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Legal protection of older people in Brazil: fundamental rights, active aging, and public policy challenges

A proteção jurídica da pessoa idosa no Brasil: direitos fundamentais, envelhecimento ativo e desafios das políticas públicas

La protección jurídica de las personas mayores en Brasil: derechos fundamentales, envejecimiento activo y desafíos de las políticas públicas

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Abstract:
Population aging is changing the demographic composition of Brazil and increasing the need for public policies capable of guaranteeing rights, autonomy and social participation to older persons. This study analyzes the legal protection of older persons in Brazil based on the 1988 Federal Constitution, the National Policy for Older Persons and the Statute of the Older Person, relating legal provisions to challenges in the implementation of public policies. The research is bibliographical and documentary, using legislation, legal scholarship and official data from the Brazilian Institute of Geography and Statistics (IBGE) and the Ministry of Human Rights and Citizenship. The 2022 Demographic Census recorded 32,113,490 people aged 60 or over, corresponding to 15.8% of the Brazilian population, demonstrating the scale of demographic transition. The analysis shows that Brazil has rules guaranteeing priority, health, social assistance, participation, protection against violence and non-discrimination, but the existence of legal rules does not by itself guarantee their effectiveness. Among the main problems are violence, barriers to access to services, insufficient long-term care and difficulties in coordinating and financing policies. It is concluded that legal protection must be accompanied by planning, budgeting, oversight, integration among services and evaluation of policy results.

Keywords:
Older person. Fundamental rights. Statute of the Older Person. Active aging. Public policies.

Resumo:
O envelhecimento da população brasileira vem modificando a composição demográfica do país e aumentando a necessidade de políticas públicas capazes de garantir direitos, autonomia e participação social às pessoas idosas. Este trabalho analisa a proteção jurídica da pessoa idosa no Brasil a partir da Constituição Federal de 1988, da Política Nacional do Idoso e do Estatuto da Pessoa Idosa, relacionando o conteúdo das normas com desafios observados na implementação das políticas públicas. A pesquisa é bibliográfica e documental, utilizando legislação, doutrina e dados oficiais do Instituto Brasileiro de Geografia e Estatística (IBGE) e do Ministério dos Direitos Humanos e da Cidadania. O Censo Demográfico 2022 registrou 32.113.490 pessoas com 60 anos ou mais, correspondentes a 15,8% da população brasileira, demonstrando a dimensão da transição demográfica. A análise mostra que o Brasil possui normas que asseguram prioridade, saúde, assistência social, participação, proteção contra violência e não discriminação, mas a existência da norma não garante, por si só, sua efetividade. Entre os principais problemas estão a violência, as barreiras de acesso aos serviços, a insuficiência de cuidados de longa duração e as dificuldades de coordenação e financiamento das políticas. Conclui-se que a proteção jurídica precisa ser acompanhada de planejamento, orçamento, fiscalização, integração entre serviços e avaliação dos resultados das políticas públicas.

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Palavras-chave:
Pessoa idosa. Direitos fundamentais. Estatuto da Pessoa Idosa. Envelhecimento ativo. Políticas públicas.

Resumen:
El envejecimiento en Brasil modifica la composición demográfica del país y aumenta la necesidad de políticas públicas que garanticen los derechos, la autonomía y la participación social de las personas mayores. Este trabajo analiza la protección jurídica de las personas mayores en Brasil a partir de la Constitución Federal de 1988, la Política Nacional de la Persona Mayor y el Estatuto de la Persona Mayor, y relaciona el contenido de las normas con los desafíos observados en la implementación de las políticas públicas. La investigación es bibliográfica y documental y utiliza legislación, doctrina y datos oficiales del Instituto Brasileño de Geografía y Estadística (IBGE) y del Ministerio de Derechos Humanos y Ciudadanía. El Censo Demográfico de 2022 registró 32.113.490 personas de 60 años o más, equivalentes al 15,8 % de la población brasileña, lo que muestra la magnitud de la transición demográfica. Las normas brasileñas garantizan la prioridad, la salud, la asistencia social, la participación, la protección contra la violencia y la no discriminación, aunque su existencia no basta para hacerlas efectivas. Entre los principales problemas figuran la violencia, las barreras de acceso a los servicios, la insuficiencia de los cuidados de larga duración y las dificultades de coordinación y financiación de las políticas. Se concluye que la protección jurídica debe ir acompañada de planificación, presupuesto, fiscalización, coordinación entre servicios y evaluación de los resultados de las políticas públicas.

