

## NATIONAL HUMAN RIGHTS COMMISSION OF NIGERIA

### Normative framework for the thematic focus areas discussed at the tenth session (“Education, training, life-long learning and capacity building” and “Social protection and social security, including social protection floors”)

#### Definition

1. *What is the definition of the right to social security and social protection (including social protection floors) for older persons in the national legislation? Or how should such a right be defined considering existing national, regional and international legal frameworks?*

Section 16 (2) (d) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 as amended states -  
**‘The State shall direct its policy towards ensuring...old age care and pensions, and unemployment, sick benefits and welfare of disabled are provided for all citizens’.**

Furthermore, section 17 (3) of the CFRN 1999 as amended provides:

‘The State shall direct its policy towards ensuring that –

(d) ... the aged are protected against any exploitation, whatsoever and against moral and material neglect’.

Pursuant to section 42 of the CFRN 1999, social protection measures cannot be implemented in a discriminatory manner on citizens including older persons, on certain grounds like sex, religion, and circumstances of birth.

The **National Senior Citizens Centre Act 2018** establishes the National Senior Citizens Centre. The Centre is empowered to, among other things, identify the needs, trainings and opportunities for Senior Citizens in the country and be responsible for the provision of recreational, sports, educational, health and social programs and facilities designed for the full enjoyment and benefit of the Senior Citizens in the country as well as provide guidance and counselling for senior citizens.

#### Scope of the right

2. *What are the key normative elements of the right to social protection and social security for older persons? Please provide references to existing standards on such elements as below, as well as any additional elements:*

- a. Availability of contributory and non-contributory schemes for older people*

- i. The Pension Reform Act, 2004 introduces the Contributory Pension Scheme, which is an arrangement where both the employer and the employee contribute towards the payment of the employee’s pension at retirement.
- ii. In 2013, the Ekiti State government Nigeria implemented an unconditional, non-contributory pension scheme (Ekiti State Social Security Scheme for the Elderly) for citizens aged 65 and above. The target populations are individuals who were not receiving assistance and whose income fell below the NGN 3,000 (\$19 USD) monthly. Over a twelve-month period, the regional government provided eligible elderly in fifty-six randomly selected wards with an unconditional monthly cash transfer of NGN 5,000 (approximately \$32 USD). This amount is one-fourth of the average monthly cost of living in Nigeria (NGN 22,094).
- iii. The National Health Insurance Scheme (NHIS) Act of 1999 establishes a contributory health insurance scheme to which every employer that has a minimum of ten employees, together with every person in his employment, pay contributions, which entitles insured persons and their dependants to the benefits of prescribed good-quality and cost-effective health services.

- b. Adequacy of benefits to guarantee older person’s access to an adequate standard of living and adequate access to health care*

Although the Act has been assented to by the President, there are so far no particular measures put in place to implement the act.

***c. Accessibility, including older person's coverage by social security systems, eligibility criteria and affordability of contributions***

The normative framework of social protection and social security is limited in its coverage as all laws and policies within the framework are all essentially employment-related. This means accessibility of social security systems in terms of coverage is poor, given that the formal sector (which is covered by the available schemes) only represents about 20% to 25% of the Nigerian population.

- i. The Pension Reform Act in section 2 (2) limits private sector participation to employees who are in the employment of an organisation in which there are 15 or more employees.
- ii. Similarly, section 16 of the NHIS Act restricts coverage to positions in which the employer has a minimum of ten employees, and enrolment is even at the discretion of the employer.

***d. Equitable access by older persons to the enjoyment of the right to social security and social protection, paying special attention to groups in vulnerable situations***

- i. Encouraging CSOs in their effort towards advocacy for long term and palliative care;
- ii. Formulation of necessary policies;
- iii. Inclusion in decision-making;
- iv. Sponsorship of specific legislation.

***e. Participation of older persons in the design and administration of the social security system***

**State obligations**

***3. What are the measures that should be undertaken by the State to respect, protect and fulfil the right of social security and social protection for older persons, regarding the normative elements as provided above?***

- i. Establish a flexible retirement age which regards demographic, economic and social factors.
- ii. Within the limits of available resources, provide non-contributory old age benefits and other assistance for all older persons – CESCR General Comment No 6
- iii. A gender-sensitive eligibility criterion should be used and requirements that may disadvantage women must be avoided. For example, qualifying conditions that take into account the household income without addressing how resources are distributed within the household, or conditions that require the production of identity documents, can put women, particularly older women, in a disadvantaged position.
- iv. Limited physical strength and mobility, as well as inadequate infrastructure and transport, are also major obstacles to accessing social protection programmes, for older persons in particular. Measures must be established to overcome these obstacles. Such measures may include the use of electronic methods.
- v. Establish social insurance and a high-value tax-financed pension to eradicate old-age poverty and provide a social safety net to those in the informal sector.
- vi. Given the size of the informal sector in most developing countries, as well as growing job instability and the spread of poorly paid, precarious work around the world, it is unlikely that contributory pensions will help to guarantee income security for all older persons. A combination of contributory and tax-financed pension schemes will help in improving pension coverage.
- vii. There should be a mechanism for monitoring and reporting by the member states on the protection of right to autonomy, independence palliative and long term care of older persons. This will ensure accountability for states that have the primary duty to protect the said rights of the older persons.

This will also motivate member states to report on the fulfillment of their obligations at the universal periodic review of the Human Rights Council and ensure integration to the SDG's so as to leave no one behind.

- viii. The responsibility of the children and family members should in addition be recognized and activated to ensure there is no gap in the rights protection chain for the older persons. This will complement the state responsibility and recognize, encourage and strengthen the existing family support mechanism for the protection of older people.

### **Special considerations**

#### ***4. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to social protection and social security?***

The National Senior Citizens Centre Act establishes the **National Senior Citizens Centre**.

The following should guide effective implementation;

- cultural and other traditional aspects of Nigeria's ways of life;
- The social security for older persons should include informal sector;
- Issues of discrimination against older women;

If older women in the cities cannot access social security through the pensions, insurance companies and banks, what would be the fate of the rural woman whose labor is majorly undocumented and underpaid, if the world does not provide for an international legally binding document to protect the vulnerable older women population and others.

The living conditions of many aged people drop drastically especially in the absence of social protection and social security schemes in place.

Even though there is no law prohibiting political participation on grounds of age, but it is a growing issue of concern for nomination/election to political offices as older people are considered as a disadvantage.

In terms of political participation and inclusion, and access to livelihood and work, the fact that you retire on grounds of age is in fact discriminatory for the aged. This led to the feeling that old people are no longer able to work. People should be able to work as long as they can be medically and mentally fit to work and earn a living. Without work, incomes are low and this impoverished the older population and put them at the mercy of others.

#### ***1. How should the responsibilities of non-State parties such as private sector be defined in the context of the right of older persons to social protection and social security?***

Private institutions should set up private contributory pensions.

### **Implementation**

#### ***2. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework and social security and social protection for older persons?***

*Best practices:*

- Passage of the National Senior Citizens Centre Act 2018;
- The National Human Rights Commission collaborates with Non Governmental Organizations to advocate and awareness campaigns on the rights of old persons;

*Challenges:*

- i. Insufficient financing of available social protection and social security schemes.
- ii. Limited coverage.
- iii. The proliferation of government initiatives, which focus on temporary or permanent poverty eradication. Although laudable, these cannot be defined as social security measures, but

are *transient* steps taken to form a suitable foundation on which social security programmes may be based.