against moral and material neglect.' To reiterate the commitment of the State to the people, particularly the disadvantaged and vulnerable, the State is to direct its policies towards granting public assistance and social security in deserving cases or other conditions of need in Section 17(9)(d).

Unfortunately, the foregoing elegant provisions of Chapter II the Constitution are non-justiciable, hence unenforceable by or on behalf of older persons. By virtue of Section 6(6)(c) of the Constitution, the courts lack jurisdiction to entertain issues

emanating from the socio-economic and cultural aspirations and objectives of the Fundamental Objectives and Directive of Principles of State Policy in Chapter II of the Constitution. The status of this provision as a non-justiciable entitlement robs the provisions of judicial recourse to compel government compliance, action and enforcement and it has been characterized as 'an aspirational or hortatory goal' with no legally binding claim (Nnamuchi, 2008). Thus as it stands, the provisions are mere political objective and goal, devoid of a concrete redress mechanism against the duty bearers to guarantee the enjoyment of these important provisions by the senior citizens of Nigeria.

The Nigerian courts have generally adopted the same attitude to the non-justiciability of the socio-economic provisions in Chapter II and have upheld the unenforceability of its provisions. For instance, the Nigerian Court in *Archbishop Anthony Olubunmi Okogie (Trustee of Roman Catholic Schools) & Others vs Attorney General of Lagos State, Uzoukwu v Ezeonu II* (paragraphs A-D) reaffirmed the challenge that Section 6(6)(c) poses to the judicial application of the Chapter II provisions by the courts, thus raising the questions of how and whether the provisions are 'fundamental' since they cannot command judicial enforcement. It is unfortunate that despite the importance of the socio-economic and cultural provisions in Chapter II, their practical enforceability has been undermined by the same Constitution that pledged to promote the welfare and wellbeing of all persons in Nigeria.

Moreover, the extant legislative provisions in the Constitution are inadequate to capture all the dimensions of socio-economic rights that pertain to older persons. The provision in Section 16(3)(d) simply obliges the state to direct its policies and resources towards the welfare objectives. This language of the law simply does not guarantee all the dimensions of the rights of the elderly. The text of the law does not clearly provide for the availability and accessibility of the necessary services and facilities, mechanisms and means of guaranteeing their rights in a gender-sensitive and non-discriminatory manner.

Nevertheless, it is encouraging to note that the Constitution guarantees the civil and political rights of the aged. Section 33 of the 1999 Constitution secures the right to life while section 34 reassures and gives protection to the respect, physical security and human dignity of all persons, including the right to be free from inhumane, cruel and degrading treatment. This right further ensures that they are protected against any form of abuse, oppression and maltreatment. In the same vein, Section 42 of the Constitution on the right to freedom from discrimination-prohibits disabilities or restriction, expressly or in the application of any law, executive or administrative action of the government by virtue of age. Moreover, Section 36 guarantees a right to a fair hearing, Section 35 protects personal liberty and Section 37 privacy. Other sections safeguard the freedom of thought, conscience, expression and religion (Sections 38 and 39), right not to be expropriated of

property (Sections 43 on right to property and 43 on compulsory acquisition) etc. The Constitution in Section 40, further guarantees them the right to associate and assemble to advance their interests, and freely partake in the social, political and cultural life of their communities and country as a whole. While the Constitution only guarantee soldier person's civil and political rights, the African Charter compliments the absence of enforceable socio-economic and cultural rights in the Constitution as Nigeria is a signatory to, and has domesticated the African Charter that makes expansive provisions for all socio-economic, cultural, civil and political rights in general.

From a human rights perspective, these provisions impose implies several other obligations. It requires a moral and humanitarian responsibility to undertake the necessary steps to ensure that the rights are protected, guaranteed and respected by the State, third parties and everyone in the society. However, having these laws without additional policy measures to implement and enforce them will do little to the senior citizens of Nigeria. In this regard, States parties must take appropriate legislative, administrative, budgetary, judicial, regulatory, and other necessary measures towards the full realization of these rights.

Asides the Constitution, there is no specific law to succinctly protect and defend the rights of the elderly in Nigeria, although the government is working towards this. On a Friday, January 26, 2018, President Muhammadu Buhari signed the Senior Citizens Centre Bill, two years after it was first introduced into the House of Representatives (Adebajo, 2018). The law provides for the building of senior citizens Centre in the Federal Capital Territory and interested states. The functions of the Centre include: identifying the needs of senior citizens; Taking responsibility for creating recreational, sports, health, educational, counselling and social programmes for their benefit. It has been reported that the Centre can generate about 720,000 jobs when established across all the states of the federation thus the centre will benefit not only the senior citizens but the unemployed youths (Adebajo, 2018). However, since its signing into law, nothing has been heard from the federal government about this promising legislation or plans regarding its implementation.

