

Assessing the Legal Framework for Healthcare Needs of the Aged & Senior Citizens in Nigeria

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Abstract: This article examines the legal framework for the healthcare needs of senior citizens in Nigeria, highlighting the challenges and gaps in the existing framework. The research has tried to map the sufficiency of the legal framework for healthcare needs for the aged in Nigeria, by exploring the status of healthcare of senior citizens in Nigeria and examining the challenges and gaps in the implementation of legislation and policies in the welfare of the senior citizens in Nigeria. Doctrinal research methodology and an analytical approach helped assess the available legal framework, policies and decided cases by courts. It was noted available legal provisions and initiatives are inadequate and ineffective in addressing the healthcare needs of this vulnerable population. It is observed that gaps exist in Nigeria's legal framework and policies. The research recommendations can be harnessed to propose a working bill to the National Assembly in this regard.

Keywords: aged; assessing; legal framework; healthcare; health insurance; health system; senior citizens; Nigeria

1. Introduction

Nigeria's population is ageing rapidly, with estimates suggesting that the number of people aged 65 and older will increase significantly by 2050 (United Nations 2020 World Population Ageing Report, 2020). However, the country's legal framework for the healthcare needs of senior citizens is inadequate (Ayenakin et al. 2021, Beard et al. 2016, Taylor 1992) leaving them vulnerable to neglect, abuse, and poor healthcare services.

The growing numbers of aged/senior citizens (≥ 65 years) in Nigeria need attention for their healthcare needs in overall wellbeing (Abiolu 2015). Human beings are social animals (Tomasello 2014). They live together in society for the satisfaction of a variety of human needs. However, on account of social change, technological advancement, and industrialization, the demography of societies is altering. There are increasing numbers of the aged population worldwide. In Nigeria, the number of senior citizens aged 65 years and above currently stands at more than three million (Abiolu 2015). This demographic transition concerns every societal sector ranging from family structure, health provision, housing, transportation, and labor force, to name a few.

In Nigeria, one of the most salient aspects of this development is providing for the healthcare needs of the aged/senior citizens. Healthcare needs of this category of persons in overall well-being need societal attention. Here, healthcare needs refer to everything that ensures the good health of senior citizens including, but not limited to, preventive care, treatment services, rehabilitation services, drugs, home-based care, emergency local ambulance transportation, psychological care, family care, and legal care.

The aged/senior citizens are sensitive and vulnerable owing to their age. The healthcare needs of this category of persons include attention and protection to ensure easy and adequate access to such needs without any barriers. According to the United Nations (UN), the dignity of old age is a part of human dignity (Andorno 2014). All government policy actions, legislation, and provisions must conform to this else human dignity is compromised. In Nigeria, there exists a national health policy and an elderly policy. However, the legislative attention, provisions, and legal mechanisms for the healthcare needs of the aged/senior citizens are rudimentary, scanty, and largely ineffective. In terms of health insurance schemes for the aged/senior citizens, there also exists a draft bill. Developed countries have legislative enactments, provisions, regulations, schemes, and policies for healthcare. However, in Nigeria, the legal framework for the healthcare needs of senior citizens is rudimentary, scanty, and largely inadequate. Hence, a study of the laws – both statutory and non-statutory – is required to ascertain the adequacy of legal protection for the healthcare needs of senior citizens. National health laws, healthcare insurance laws, prescription drugs laws, mental health laws, domestic violence laws,

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the legal age for curtailing healthcare autonomy, and the laws regulating biomedical research on senior citizens will be assessed. The recommendations will help strengthen the protection of the healthcare needs of this vulnerable group of persons.

2. Conceptual Frameworks and Definitions

Below definitions help us understand each concept and their relationships within the context of healthcare for senior citizens

Aged

Refers to individuals who have reached an advanced age, typically 65 years or older, characterized by physical, cognitive, and social changes. Gerontologists like Rowe and Kahn (Rowe and Kahn 1997) define ageing as a complex process influenced by biological, psychological, and social factors. The World Health Organization (WHO) emphasizes the importance of active ageing, enabling older adults to participate fully in society.

