A Questionnaire on the rights of older persons with disabilities

1. The Legislative and policy framework in place in my country (Kenya) to ensure the realization of the rights of older persons with disabilities who are ageing and older persons who acquire a disability ‘’According to the constitution of Kenya 2010, any treaty or convention ratified by Kenya shall form part of the law of Kenya.’’ National Policy on older Persons and Ageing 2009. Thus the following available International Regional Legal Policy and institutional frameworks on older persons:

* Universal Convention of Human Rights 1948
* African Charter of Human and Peoples Rights
* International Covenant on Civil and Political Rights (ICCPR) – 1966
* International Covenant on Economic, Social and Cultural Rights (ICESCR) – 1966
* UN Declaration on the Rights to Development – 1986
* The Convention on the Elimination of Racial Discrimination (CERD) – 1965
* The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) – 1979
* The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)-1984
* International Labor Organization Conventions (Various)
* UN Standards Rules on Equalization on Opportunities for Persons with Disabilities – 1992
* UN Convention on the Rights of Persons with Disabilities – 2006
* UN Plan of Action on Ageing – 1982
* UN Principles to Older Persons – 1991
* UN Proclamation on Ageing – 1992
* UN Plan of Action on Ageing – 2002
* AU Policy Framework on Ageing – 2002
* AU Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa – 2016
* Constitution of Kenya 2010

1. Information on discrimination against Older Persons with Disabilities in law and practice

## In Law:

* + 1. Kenya Constitution 2010: Article 27 (4) Promotes and safeguards equality and non-discrimination of older persons based on age.

Article 43(3) obligates the state to provide appropriate social security to the needy older persons.

### Kenya Vision 2030: The Kenya long- term development blue print.

* The broad flagship project under the social pillar in vision 2030- relevant to older persons.
  + 1. National Policy on Older Persons and Ageing:
* Enacted by parliament in 2009
* Aligned to Kenya Constitution 2010 in 2014
* Objective: to put in place legal measures to ensure the rights of older persons are protected, promoted and fulfilled.
* Other frameworks to cater for the concerns of Older Persons:
* The National Hospital Insurance Fund (NHIF) Act
* Persons Act
* The National Social Security Fund (NSSF) Act
  1. In Practice:
* Institutional frameworks
* Established by the Kenya Government to address Older Persons Issues.
  + 1. Ministry of Labour Social Security and Services (MLSS&S)
* Mandated to coordinate, mainstream and Implement Older Persons concerns.
* Develop Policies to guide in the Implementation of the programmes and inclusion of Older Persons in the development process.
  + 1. National Gender and Equality Commission
* A constitutional commission mandated to spearhead efforts to reduce gender inequalities and discrimination against all: women, men, persons with disabilities, youth, children, elderly, minority and marginalized communities.
  1. Programs

Put in place by the Kenya Government to provide care and support to the needy and disadvantaged members of the society.

2.3.1 Social Protection

The specific social protection programs implemented by the Government include social assistance: in form of pensions that target 70 years and above older persons;

* Cash transfers to persons with severe disabilities, orphans and vulnerable children.

2.3.2 Financial Assistance

* In form of grants:

-Food, subsidies and bursaries

2.3.3 Adult Education

* A program meant to provide older persons with functional literacy to enable them to participate actively in national development.

1. Information on the existence of long term care services in my country (Kenya) and to what extent they promote autonomy and independence of older persons with disabilities.

According to a baseline survey carried out 2013/2014 by the then ministry of labor and social security to map out the number of institutions offering services to older persons:

* There are 125 institutions in Kenya offering services to 22,000 older persons, either through residential, day-care or outreach programs.
* 16,833 (74%) of the beneficiaries are older women
* 6,044 (26%) are older men.
* Out of 47 counties, 8 counties have 1 institution each.
* 11 counties have more than 1 institution each.
* 28 counties are yet to establish institutions for older persons.

Further, the survey identified unregulated and sub- standardized services provided to

Older persons in the existing institutions.

The ministry of labor and social protection since then has prepared and launched the National Standards and Guidelines on the Establishment and Management of Institutions for Older Persons (2018), based on the Kenya Constitution 2010, Article 57 among other relevant laws.

1. Information on Access to justice and also on jurisprudence, complaints or investigations in relation to violence, abuse and neglect against older persons.

According to the National Policy on Older Persons and Ageing (2009) Chapter 2: Policy Framework:

2.1: Older Persons and the Law:

2.1.2 Policy issue states “The Constitution of Kenya 2010 recognizes Older Persons as distinct

Right holders, however, there is no specific law at national and county levels that

Comprehensively promotes and protects the rights of older persons”

Thus, 2.1.2 Policy Objective States: “To put in place legal measures to ensure that the rights of

Older Persons are protected, promoted and fulfilled.”

2.1.3 Policy Statements: States “Establish and restructure existing institutions to facilitate and

Enhance accessibility of legal services for older persons.”

However, it is worth while nothing that most of the existing rules are either for persons with

Disabilities or older persons but not older persons with disabilities.

1. The involvement of older persons with disabilities in the design, planning, implementation and evaluation of policies related to ageing and/or disability through:

* Older persons Groups representation in the Ministry of Labor and Social Protection, meetings.
* Public Participation as per Kenya Constitution 2010 provision.

1. Innovative which have been taken at the local, regional or national level to promote and ensure the rights of older persons with disabilities and lessons learnt from these.
2. Communication through the internet and cell phones between the older and younger persons has greatly improved the communication between the parents in the rural areas and their children in the urban. Children have also been able to send money through mobile phones.

Lessons learnt: Communication between the older persons and their children is possible even with the migration of the young person’s to urban in search of gainful employment.

1. Formation of self-help Groups for socialization and entrepreneurship

Lessons learnt: Given an opportunity, it is possible for the older persons with disabilities to continue contributing to the Economic development in their countries.

Submitted by:

Jane Miano (Ageing with Disability)

Founder- Coordinator

Focus of Disabled Persons