

14 April 2023.

Dr. Claudia Mahler  
The Independent Expert on the enjoyment of all human rights by older persons,  
Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais Wilson, 52 rue des Pâquis  
CH-1201 Geneva, Switzerland.

Dear Dr Mahler,

**Submission to the call for inputs for a report on older persons in the context of climate change-induced disasters and building back better (Nigeria)**

**Introduction**

Further to your recent Call for Inputs on the above subject matter, this author counts it a privilege to make the inputs below into your 2023 GA report as it relates to Nigeria, and in his capacity as an academic born and raised in Nigeria. He hopes that his humble contributions would be considered favourably in shaping your report.

**About the author**

Dr Philip E. Oamen is a Lecturer in Law at the Birmingham City University, United Kingdom. He obtained his PhD from the University of Birmingham where he explored the role of international cooperation in the realisation of Economic and Social Rights. His research interests include Older Persons' Rights, Economic and Social Rights, and African Law. Philip has served as an Expert Panellist at an event organised by the African Commission Working Group on Rights of Older Persons and People with Disabilities in collaboration with the University of Pretoria, where he advised representatives of African Governments on strategies towards the ratification and implementation of the Protocol to the African Charter on Human and Peoples' Rights (the African Charter) on the Rights of Older Persons in Africa 2016(Older Persons' Protocol). He is a well published researcher in his area of expertise. He has presented several conference papers including a paper on the impact of COVID-19 on older persons' rights presented at a conference organised by the African Commission and

the University of Pretoria to mark the 40<sup>th</sup> anniversary of the African Charter. He also recently presented a staff seminar paper on the impact of feminisation of ageing on the economic and social rights of African older women. Philip is a Fellow of the United Kingdom Higher Education Academy.

## **Input**

Find below Philip's input to the 2023 GA report.

## **Question**

**Legal, policy and institutional frameworks: Is there national legislation on emergency disasters? Does the legislation address the specific needs of older persons? Is there a national plan, policy or strategy to address the prevention, mitigation, and/or response to climate change-related disasters, and does it include older persons? Please provide detailed information and relevant documents, if applicable.**

## **Response**

There are legal, policy and institutional frameworks on emergency disasters in Nigeria. Some of these frameworks are discussed below, through the lens of how far they have mainstreamed older persons' specific needs.

### **National Emergency Management Agency (Establishment, etc.) Act, 1999(NEMA Act)**

The NEMA Act is the flagship legislation that regulates emergency and disaster management in Nigeria. It establishes the institutional framework (the National Emergency Management Agency-NEMA)<sup>1</sup>. NEMA is charged with the responsibility to, amongst others, formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level'.<sup>2</sup> Owing to the fact that Nigeria is made up of federating States, the NEMA Act also establishes State Committees which must notify NEMA of any natural or other disasters occurring in the state concerned and cooperate with NEMA to address such disasters.<sup>3</sup> Unfortunately, this Act does not specifically deal with older persons or other group needs. Rather, it provides a general legal and institutional framework for disaster management.

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<sup>1</sup> Section 1, NEMA Act

<sup>2</sup> Section 6(a), NEMA Act.

<sup>3</sup> Section 9, NEMA Act.

## **The Climate Change Act 2021(CCA)**

The CCA is a recent legislative innovation intended to achieve low greenhouse gas emissions and address the impact of climate change. It has been hailed as a watershed, making Nigeria the first major developing country to commit to setting 'annual carbon budgets to plot its path to cutting emissions to net zero'.<sup>4</sup> One of the objectives of the CCA is 'identifying risks and vulnerabilities, building resilience and strengthening existing adaptive capacities to the impacts of climate change'.<sup>5</sup> The CCA establishes an institutional framework (the National Council on Climate Change-NCCC),<sup>6</sup> which has been given really comprehensive and commendable functions, including the formulation of 'guidelines for determining vulnerability to climate change impact and adaptation assessment, and facilitating the provision of technical assistance for their implementation and monitoring'.<sup>7</sup> Curiously though, the composition of the NCCC represents several vulnerable groups but older persons. For example, one cannot possibly justify the compositional enumeration of the CCA which specifically provides that the NCCC shall include 'a representative of- (i) women, (ii) youths, and (iii) persons with disabilities, to each be nominated by the most representative registered national umbrella association'.<sup>8</sup> This legislative omission of older persons in the CCA echoes the United Nations (UN) recent disturbing report<sup>9</sup> that older persons remain 'chronically invisible', because, the omission perpetuates the chronic invisibility that older persons have been subjected to in terms of data collection, data disaggregation and participation in decision making processes.<sup>10</sup> This author submits that there is every need to urgently mainstream geriatric and ageing concerns into national law and policy discourse to address the special needs of Nigerian older persons.