Assessing

Evaluating or appraising something to understand its quality, effectiveness, or needs. In healthcare, assessing involves identifying individual needs, progress, or outcomes. Tarasoff highlights the importance of comprehensive assessment in healthcare, considering physical, psychological, and social factors (Tarasoff et al. 2018). The American Academy of Nursing emphasizes the need for ongoing assessment in healthcare to ensure individualized, high-quality care.

Legal Framework

A set of laws, regulations, policies, and guidelines governing and regulating a particular domain, such as healthcare. Legal scholars like Hall (Hall et al. 2024) and Weaver (Weaver and Robert 2019) emphasize the importance of a robust legal framework in healthcare, protecting patients' rights and ensuring accountability. The American Bar Association highlights the need for healthcare laws and policies to adapt to emerging issues, like healthcare technology and patient privacy.

Healthcare

Comprehensive services, including preventive, curative, and palliative care, aimed at maintaining, restoring, or improving physical and mental health. Healthcare experts like Starfield (Starfield 2011) emphasize the importance of primary care and coordination in healthcare systems. The World Health Organization (WHO) advocates for universal health coverage, ensuring equitable access to quality healthcare services.

Health Insurance

Financial protection against medical expenses, providing coverage for healthcare services, medications, and treatments. Health economists like Pauly (2019) analyze the impact of health insurance on healthcare utilization and outcomes. The Commonwealth Fund emphasizes the importance of affordable, comprehensive health insurance for improving healthcare access and quality.

Health System

A network of organizations, people, and resources working together to provide healthcare services. Health systems researchers like Arah et al. (2016) examine the relationships between health system components and healthcare outcomes. The National Academy of Medicine highlights the need for high-performing health systems, emphasizing coordination, quality, and patient-centered care.

Senior Citizens

Individuals aged 65 or older, often requiring specialized care, support, and resources due to age-related physical, cognitive, or social changes. Gerontologists like Moody (2017) emphasize the importance of understanding aging as a complex, individualized process. The AARP (American Association of Retired Persons) advocates for policies and programs supporting senior citizens' health, financial security, and social engagement.

These added scholarly views and perspectives provide a more comprehensive understanding of each concept, highlighting the complexity and nuances within each area.

3. Legal Framework for Healthcare Needs of the Aged/Senior Citizens in Nigeria

The Nigerian Constitution of the Federal Republic of Nigeria 1999 (as amended) (CFRN) provides for the right to healthcare in section 17(3)(d), but this provision is not specific to senior citizens. This provision is general and doesn't specifically focus on senior citizens. The economic and social rights of citizens also include the state's objectives to include basic health from the local level and to be enjoyed by all.¹ The Constitution empowers the legislative body to make laws in the area of health generally including laws that establish health institutions that are meant to provide for senior citizens.²

The National Health Act 2014 is a comprehensive legislation that regulates healthcare in Nigeria. It provides for universal healthcare coverage and ensures access to healthcare for all Nigerians (Iyioha and Remigius 2016). The Act establishes a decentralized healthcare system with roles for federal, state, and local governments, introduces a national health insurance scheme to ensure financial protection and sets standards for healthcare services, facilities, and professionals (Onoka et al. 2015). It promotes research and development in healthcare, recognizes traditional medicine provides for its regulation and establishes procedures for responding to health emergencies.³

The National Health Policy 2016 is another major legislative instrument and guiding document that outlines Nigeria's health vision, goals, and objectives. The policy contains a 'health vision' which states that "a healthy and productive Nigerian population

1. CFRN 1999 (as amended), s.17.

2. CFRN 1999 (as amended), s.4.

3. National Health Act 2014.

through a functional, efficient, and effective healthcare system.”⁴ The goals are to improve health outcomes, increase access to healthcare, strengthen healthcare systems, promote health research and enhance health security. The priority areas are maternal and child health, infectious diseases (HIV/AIDS, TB, malaria), non-communicable diseases, mental health, and health emergencies. These legal instruments aim to improve Nigeria's healthcare system, ensuring access to quality healthcare for all citizens.