Other unsuccessful attempts have been undertaken to ensure that the rights of older persons are protected by the appropriate legislation. One of such is the Bill for an Act to provide Social Security for Unemployed Graduates and the Aged in Nigeria and for Purposes Connected Thereto that was sponsored by Senator Anyim Ude. Maintenance in June 2010 (Mudiare, 2013; Araromi, 2015). Another is the Welfare of Senior Citizens Bill, (MWSCB) of 2011 that sought to protect and establish special privileges for senior citizens of Nigeria; provide penalties for breach there under and matters connected therewith. The Bill never saw the light of day after its first reading at the National Assembly of the federation. The Bill was read for the first time in the Senate of the National Assembly but could not go beyond this level.

At the African Union regional level to which Nigeria is a part of, there have been other policy frameworks such as the African Union Policy Framework and Plan of Action on Ageing (2003); National Policy on Care and Wellbeing of the Elderly (Draft 2003); National Policy on Aging (Draft 2006), Africa's Agenda 2063, the African Common Position on Post 2015 Sustainable Development and the Protocol on the Rights of Older People, although Nigeria is yet to show commitment to these robust documents.

Having laws and polices without concrete enforceable measures would render them redundant. Although Nigeria is making slow but bold efforts in setting up necessary frameworks and legislative instruments to address the rights and welfare of the aged, more actions are needed to implement them.

V. A POSITIVELY SENSITIVE AND INCLUSIVE SOCIETY FOR THE RIGHTS OF OLDER PERSONS IN NIGERIA

It follows from the foregoing that there is a need to approach the issue of rights for older persons in Nigeria as a national and society-wide concern. This holistic approach should ensure that one of the most vulnerable members of society is protected from hardship, discriminations and ill-treatment. The old, particularly the disadvantaged and weak need the empathy of society at large and concerted effort of government as they approach the final stages of their lives. Accordingly, the following recommendations are made.

5.1 *Respect for the Elderly*

At the Interpersonal Level, older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status. They should be valued, independent of whether or not they contribute economically to society. While the state has the primary responsibility of protecting, guaranteeing and ensuring the respect for the rights of the elderly from unlawful interference, the Nigerian society also has a moral obligation to respect, protect and fulfil the rights of people. Old age is a natural state that everyone may eventually enter at his or own time and pace. Consequently, children and young adults of today would inevitably age. The assistance and care shown to the elderly now will go a long way in laying the foundation for the future support that people will receive when they become advanced in age. As Ajomale observed and pondered, would the young who will one day grow to be old meet a society that exploits and abuses the rights of the elderly? (Ajomale, 2007). A well-known phrase is 'what goes around comes around.' If everyone in society develops a more sensitive approach to elderly care and respect for their welfare and dignity, they may eventually be treated the same way, and vice versa.

The moral duty of others has been implied by the preamble of the Universal Declaration of Human Rights and enumerated in Chapter II of the African Charter which applies to Nigeria. Article 28 of the African Charter specifically provides that

‘every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.’ Thus, the aged should be able to benefit from a community-conscious sense of care, in the manner of *Ubuntu*, an ethical sense of the common good of society as a universal family.

Older persons should be allowed to integrate well in society, and proactively participate in the formulation and implementation of policies that affect their wellbeing. Older persons should be encouraged to seek and develop opportunities for service to the community and be given opportunities to share their knowledge and skills with the younger generations, to make them feel valuable to society. Older persons should be supported and assisted to form movements or associations with meaningful activities to deal with loneliness and to serve as volunteers in positions appropriate to their interests and capabilities. As custodians of oral history, these group of people can still make a meaningful contribution to society as such, the Nigerian society needs to recognize and appreciate the contribution that these persons can still make despite their old age

5.2 Dignity in Old Age

The human right to dignity is a concept that relates to a person’s intrinsic worth, and the right of a person to be valued and respected-free from exploitation, torture and degrading treatment. The UDHR in Article 1 rightly emphasises that ‘all persons are born equal in dignity and right.’ The elderly do not have to live their old age without dignity and respect. Consequently, there should be regards to their rights and human dignity.

In the same manner older persons should be allowed to live respectful lives in communities and environments that are safe and adaptable to their personal beliefs and values. As such, it is imperative that there is a re-evaluation of cultural traditions to preserve beneficial practices and eliminate harmful ones that affect their human rights. The Nigerian authorities should enact specific laws to ban labelling and all forms of physical, emotional and psychological abuse that are rooted in traditional practices and culture.

