

Guiding Questions for Focus Area: **Access to Justice**

National legal framework

1. *How is the access to justice by older persons guaranteed under the national legal and policy framework? What judicial and non-judicial mechanisms are in place for all older persons to complain and seek redress for denial of their rights?*

- LITE-Africa found that the Nigerian 1999 constitution and the National policy on Justice 2017 guarantees access to justice by all persons in Nigeria. However, we did not find any specific guarantee for access to justice for older persons in Nigeria under the national legal and policy framework. The Nigerian justice system is usually described as expensive, and timely and accessible justice delivery has remained a major challenge particularly for older persons. Therefore it would be necessary to have a legal and policy framework for older persons to enable them overcome the associated challenges with the Nigerian justice system.
- The Nigerian judicial system and in particular the federal and state high courts, in Abuja and the 36 states of the federation guarantees the rights to complain and seek for redress by every persons in Nigeria. The legal aid council of Nigeria established by an act of parliament also make provisions- (i) for the rendering of financial assistance to any indigent citizen of Nigeria where his/her right has been infringed or with a view to enabling him/her to engage the services of a legal practitioner to prosecute his/her claim, and (ii) for ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is real. LITE-Africa found that awareness about the legal aid council is low and in particular access to legal aid by older persons is a challenge.
- A number of non-judicial mechanism also exists for persons to complain and seek redress eg the National Human Rights Commission (NHRC) and non-state grievance mechanism including civil society organisations pro-bono services and human rights clinics (eg LITE-Africa Human Rights Clinic) and the Nigerian Police Force public complain mechanism .
- The existing provisions and mechanisms for complain and redress do not take into account the accessibility and other peculiarities of older persons.

Availability

2. *What steps have been taken to ensure the availability of judicial and non-judicial mechanisms for older persons in urban, rural and remote areas in your country? Are there alternative dispute settlement mechanisms available?*

- State courts, the Nigerian Legal Aid Council, and the National Human Rights Commission (NHRC) are all situated in the state capitals of the federation, to guarantee access to remedy for every persons. However, access to judicial and non-judicial mechanisms continue to be a challenge to older persons and persons in rural and remote areas of the country owing largely

to availability, access and level of literacy.

- Alternative Dispute Resolution such as negotiation, mediation, reconciliation and arbitration also exist in Nigeria, backed by the acts of parliament such as the arbitration and conciliation act, laws of the federation of Nigeria 1990, which provides a unified legal framework for the fair and efficient settlement of commercial disputes by arbitration and conciliation.

Accessibility

3. What steps have been taken to ensure that all justice systems (judicial and non-judicial) are secure, affordable and physically accessible for older persons and adapted to their needs?

- The government of Nigeria provides funds for the legal aid council and National Human Rights Commission (NHRC) every fiscal year. This is to ensure access to justice by all citizens including older persons. These services are affordable but physical access for older persons in the remote and rural areas and illiterate older persons in the urban areas continues to be a challenge.

4. What are the existing provisions to guarantee legal assistance for older persons?

- The legal aid council of Nigeria established by act of parliament provides for legal assistance only for indigent citizens. LITE-Africa found that there is no special provision for legal assistance to older persons in Nigeria and legal services in Nigeria are usually considered expensive.

5. What are specific challenges encountered by older persons in accessing justice and remedy in your country?

- Low level of awareness of citizens rights and the justice system among older persons. Also there is high level of illiteracy and poverty in the country which inhibit older persons access to justice and remedy systems. The adult literacy rate is estimated at 56.9 percent (National Bureau of Statistics in Nigeria-2010) and an about 90 million people - roughly half Nigeria's population - live in extreme poverty, (World Data Lab's Poverty Clock March 21, 2019).
- Justice system in Nigeria is expensive, time consuming and considered mostly ineffective. Most Nigerians including older persons have lost confidence in the justice system; hence most Nigerians believe that seeking justice is a waste of time and resources. The use of private litigants by older people who are no longer active workers is very costly. Delays in the dispensation of justice also adds to the cost and it is very discouraging to older persons.

6. *What good practices are available in terms of ensuring equal and effective access to justice and remedy for older persons?*

A number of good practices exist in Nigeria in terms of ensuring equal access to justice that can be leveraged on in making special legal and policy provisions for older persons. These includes;

- Nigerian National Policy on Justice
- Establishment of legal aid council by the government to help ensure access to legal representation by indigent citizens including older persons.
- Establishment of the National Human Rights Commission (NHRC) by the government to attend to all cases related to Human Rights violations
- Existence of Alternative Dispute Resolution (ADR) mechanism backed by Arbitration and Conciliation Act, laws of the Federation of Nigeria 1990,
- National Senior Citizens Centre Act 2017

However, LITE-Africa have found that these exist more in principles than in practice.

Equality and non-discrimination

7. *What are the provisions adopted to ensure effective access to justice for older persons on an equal basis with others, including age-appropriate procedures in all administrative and legal proceedings?*

LITE-Africa found that presently there is no special provision in the National Policy on Justice for older persons in Nigeria. There is no current procedure in all administrative and legal proceedings for older persons, special considerations are given only to children.

8. *Please specify existing public policies and awareness-raising and capacity building programmes established for all justice system personnel to address the negative impacts of ageism and age discrimination in justice system.*

LITE-Africa found that the 1999 constitution of the Federal Republic of Nigeria prohibits all forms of discrimination against persons but there are no specific legislation protecting against age discrimination in Nigeria. Awareness raising and capacity building on this issue is mostly done by civil society organisations and Nigerian Network of Pro-bono Lawyers with some level of attention from donor agencies.

Accountability

9. *How do you ensure justice systems function in accordance with the principles of independence and impartiality? Please specify if there is any oversight mechanism in place to address any discrimination against older persons committed by justice system professionals.*

- LITE-Africa found that the Nigerian state has provided for independence and impartiality in the justice system in particular, 1999 constitution of the Federal Republic of Nigeria states that the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained. Also, theme 8 of the National Policy on Justice provides for strategic intervention in dealing with the challenges of appointment, removal and condition of service of judges to ensure their independence. These guidelines are further reinforced by the National Judicial Policy, but the major challenge has been in adherence to the policy. The removal of the chief justice of Nigeria by the executive in 2019 is an event that brought the independence of the judiciary to question. We have found that a deviation exist in practice from the principles of independence and impartiality of the justice system.
- Presently there appears to be no specific mechanism in place to address any discrimination against older persons committed by justice system professionals.