Palabras clave:
Persona mayor. Derechos fundamentales. Estatuto de la Persona Mayor. Envejecimiento activo. Políticas públicas.

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"The degree of civilization of a society
can be measured by how it treats its older people."
(Bobbio)

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Introduction

Population aging has been one of Brazil's most significant demographic changes in recent decades. The 2022 Demographic Census recorded 32,113,490 people aged 60 or over,

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accounting for 15.8% of the Brazilian population. In 2010, this share was 10.8%, showing how much the population aged over a relatively short period (IBGE, 2023).

This situation has legal and social consequences. As the number of older people grows, so does the need for healthcare, social assistance, accessibility, transportation, protection against violence, and policies that foster social participation. The issue therefore involves both recognizing rights and determining whether public institutions can make those rights a reality in everyday life.

The 1988 Federal Constitution establishes human dignity as a foundation of the Republic and, in Article 230, imposes a duty on the family, society, and the State to support older people. Law No. 8,842/1994 subsequently established the National Policy for Older Persons, and Law No. 10,741/2003 enacted the Statute of the Older Person, which was later updated by Law No. 14,423/2022 (BRASIL, 1988; BRASIL, 1994; BRASIL, 2003; BRASIL, 2022).

The central question of this research is to what extent this body of law can produce tangible results. Protective legislation is important, but its effectiveness depends on funding, public services, oversight, action by the agencies responsible for protection, and the participation of older people themselves.

The general objective is to analyze the legal protection of older people in Brazil and the main obstacles to realizing the rights provided for in law. The specific objectives are to understand population aging, identify the main rights guaranteed by the Constitution and the Statute, discuss active aging, and analyze practical challenges facing public policies for older people.

The social significance of the subject and the growth of the older population justify the research. The analysis seeks to relate legal provisions to actual conditions without treating legal protection as sufficient in itself.

1 Population aging and older people

1.1 Definition of an older person

In Brazil, the legal criterion is objective: anyone aged 60 or over is considered an older person. This definition appears in Article 1 of the Statute of the Older Person, as amended by Law No. 14,423/2022 (BRASIL, 2003; BRASIL, 2022).

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Age alone, however, does not explain a person's circumstances. Income, health, housing, access to services, and the availability of family support can increase or reduce vulnerability. Public policies on aging therefore need to consider the different circumstances within the older population itself.

1.2 Population aging in Brazil

Data from the 2022 Demographic Census show the scale of the change. Brazil had 32.1 million people aged 60 or over, representing 15.8% of the population. This group grew by 56.0% compared with the 2010 Census. Over the same period, the proportion of children aged 0 to 14 fell, further changing the country's age structure (IBGE, 2023).

This process directly affects how public policies are formulated.

Demand for healthcare, assistance, accessible transportation, and long-term care is likely to become more important. At the same time, the State must ensure that older people are seen as more than recipients of assistance and must recognize their autonomy, ability to participate, and rights to work, culture, and social interaction.

1.3 Vulnerability and inequalities

Old age does not automatically imply incapacity. Some older people, however, face greater vulnerability due to poverty, isolation, functional dependence, violence, or lack of access to services. A central challenge for public policy is to ensure that these conditions are not treated as the sole responsibility of families.

The Statute establishes that protecting older people involves the family, the community, society, and public authorities. This means that abandonment, violence, or lack of services cannot be treated merely as private matters where rights are violated.