## **National Senior Citizens Centre Act 2017(NSCCA)**

The NSCCA is a novel legislation that seeks to activate or 'justicialise' the somewhat non-justiciable section 16(2)(d) of the Constitution of the Federal Republic of Nigeria which stipulates that State policy should ensure old age care and pensions. The said section 16(2)(d) is however generally

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<sup>4</sup> Joe Lo, 'Nigeria commits to annual carbon budgets to reach net zero under climate law'(Climate Home News 22 November 2021), available at [Nigeria commits to annual carbon budgets to reach net zero under climate law \(climatechangenews.com\)](https://www.climatechangenews.com/2021/11/22/nigeria-commits-to-annual-carbon-budgets-to-reach-net-zero-under-climate-law/) (accessed on 13 April 2023).

<sup>5</sup> Section 1(g), CCA.

<sup>6</sup> Section 3, CCA.

<sup>7</sup> See section 4, CCA.

<sup>8</sup> Section 5(1)(s), CCA.

<sup>9</sup> <https://www.ohchr.org/en/press-releases/2020/09/older-persons-remain-chronically-invisible-despite-pandemic-spotlight-says> (accessed on 12 April 2023).

rendered non-justiciable by virtue of section 6(6)(c) of the same Constitution which provides that chapter II of the Constitution (under which section 16(2)(d) falls) is not subject to courts' jurisdiction except where the Constitution provides otherwise.<sup>11</sup> Although the NSCCA does not deal with disaster-related issues specifically, its provisions are relevant in terms of discussions around managing or coping mechanisms for climate change-related disasters among older persons. For example, the NSCCA establishes the National Senior Citizens Centre (the Centre) which it empowers to identify the needs of older persons and provide for the recreational, sports, educational, health and social programmes and facilities to meet the needs.<sup>12</sup> However, just like the CCA above, there is a lack of explicit representation of older persons in the decision-making processes of the Centre. For example, the NSCCA establishes a Governing Board to oversee the Centre, and states that the Board shall be made up of a chairman, four members and the Director-General of the Centre.<sup>13</sup> Going by the provisions of the NSCCA, there is no age specification for the Board's membership; the members are only required to be of proven integrity.<sup>14</sup> This means that the political class could legally fill up the Board with their young political loyalists who satisfy the proven integrity requirement, thereby shutting out the most concerned (older persons) from an effective participation in decision-making on issues directly affecting them.

### **National Policy on the Environment 2016**

This Policy recognises climate change and its impact as one of the emerging issues in disaster management. Although the Policy discusses several general issues such as poverty, health and housing issues associated with climate-change triggered disasters, no particular attention has been paid to older persons. For example, the Policy states that, 'for sustainable development, access and ownership of natural resources should be enhanced for all gender, people living with disabilities, marginalized and minority groups'.<sup>15</sup> It goes further to state that government will facilitate full participation of women, men, girls and boys and other vulnerable groups in decision making processes in environmental governance and management, and 'ensure the participation of women and other vulnerable groups across all sections of society in environmental trainings, public

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<sup>11</sup> For a detailed discussion on the justiciability debate, see Philip Ebosetale Oamen, 'Realisation of the right to health in Nigeria: The prospects of a dialogic approach', available at [Realisation of the Right to Health in Nigeria: The Prospects of a Dialogic Approach by Philip Oamen :: SSRN](#) (accessed on 12 April 2023).

<sup>12</sup> Sections 2 and 6, NSCCA.

<sup>13</sup> Section 3, NSCCA.