5.3 Protection from Discrimination, Neglect and Abuse

To further ensure aged people’s rights are protected, the statute books and criminal laws should be updated to penalize the neglect, abuse and mistreatment of older persons, whether or not they are in the direct care of the perpetrator. In India for example, Chapter IX of the Criminal Procedure Code(CPC) of 1993 mandates the maintenance of wives, children, and parents. According to section 125 (1) (d), if anyone, who has the sufficient means to take care of his father or mother who is unable to take care of and maintain himself and herself, neglects or refuses to do so, shall be ordered by the Magistrate to make a monthly payment to the parents, at a rate not exceeding five hundred rupees, or as the Magistrate deems fit

from time to time. Furthermore, the Indian Maintenance of Parents and Senior Citizens Act No. 56, 2007 expounds on the protection of parents against neglect in section 125 of the CPC. A tribunal established under the Act is empowered to order the children or relatives to pay monthly allowance for the maintenance of elderly persons on being satisfied that the children or relatives have abdicated their duties or neglected to maintain a senior citizen who is unable to maintain himself or herself. Moreover, the Act provides that heirs and relatives of a senior citizen who is childless and having sufficient means should maintain such senior citizens if he is in possession of the property of the senior citizens or would inherit the property. Where there are more than one heirs who will inherit the property, the maintenance to be paid by the relative is in proportion to the property they would inherit. This way, the law guides against financial exploitation as well as ensuring that senior citizens are taken care of by their relatives where they have no children to fulfil that duty. A law such as this in Nigeria would ensure that the justice system serves as a check and control for acts of neglect and abuse of vulnerable older persons by their children and relatives.

5.4 Care and Wellbeing

Some human rights, such as the right to life and right to health are non-negotiable. It is therefore imperative that policymakers, health care professionals, managers, relatives and families do not neglect the health of older persons. Older persons should be allowed adequate and non-discriminatory access to adequate healthcare facilities, services and medical treatments to help them maintain or remain in the optimum level of physical, mental and emotional health and wellbeing. This could also prevent or delay the onset of diseases and illnesses while boosting their quality of life. The recent scourge of Covid-19 which mainly affected the elderly is an important indication of how fragile and important their health is.

More short-term and long-term institutions, care facilities and residential homes should be made available for older persons to receive specialised attention, however, these institutions providing support, rehabilitation and care should be strictly regulated to ensure that they provide human services in a humane manner and a secured environment. At the policy level, regulations should be put in place to ensure that their human rights are respected, and guarantee that their dignity, beliefs, interests, needs and rights to make decisions for their care and quality of life is not compromised by their relatives or anyone in the care homes and treatment facilities. Where they chose to remain homes, their wishes and decisions should be respected and they should benefit from the care and protection of society.

5.5 Social Security and Support

The importance of securing old people’s right to social protection and protecting them from poverty/destitute cannot be overemphasised. Effective and sustainable social security and protection systems to assist, employment/work-based

opportunities for those in active service, affordable healthcare, insurance, food, shelter and clothing etc. is key to their human rights. Furthermore, to ensure that old persons live the rest of their lives in dignity, it is imperative that the Nigerian government and policymakers must develop strategic national policies and programmes to assist the old and allocate adequate resources that will cater for their financial needs and other welfare concerns. In the area of pension, for example, it is obvious that the Contributory Pension Scheme (CPS) is not sufficient to sustain an adequate standard of living for the elderly. In addition to amending the Scheme to adequately cater for the pension and financial benefit of old persons, the Nigerian state should, 'within the limits of available resources, provide non-contributory old age benefits to assist, at the very least, all older people who, when reaching the retirement age, are not entitled to an old age insurance-based pension' as suggested by the ICESCR (General Comment No. 19, para. 4 and 5.G; HelpAge International; Araromi, 2015).

There have been several calls for securing the right to social security of older persons to enable them to live adequate lives. For instance, at the 1995 World Summit for Social Development, States agreed that Social security and protection should be guaranteed by the law. The International Labour Organization (ILO) has defined the normative framework and set standards for the establishment, management and development of social protection system in several Conventions, Declarations and Recommendations. Particularly, The ILO Convention C128 concerning Invalidity, Old-Age and Survivors' Benefits stressed the importance of securing the protection and provision of old-age benefit.

5.6 Awareness to Promote their Rights

There should be sensitization and educational programs to educate every one of the rights, needs and interests of older persons in Nigeria. Public awareness should be organized to change perceptions and understand the illnesses and peculiarities of chronic diseases and illnesses that mainly affects older persons such as dementia/ Alzheimer's disease, depression, stroke, Parkinson's disease and other aged related disabilities. As part of the efforts to curb the abuse of elders, it is also recommended that 'gerontology', the study of the process of ageing, and the particular problems of old people, be included the in school curriculum.

5.7 Adopting a Legal Approach to the Human Rights Protection of Older People

It is obvious from the foregoing, the Nigerian Legislature has failed to develop specific laws and strategic policies that are sensitive to the rights, challenges and plight of the senior citizens of the country. As Araromi observed, the Nigerian policy and lawmakers have not been sensitive to the consequences of ignoring the economic and social development of its increasingly ageing population (Araromi, 2015).