2 Evolution of legal protection

Legal protection for older people developed gradually. For a long time, care in old age was primarily associated with family, charity, and assistance. Brazil's most important change came with the 1988 Constitution, which made social protection a legal duty and assigned responsibility to the family, society, and the State (BRASIL, 1988).

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At the international level, United Nations documents began to address aging as a matter of rights, participation, and development. The 2002 Madrid International Plan of Action on Ageing reinforced the need for policies that take participation, health, security, and dignity into account (ONU, 2002).

In Brazil, Law No. 8,842/1994 established the National Policy for Older Persons. In 2003, the Statute of the Older Person consolidated rights and protective mechanisms. In 2022, Law No. 14,423 updated the legal terminology, replacing the expression ‘idoso’ (‘elderly person’) with ‘pessoa idosa’ (‘older person’) in several provisions (BRASIL, 1994; BRASIL, 2003; BRASIL, 2022).

The main feature of this development is a shift in perspective: older people came to be recognized as rights holders, beyond their role as recipients of assistance. This shift also needs to be reflected in how public policies are planned and implemented.

3 Constitutional and statutory protection

3.1 Federal Constitution and dignity

Human dignity is a foundation of the Republic under Article 1, item III, of the Constitution. For older people, this principle must be read in conjunction with social rights, equality, and the specific provisions of Article 230 (BRASIL, 1988).

Article 230 requires families, society, and the State to support older people, ensure their participation in the community, and defend their dignity, well-being, and right to life. The Constitution also provides that support programs should preferably be carried out in their homes and guarantees free urban public transportation to people over 65 (BRASIL, 1988).

3.2 Priority and fundamental rights

Article 3 of the Statute gives priority to realizing the rights to life, health, food, education, culture, sport, leisure, work, citizenship, freedom, dignity, respect, and family and community life (BRASIL, 2003). This priority includes preferential service, precedence in the formulation and implementation of public social policies, and preferential allocation of public funds in areas related to the protection of older people.

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Priority, therefore, goes beyond being served first in line. It also has administrative and budgetary implications because the law itself requires priority in formulating and implementing social policies.

3.3 Health and social assistance

The Statute guarantees comprehensive healthcare for older people through Brazil's Unified Health System (SUS), with universal and equal access to prevention, promotion, protection, and recovery measures (BRASIL, 2003). In practice, the challenge is to turn this guarantee into timely access, especially for people who need ongoing follow-up, rehabilitation, home care, or long-term care.

In social assistance, the Continuous Cash Benefit (BPC) is provided for in Article 203, item V, of the Constitution and regulated by Law No. 8,742/1993. The benefit is payable to people aged 65 or over who meet the statutory vulnerability requirements and lack the means to support themselves or to obtain support from their families (BRASIL, 1988; BRASIL, 1993).

3.4 Transportation, work, and non-discrimination

Article 230, paragraph 2, of the Constitution guarantees free urban public transportation to people over 65. The Statute sets out the rules on this matter and allows local legislation to establish specific conditions for people aged 60 to 65 (BRASIL, 1988; BRASIL, 2003).

In employment, the Statute prohibits discrimination and maximum age limits when hiring older people, except where the nature of the position justifies such a requirement (BRASIL, 2003). The rule matters because aging does not automatically remove the ability or desire to work.

3.5 Violence and protection of assets

The Statute provides for protective measures and defines offenses involving discriminatory conduct and other forms of violence against older people. Asset protection is especially important because relatives, third parties, or institutions may exploit older people's benefits, pensions, and property.

Official data show that the problem is tangible. The National Human Rights Ombudsman's 2024 management report stated that reports of violence against older people

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accounted for 23.46% of the reports concerning vulnerable groups covered in the report (BRASIL, 2025). This figure underscores the need for prevention, reporting channels, investigations, and follow-up with victims.

4 Active aging and dignity

The World Health Organization treats active aging as the process of optimizing opportunities for health, participation, and security to improve quality of life as people age (OMS, 2005). This idea is important because it moves the discussion beyond a focus on illness and dependence.