<sup>14</sup> Section 3(3)

<sup>15</sup> See National Policy on the Environment 2016, available at <https://faolex.fao.org/docs/pdf/nig176320.pdf> (accessed on 12 April 2023).

awareness and sensitization campaigns'.<sup>16</sup> A cursory examination of the above policy statements reveal that older persons are markedly sidelined in terms of meaningful engagement and participation in policy formulation and implementation decision making processes. While it could be argued that the absence of a specific mention of older persons in the Policy is harmless since they can be considered under the general ('people living with disabilities', 'marginalised', 'minority' or 'vulnerable') groups as used in the Policy, this author contends that such an argument is not convincing or compelling enough. Older persons are peculiar people with their peculiar needs, different from other vulnerable groups such as people with disabilities, and so they deserve a special attention and traction in policy formulation and implementation. As the UN recently noted, '[a]lthough ageism and ableism share common roots and consequences, inequality in older age is not the mere result of ableist biases'.<sup>17</sup> While disability is a social construct, inequalities due to old age are predominantly seen as 'natural' or 'inevitable' and distinct forms of oppression requiring special attention.<sup>18</sup>

### **National Disaster Risk Management Policy 2018**

Although this Policy commendably provides a multi-stakeholder system and inter-ministerial coordination of disaster risk management in Nigeria, it is not inclusive enough as far as older persons' participation is concerned. For example, the Policy expressly states that 'gender, especially inclusion of women, is an under-served area of DRM[disaster risk management]' in Nigeria and thereafter emphasises the need to include women, civil society organisation, the private sector and media partners in disaster risk management.<sup>19</sup> It is completely silent on older persons' inclusion and participation in disaster management decision making processes, despite the fact that older persons are among the most vulnerable groups when it comes to human induced and natural disasters.<sup>20</sup>

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<sup>16</sup> As above.

<sup>17</sup> UN, 'Report of the Special Rapporteur on the rights of persons with disabilities' 5, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/221/53/PDF/N1922153.pdf?OpenElement> (accessed on 12 April 2023).

<sup>18</sup> Ibid.

<sup>19</sup> NEMA, 'Disaster Risk Management Policy 2018', 26, available at <https://nema.gov.ng/documentations/National%20Disaster%20Risk%20Management%20Policy.pdf> (accessed on 13 April 2023).

<sup>20</sup> Philip E. Oamen and Eghosa O. Ekhaton, 'The Impact of COVID-19 on the Socio-Economic Rights of Older Persons in Africa: The Urgency of Operationalising the Protocol on the Right of Older Persons' (2021) 21 *African Human Rights Law Journal* 782-811, available at [AHRLJ 2\\_2021\\_Oamen 2.indd \(up.ac.za\)](https://www.ahrlj.org/2021/Oamen%20and%20Ekhaton%20.pdf) (accessed on 14 April 2023).

## Question

**Access to information: How do you raise awareness about existing measures in relation to prevention, mitigation, and response to climate-change related disasters in the public? How is information about access to essential services (e.g. access to shelters, food security, healthcare, legal assistance, social services) made accessible and available for older persons? Please provide detailed information.**

## Response

NEMA carries out awareness and sensitisation campaigns on existing measures aimed at preventing and mitigating climate-change related disasters. For example, NEMA has just recently released to the public its '2023 Climate-related Disaster Preparedness and Mitigation Strategies' document which aims at sensitising the public on the predicted impact of climate change and mitigation strategies.<sup>21</sup> The NEMA's National Disaster Response Plan also creates a multi-agency information-sharing platform on climate change and other disasters.<sup>22</sup> However, this NEMA awareness creation function is usually carried out generally; there are no specific mechanisms targeted at older persons' access to information.<sup>23</sup>

Additionally, the Nigerian Freedom of Information Act 2011 can be used by anyone, including older persons, to compel any government agency or public officer to make any specific information available to them.

Also, the Department of Climate Change which sits within the Ministry of the Environment has an 'Education, Awareness and Outreach Division' charged with the responsibility of sensitising the public on climate change impact, adaptation and mitigation.<sup>24</sup>

Furthermore, the newly established Senior Citizens Centre (see above) has initiated the creation of ageing desks across relevant government institutions to mainstream and prioritise issues that concern older persons.