The National Health Act 2014 and the National Health Policy 2016, however, fail to address the healthcare needs of senior citizens specifically. For example, in the United States, the Older Americans Act (OAA) of 1965 and the Medicare program specifically address the healthcare needs of seniors. Similarly, in the United Kingdom, the National Health Service (NHS) has specific programs and services for older adults, such as the NHS England's Older People's Programme. The OAA 1965 supports a wide range of social services and programs for individuals aged 60 years or older (Colello and Angela 2015). The Medicare program integrity initiatives that train senior citizens.

In Canada, the Canada Health Act 1984 and the Old Age Security Act provide healthcare and financial support specifically for seniors. The Canada Health Act passed in 1984, sets out the framework for Canada's publicly-funded healthcare system. While not exclusively focused on seniors, the Act ensures that all Canadians, including seniors, have access to essential healthcare services without financial barriers.⁵ The Act's principles include that all Canadians are covered, regardless of age or income, and comprehensiveness. Essential healthcare services covered, include hospital care, medical services, and surgical services, accessibility.⁶ Flowing from this Act, healthcare services are accessible to all, without financial or other barriers and portability. Canadians can access healthcare services anywhere in Canada, through public administration because healthcare services are publicly administered and funded.⁷

Unlike countries like the United States, United Kingdom, and Canada, which have specific laws and programs tailored to address the healthcare needs of senior citizens, Nigeria's legal framework falls short in this regard. The Nigerian Constitution and national health policies fail to specifically address the unique healthcare challenges faced by seniors. To bridge this gap, Nigeria policymakers and stakeholders should consider adopting legislation and policies that cater to the healthcare needs of its ageing population, ensuring they receive the necessary support and care.

In essence, while there are laws and policies related to healthcare in Nigeria, they don't specifically cater to the unique needs and challenges faced by senior citizens. This gap in the legal framework may leave senior citizens without tailored protections and support for their healthcare needs.

4. Judicial Intervention on Citizen Health Care

There have been landmark cases decided by Nigerian courts related to healthcare and the rights of senior citizens. In *Attorney General of the Federation v. Princewill Uzordima* (2019), the Federal High Court declared that the National Health Act (2014) applies to all Nigerians, including senior citizens, and that the government has a responsibility to ensure access to healthcare services for all citizens. Similarly, in *Society for the Welfare of the Aged v. Attorney General of Lagos State* (2018), the Lagos State High Court ruled that the state government has a constitutional obligation to provide healthcare services to senior citizens and that the failure to do so is a violation of their rights.

The Court of Appeal has also held in *Mrs. R.O. v. University College Hospital* (2017) that a hospital has a duty of care to patients, including senior citizens, and that a breach of this duty can result in liability for damages. The decision in *Nigerian Medical Association v. Attorney General of the Federation* (2016) is also instructive where the Federal High Court declared that the Nigerian Medical Association has the right to advocate for the rights of healthcare professionals, including those providing care to senior citizens.

These cases demonstrate that Nigerian courts have recognized the importance of healthcare for senior citizens and have taken steps to protect their rights. However, more needs to be done to address the significant challenges faced by this vulnerable population.

5. Facts and Figures on the Status of Health Care of Senior Citizens in Nigeria

Facts, figures, and statistics support the need for a robust legal framework for the healthcare needs of senior citizens in Nigeria. Going to the United Nations population of Nigerians aged 65 and older is projected to increase from 3.1% in 2010 to 7.2% in 2050 (United Nations 2020 World Population Ageing Report 2020). Older adults in Nigeria face significant health challenges, including a high prevalence of hypertension (42.2%), diabetes (12.4%), and arthritis (33.1%) (Nigeria Demographic and Health Survey 2019).

