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SUBSTANTIVE CONTENT:

“ACCESS TO JUSTICE”

**THE CHAIR OF THE UNITED NATIONS GENERAL ASSEMBLY OPEN-ENDED
WORKING GROUP FOR THE PURPOSE OF STRENGTHENING THE PROTECTION
OF THE HUMAN RIGHTS OF OLDER PERSONS**

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Definition

The definition of the right of older persons to access justice in the national legislation in Nigeria, considering existing national, regional and international legal framework is quite progressive, as currently there is an established national legal framework that guarantees access to justice by older persons in Nigeria, especially with the recent establishment of the National Senior Citizens Centre of Nigeria, and also the establishment and passage of a Bill for an act to provide certain rights and privileges for older persons in order to ensure health and economic reliefs and protection for their social and civil rights and for other related matters, 2019 in Nigeria.

Scope of the Right

According to the following documents (As enshrined in Chapter II of the 1999 constitution of the Federal Republic of Nigeria), the right of older persons to access justice and National Senior Citizens Centre Act, 2017 in the national legislation covers the following

Section 16. (1) The State shall, within the context of the ideals and objectives for which provisions are made in this Constitution: (d) without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy.

Section 16 (2) (d) of the Nigerian 1999 Constitution as amended which mandates the State to provide adequate social services and improve the quality of life of the elderly.

Also, as in prohibition of discrimination against older persons in Part 1 of the Bill for an act to provide certain rights and privileges for older persons, 2019.

- (a) The guarantee of older persons' legal capacity (legal standing and legal agency) on an equal basis with others and not denied on the basis of age;
- (b) Elimination of the influence of ageist stereotypes at any stage of judicial or non-judicial proceedings, including the award of damages or compensation;
- (c) Access to legal services, on an equal basis with others;
- (k) Access to prompt remedies and redress when older persons' right to access justice is denied.

State Obligations

Nigeria is taking steps towards reforming the justice system to make it more accessible, as currently there are provisions guaranteeing legal assistance to older persons, especially with the enactment of a bill to promote the rights of older persons.

State parties shall also take effective measures to respect, protect and fulfill the rights of older persons, while ensuring that necessary measures and mechanisms are put in place for the enjoyment, implementation and monitoring of the right of older persons to access justice in the following ways:

- i. Older Persons shall not be discriminated against on the ground of age or disability by any person or institution in any manner or circumstances whatsoever.
- ii. Any person who contravenes the above commits an offence and shall be liable on conviction to a fine or 6 months imprisonment or both.
- iii. Older Persons have the right to social protection, including income security without discrimination on the basis of age or gender
- iv. appeal and access to effective complaint mechanisms to seek redress for practices that deny their right.

Special Considerations

Special considerations should be included for older persons in areas of:

- Access to Justice should not be strenuous for older persons, it should be easily accessible by them, putting their convenience into consideration.
- A follow-up and feedback mechanism should be put in place for older persons to monitor the fair process of accessing justice.
- Provision of monetary assistance to older people in judicial processes.
- Government needs policies that will fast track access to justice for older persons.
- monitoring and evaluation and need for the three arms of government, justice sector mandate agencies and CSOs/NGOs to meet to discuss and agree on concrete interventions for participatory access to the justice sector by older persons.

Responsibilities of non-State parties should be such that they collaborate with government or communities to ensure access to justice for older persons at all levels.

Implementation

Best Practices in Nigeria:

In Nigeria, the establishment of an act to provide certain rights and privileges for older persons in order to ensure health and economic reliefs and protection for their social and civil rights and for other related matters, 2019 is a best practice that if it should be domiciled and enforced in every state, would be a major breakthrough to the rights of older persons to access justice. This can also be replicated in other countries and regions.

Main Challenges

- i. Corruption and inability to meet up with the associated financial requirements
- ii. inadequate awareness about their human rights.
- iii. Lack of expertise and specialist services for older persons.
- iv. no confidence in the legal system and inaccessibility of the legal justice system.
- v. Cultural and Traditional practices (such as taboos)
- vi. delay in justice administration
- vii. inadequate and appropriate training for those working in the administration of justice and law enforcement.