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<sup>21</sup> Rahila Lassa, 'Nigeria Unveils 2023 Climate-Related Disaster Preparedness Strategy' (*Voice of Nigeria*, 14 April 2023), available at [Nigeria Unveils 2023 Climate-related Disaster Preparedness Strategy – Voice of Nigeria \(von.gov.ng\)](https://von.gov.ng/news/2023/04/14/nigeria-unveils-2023-climate-related-disaster-preparedness-strategy) (accessed on 14 April 2023).

<sup>22</sup> NEMA, 'National Disaster Response Plan', available at <https://nema.gov.ng/documentations/National%20Disaster%20Response%20Plan.pdf> (accessed on 13 April 2023).

<sup>23</sup> See for example, NAN, 'NEMA begins sensitisation of communities in flood-prone areas of Delta' (*The Guardian Newspaper*, 17 August 2020), available at [NEMA begins sensitisation of communities in flood-prone areas of Delta – Nigeria – The Guardian Nigeria News – Nigeria and World News](https://www.guardian.ng/news/story/2020/08/17/nema-begins-sensitisation-of-communities-in-flood-prone-areas-of-delta) (accessed on 14 April 2023).

<sup>24</sup> See [Education, Awareness and Outreach Division - Department of Climate Change](https://www.dcc.gov.ng/education-awareness-and-outreach-division) (accessed on 14 April 2023).

In addition, the Centre has revealed that it is collaborating with the National Orientation Agency 'on the development of Information Education and Communication materials (IEC) aimed at re-orienting the public about their perception of older persons and ageing'.<sup>25</sup> These strategies, if well executed, would address issues around information accessibility and availability.

## Question

**Participation: Are there measures in place to ensure the full and meaningful participation of older persons in addressing climate change-related disasters? Please provide detailed information.**

## Response

No. As discussed under question one above, there are no specific measures that ensure the meaningful participation of older persons in addressing climate change-related disasters. For example, while the National Climate Change Policy for Nigeria 2021 (NCCPN) states that 'vulnerable groups especially women, children, small-holder farmers, persons with disability, **elderly persons** and youth commonly face higher risks and greater burdens from the impacts of climate change,'<sup>26</sup> and that 'their low participation in decision-making processes and labour markets compound inequalities and often prevent them from fully contributing to climate-related planning, policy-making, implementation, monitoring and evaluation',<sup>27</sup> the NCCPN is silent on how older persons can be engaged in climate change decision-making processes. However, the other vulnerable groups do not suffer the same policy silence under the NCCPN. Thus, the NCCPN specifically accentuates that the involvement of 'women, girls and other vulnerable groups in the design and implementation of climate change management programmes is essential for effective management of the impacts'.<sup>28</sup> It also encourages the incorporation of 'gender perspectives in climate change responses and climate finance processes' and the bridging of 'data gap on gender and climate change'.<sup>29</sup> It is submitted that the lack of a specific mention of older persons and geriatric perspectives

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<sup>25</sup> NSCC, 'Contribution of Older Persons to Sustainable Development', available at [NIGERIA UN Substantive Economic Security sustainable Development.pdf](#) (accessed on 14 April 2023).

<sup>26</sup> [NCCP NIGERIA REVISED 2-JUNE-2021.pdf \(climatechange.gov.ng\)](#), 46 (accessed on 12 April 2023).

<sup>27</sup> As above.

<sup>28</sup> As above. In fact, there is a specific 'National Action Plan on Gender and Climate Change for Nigeria 2020', available at [climate-change-and-gender-action-plan.pdf \(climatechange.gov.ng\)](#) (accessed on 13 April 2023). However, there is no similar specific climate change Plan for older persons or on ageing.

<sup>29</sup> (no26).

and data gap in the NCCPN suggests that older persons have been left behind or not taken seriously in the formulation and implementation of laws and policies around climate change and its impact on their specific needs. This national policy omission again further spotlights the chronic invisibility of older persons in national and international allocative discourse.<sup>30</sup> Therefore, this author suggests that the NCCPN should be reviewed to, similar to gender mainstreaming, incorporate geriatric concerns and perspectives to make it more inclusive thereby meeting the specific participatory needs of older persons.