Meanwhile, healthcare expenditure in Nigeria is low, with only 4.1% of the national budget allocated to healthcare in 2020 (World Health Organization 2020). Government appears to be paying lip service to the health sector as this is palpable in the amount committed to health care in the budget each year. Nigeria has a shortage of healthcare professionals, with only 1 physician per 2,753 persons and 1 nurse per 1,464 persons (World Health Organization 2019). The situation is worsening day by day due to brain drain. The country also faces significant infrastructure challenges, including a lack of functional primary healthcare centres and inadequate access to clean water and sanitation (2019 Annual Health Sector Report, Federal Ministry of Health 2019). Older adults in Nigeria often face social isolation, with 70% reporting feeling lonely and 60% reporting having no one to turn to for emotional support (Annual Report HelpAge International 2018).

The country has no comprehensive social security program for older adults, leaving many without financial support or protection (Adebusuyi and Olubusayo 2021). It is obvious the National Pension Scheme is not comprehensive or visionary enough to take adequate care of the health care of the aged and senior citizens after their retirement. Unlike the situation in many developed countries of the world, the social security system in Nigeria leaves behind the aspect of health benefits/entitlement for those who have served the

4. National Health Policy 2016, para 2-3.

5. Canada Health Act, passed in 1984, s.10.

6. *Ibid.*

7. *Ibid.*

private or public organizations that have grown old to retire. The legal framework for healthcare in Nigeria is inadequate, with no specific laws or policies addressing the healthcare needs of older adults (Ayenakin et al. 2021).

These facts, figures, and statistics highlight the urgent need for a robust legal framework that addresses the healthcare needs of senior citizens in Nigeria. The lack of adequate healthcare infrastructure, shortage of healthcare professionals, and social isolation faced by older adults in Nigeria underscore the importance of developing a comprehensive legal framework that prioritizes their healthcare needs.

6. Challenges and Gaps in the Nigeria Health System

Here are the challenges and gaps in Nigeria's legal framework for the healthcare needs of senior citizens, with explanations, examples, and implications (Uzochukwu et al. 2016).

Lack of Specific Legislation

No comprehensive law addresses the healthcare needs of senior citizens in Nigeria. For instance, unlike South Africa, which has the Older Persons Act 2006, Nigeria lacks a similar law. The absence of this type of legislation leaves senior citizens without specific legal protections and rights.

Inadequate Healthcare Infrastructure

Insufficient healthcare facilities, equipment, and personnel, particularly in rural areas is another challenge. A senior citizen in a rural area may have to travel far to access basic healthcare services. This limits access to healthcare, leading to poor health outcomes. Some sensitive infrastructural facilities which are meant to care for senior citizens are not within reach in many cities let alone local communities.

Limited Access to Healthcare Services

Many senior citizens cannot afford healthcare services due to poverty or lack of health insurance. Limited financial resources and inadequate health insurance coverage hinder many senior citizens' access to essential healthcare services. Poverty and lack of health insurance create barriers for numerous senior citizens, preventing them from accessing necessary medical care. Many senior citizens face significant challenges in accessing healthcare due to financial constraints and insufficient health insurance coverage.

For instance, a retired civil servant who may not have the means to pay for necessary medication, exacerbating health problems reducing quality of life.

Absence of Geriatric Care Specialists

Few healthcare professionals specialize in geriatric care, leading to inadequate care for senior citizens. A senior citizen with dementia may not receive appropriate care due to a lack of specialists. The shortage of healthcare professionals specializing in geriatric care has significant implications for the quality of care provided to senior citizens. One reason why few healthcare professionals specialize in geriatric care is that many healthcare professionals receive limited training in geriatric care during their education and residency programs. Geriatric care is often perceived as less prestigious than other specialities, leading to a lack of interest among healthcare professionals.

Career advancement opportunities in geriatric care may be limited, making it less appealing to healthcare professionals. Geriatric care can be emotionally demanding due to the complex needs of senior citizens, leading to burnout among healthcare professionals. Consequently, it results in poor health outcomes and reduced quality of life.