Moreso, the existing laws are inadequate hence comprehensive legislation is necessary. It follows, therefore, that an appropriate and supportive legislative framework based on internationally accepted human rights standard is required to ensure the highest quality of respect, protection and fulfilment of the rights of older persons in Nigeria.

It is for this reason that this article proposes the enactment of the Discrimination Against Older Persons with Disabilities (Prohibition) Act, akin to the Discrimination Against Persons with Disabilities (Prohibition) Act of 2018, which prohibits discrimination on the basis of disability and imposes sanctions including fines and prison sentences on those who contravene it. The Act for the elderly should take into account the aforementioned recommendations. Essentially, the Act should address all the human rights interests and needs of older people such as the right to adequate housing, health and an adequate standard of living, food, housing, clothing, security, human dignity, freedom from discrimination, right to equality before the law. Other issues to be included are issues of access to justice and judicial redress, and full participation and inclusion in society, in addition to the general rights that pertain to everyone. Penalties for any breach should be clearly stated for all the rights.

The Act should include issues of maintenance and payment of monthly allowances for elderly people in need, provision of free and affordable medical services, healthcare and treatments, accommodation, food, and recreational facilities for their social life. To ensure against the abuse and neglect of aged persons by relatives and (others in their care) the Act, similar to the Indian Act, should establish a special tribunal to adjudicate the issues of maintenance by families and relatives as well as prohibition and punishment for the exploitation of the old. The Act should also make comprehensive provision for social security and other benefits that older persons would require to live a decent life in dignity.

Importantly, the Act should make provision for the promotion of awareness regarding the rights, respect and dignity of older persons, including the recognition of their achievements and contribution to society.

For effective implementation, The Act should also establish a National Commission for Older Persons responsible for ensuring that the basic human rights older people are protected, fulfilled and respected. The Commission as the regulatory body for the rights of the elderly should be empowered to receive complaints of rights violations and support victims to seek legal redress amongst other duties. Having the law in place is only one of several steps towards the protection of elderly persons. Adequate additional measures and structures must be put in place for its full implementation to ensure equal treatment and participation of older people across Nigeria.

It is also suggested that the Maintenance of and Welfare of Senior Citizens Bill, (MWSCB) 2011, subject to adequate amendment, is passed into law. The provision of the Bill, to a

large extent, is similar to the recommendations made in this paper.

5.7.1 Benefits of a Specific Legislation on the Rights of Older persons

If Nigeria enacts the Act, it would:

- 1) Make the government respect the human rights of the elderly and prevent others from violating their right while providing a judicial enforceable redress mechanism.
- 2) Establish legally effective standards to assure older people of their rights and prohibit all forms of discrimination, abuse and neglect that they may face.
- 3) Make the government and relevant authorities sensitive to the rights of the elderly when designing and developing policies – for example, when developing aged care policies, the government would have to safeguard the human rights of older people.
- 4) It would make the executive and government authorities consider how their actions impact on the human rights of older persons. In the same manner, it would serve as a check for public servants and private service providers and ensure that they respect their human rights when delivering services.
- 5) It will educate and promote public awareness of the human rights and plight of older persons, and possibly lead to a change in the bias, stereotypes and prejudice against older persons.
- 6) Provide specificity on the germane human rights challenges that older persons encounter.
- 7) Provide an avenue for human rights advocates and Non-Governmental Organizations (NGOs) to advocate, monitor and report on the human rights situations of the elderly in Nigeria. It will also provide a platform for them to lobby for a change in policy approach to the plight and wellbeing of the elderly.
- 8) Circumvent the limitations of the 1999 Constitution and ensure that the socio-economic and cultural rights of the elderly are justiciable notwithstanding the limitations imposed on Chapter II of the Constitution.

VI. CONCLUSION

Older persons and the associated problems they experience in society are often predicated on the presumption that they are a different category of human beings from the more youthful and non-aged persons. This segregated perception marginalized them and often leads to several discriminations and disadvantages. This study aims to protect vulnerable older persons from the various challenges that they encounter in Nigeria. It has been argued that the old due to their weak and disadvantaged nature, require the protection of the state and its authorities. Through its laws and policies, the government can protect, promote and guarantee the human rights of the senior citizens. Independent of the government, however,

society also owe a duty to the elderly. Particularly, all members of the community and society need to redirect their attention to the phenomenon of elderly abuse. All hands must be on deck to prevent the mistreatment, neglect, abuse, violence, and desertion of older persons. The takeaway point is to ponder that old age is a point in life that many will pray to attain and eventually live; people need to be mindful of making that state a comfortable and desirable one for others and consequently, for themselves.

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