## Question

**Intersectionality: How do climate change-related disasters affect specific groups of older persons in all their diversity (including older women, older LGBTI persons, older persons belonging to national, religious, and linguistic minorities and older indigenous people, refugees and internally displaced persons, older persons with disabilities, older persons based in urban and rural areas, among others). Please provide detailed information.**

## Response

Although some findings have revealed that Nigerian older persons in urban areas are less affected by climate change impact because they can muster their wealth and experience to adopt adaptation strategies,<sup>31</sup> this author argues that these findings might not be applicable to a majority of Nigerian older persons who work in the unpredictable informal sector. As this author argues elsewhere, the informality of many older persons' (especially older women's) role, coupled with the insufficient reward that is attached to that informality fuels economic disempowerment, health inequalities and general precarisation among older persons.<sup>32</sup>

## Question

**Data: Is disaggregated data available at national and local level about the impact of climate change-related disasters on older persons? Is data available on the response to climate change-**

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<sup>30</sup> <https://www.ohchr.org/en/press-releases/2020/09/older-persons-remain-chronically-invisible-despite-pandemic-spotlight-says> (accessed on 12 April 2023).

<sup>31</sup> Olasunkanmi Habeeb Okunola and Mulala Danny Simatele 'Climate change in urban Nigeria - 4 factors that affect how residents adapt' (*The Conversation*, 26 February 2023), available at [Climate change in urban Nigeria - 4 factors that affect how residents adapt \(theconversation.com\)](https://theconversation.com/climate-change-in-urban-nigeria-4-factors-that-affect-how-residents-adapt) (accessed on 13 April 2023).

<sup>32</sup> Philip E. Oamen, 'Feminisation of Ageing and Socioeconomic Rights Realisation: What is the Hope for African Older Women?' (Being a paper presented at the Birmingham City University School of Law Staff Seminar Series on 31 March 2023).



**related disasters, in particular with regard to older persons? If available, please provide figures and such data.**

### **Response**

There is no disaggregated data on this. However, with the evolving work of the National Senior Citizens Centre which is currently working on creating ageing desks in government institutions and collaborating with the National Identity Management Commission to issue identify cards to older persons,<sup>33</sup> there is some hope that older persons' data collection and disaggregation on key human rights and climate change issues would be achieved in the near future. Also, although the recently approved National Policy on Ageing could not be publicly accessed online at the time of writing this submission, there is some evidence that it aims to 'ensure that the fundamental human rights of older persons are upheld and protected and to develop a functional data management system for effective research, planning, monitoring and evaluation of ageing programming'.<sup>34</sup>

### **Question**

**Please provide examples of good practices for addressing the needs of older persons in preventing, mitigating and responding to climate change-related disasters.**

### **Answer**

Apart from the evolving but commendable work of the Senior Citizens Centre and other government institutions as noted above, there are no noticeable good practices for addressing the specific needs of older persons in Nigeria. To engender good practices in Nigeria, this author suggests the following.

- i. There should be a critical review of Nigerian policies and amendment to relevant Nigerian laws to mainstream older persons into national discourse and consciousness on issues that affect them, including climate change-related disasters.
- ii. There should be a minimum percentage of older persons' membership on all statutory bodies regulating or coordinating climate change-related matters.
- iii. Nigeria's annual budget on health should earmark a specific percentage for provisions of geriatric personnel, training, and

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<sup>33</sup> (no25), 7.


<sup>34</sup> Samuel Lamai, 'FG Approves National Policy On Ageing For Older Persons In Nigeria'(Federal Ministry of Information and Culture Press Release, 11 February 2021), available at <https://fmic.gov.ng/fg-approves-national-policy-on-ageing-for-older-persons-in-nigeria/> (13 April 2023).

facilities in Nigerian hospitals. The fact that only about a hundred geriatricians are available to attend to over four million Nigerian older persons' gerontological health needs is unsettling.<sup>35</sup>

- iv. Nigeria should urgently ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa 2016 which contains fantastic provisions on the rights of older persons.

Thank you for the opportunity.

Yours sincerely,



Philip E. Oamen

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<sup>35</sup> Angela Onwuzoo, 'Nigeria has less than 100 geriatricians to over four million old people' (*Punch Newspaper*, 16 February 2020), available at ['Nigeria has less than 100 geriatricians to over four million old people' - Healthwise \(punchng.com\)](https://www.punchng.com/nigeria-has-less-than-100-geriatricians-to-over-four-million-old-people/) (accessed on 14 April 2023).