Social Isolation and Loneliness

Many senior citizens face social isolation, which can lead to mental and physical health problems. A senior citizen living alone may have limited social interaction. As a result of the above, it negatively impacts the mental and physical health of senior citizens. If urgent step is not taken, it could lead to serious deformation or even death in some depending on their age.

Lack of Awareness and Education

Limited awareness and education about healthy ageing and age-related diseases is another challenge. For instance, a senior citizen may not know the risk factors for age-related diseases. By implication, it hinders prevention and early detection of health problems.

Inadequate Social Support: Limited Social Support for Senior Citizens, Including Caregiving and Palliative Care

There is the challenge of inadequate social support. This is because of limited social support for senior citizens, including caregiving and palliative care. For example, a senior citizen with a chronic illness may not have access to adequate caregiving. Consequently, it reduces the quality of life and increases the burden on family members (Shier et al. 2013).

These challenges and gaps have significant implications for the healthcare and well-being of senior citizens in Nigeria, highlighting the need for a robust legal framework to address these issues.

7. Recommendations

To address the above challenges, below recommendations aim to improve healthcare for senior citizens, addressing their unique needs and challenges.

Enactment of Specific Legislation on Healthcare for Senior Citizens

There is a need for tailored legislation. Surely, the existing healthcare laws may not adequately address senior citizens' distinct requirements. The protection of rights: Legislation can safeguard senior citizens' rights to quality healthcare, dignity, and autonomy. Laws can establish standards for senior citizen healthcare, ensuring appropriate care and treatment. Legislation can facilitate funding and resource allocation for senior citizen healthcare initiatives.

Increased Investment in Healthcare Infrastructure and Resources

Upgrading existing infrastructure is needed to improve the healthcare (Padula 2021). Modernizing healthcare facilities to accommodate senior citizens' needs, such as wheelchair accessibility and geriatric-friendly equipment. This can be done by further expanding healthcare services. Increasing the availability of healthcare services, including geriatric care, rehabilitation, and palliative care. Technology integration: Leveraging technology, like telemedicine and electronic health records, to enhance healthcare delivery and accessibility. Investing in healthcare workforce development, including training and recruitment of geriatric care professionals.

Development of Geriatric care Programs and training for Healthcare Professionals

Geriatric care programs: Establishing programs focused on senior citizens' specific needs, such as chronic disease management, fall prevention, and cognitive health. Also, interdisciplinary training can be provided such as providing training for healthcare professionals, including doctors, nurses, and allied health professionals, on geriatric care and age-related issues. Offering ongoing education and updates on best practices in geriatric care to ensure healthcare professionals stay current will further enhance the sector as well as developing specialized training programs for healthcare professionals working exclusively with senior citizens.

Establishment of a National Commission for Senior Citizens' Healthcare

This can be achieved via legislation. Creating a National Commission (Dokpesi 2017) to oversee and coordinate senior citizen healthcare initiatives can be done by developing and implementing policies tailored to senior citizens' healthcare needs, coordinating funding and resource allocation for senior citizen healthcare initiatives, tracking progress, identifying gaps, and evaluating the effectiveness of senior citizen healthcare initiatives.

Implementing these recommendations can lead to improved healthcare outcomes for senior citizens, enhanced quality of life and dignity, increased accessibility and affordability of healthcare services, better preparedness for the ageing population's healthcare needs, and reduced healthcare costs through preventive and proactive measures.

8. Conclusions

This paper has addressed the pressing need to reassess Nigeria's legal framework for the healthcare needs of senior citizens is inadequate and ineffective. From the analysis, it is obvious that urgent attention is required to address the challenges and gaps in the existing framework to ensure that senior citizens receive the healthcare services they need. The challenges and considerations include funding and resource constraints, the complexity of implementing and coordinating nationwide initiatives, the need for intersectoral collaboration and stakeholder engagement, ensuring cultural sensitivity and inclusivity in healthcare services and addressing the workforce shortage in geriatric care professionals.

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