In law, active aging is connected to rights already recognized in the legal system, such as work, education, culture, sport, leisure, family life, and community participation. The Statute, for example, recognizes the right to professional activity and requires public authorities to promote vocational training programs for older people (BRASIL, 2003).

A public policy on active aging should therefore extend beyond creating health services. It must address mobility, public spaces, education, digital inclusion, culture, physical activity, social interaction, and opportunities for social participation. The effectiveness of these measures depends on coordination among different areas of government.

5 Public policy challenges

5.1 Violence and abandonment

Violence against older people illustrates the gap that can exist between a right established in law and its protection in practice. For 2024, the Ministry of Human Rights and Citizenship recorded in the Disque 100 management report that 23.46% of reports concerning vulnerable groups involved older people (BRASIL, 2025).

The number of reports should not automatically be interpreted as the number of victims, since one report may cover multiple violations and the records depend on people using the service. Even so, the figure shows the scale of the demand reaching the protection system.

The public response must go beyond receiving reports. It must ensure referrals, investigation, social and health services, protection of assets, and follow-up with victims. The Ministry itself states that reports made through Disque 100 are referred to the network responsible for protection and accountability (BRASIL, 2026).

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5.2 Health and long-term care

Aging increases the importance of services that can manage chronic conditions and support people who depend on care. The issue extends beyond providing appointments to ensuring continuity of care, rehabilitation, home assistance when necessary, and support for caregivers.

In this regard, public policy needs to address prevention and comprehensive care. It is also necessary to discuss who will care for people who lose their autonomy and whose families cannot take on their care alone. As the older population grows, this issue becomes increasingly important.

5.3 Accessibility and mobility

Accessibility enables people to exercise other rights. A person may have the right to healthcare, leisure, or social participation while still struggling to leave home, use transportation, or get around the streets. Sidewalks, public transportation, signs, and public facilities should therefore be designed with the needs of older people in mind.

Brazilian law already recognizes the importance of accessibility, but having legislation does not guarantee that all spaces are adapted. Enforcement and municipal urban planning are essential to closing this gap.

5.4 Income and social vulnerability

Income directly affects a person’s ability to obtain medication, food, housing, and transportation. The BPC and social security benefits are important for many families, but social protection also requires services that prevent isolation, financial exploitation, and abandonment.

Public policy evaluation should go beyond checking whether benefits exist and ask whether the funds reach the person, whether they are enough to address vulnerability, and whether complementary services are available. This approach captures effectiveness more closely than simply checking whether a law exists.

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5.5 Sedentary behavior and the labor market

Age discrimination can reduce employment opportunities and social participation. The Statute prohibits discrimination in hiring older people and provides for vocational training programs (BRASIL, 2003). The effectiveness of this protection, however, also depends on enforcement and changes in hiring practices.

Voluntarily staying in the labor market can support income, autonomy, and participation. At the same time, older people should not be pressured to work because they lack social protection. Public policy must respect both the right to work and the right to social protection.

5.6 Management, funding, and evaluation

A central issue in realizing rights is the ability to turn legal priorities into funded actions whose results are evaluated. The Statute requires priority in formulating and implementing social policies and preferential allocation of resources in areas related to the protection of older people (BRASIL, 2003).

This means the discussion must extend beyond passing new laws. It is necessary to examine budgets, actual expenditure, the number and distribution of services, geographic coverage, service wait times, and results. Without indicators, it is difficult to determine whether a policy is working or needs to change.

In this regard, rights councils, the Public Prosecutor's Office, the Public Defender's Office, the Judiciary, social assistance agencies, and civil society play an important role in monitoring policies. Public participation can also identify problems that administrative indicators may fail to reveal.

6 Final considerations

The analysis shows that Brazil has developed a substantial body of law aimed at protecting older people, especially since the 1988 Constitution. The Constitution, the National Policy for Older Persons, and the Statute of the Older Person recognize rights and establish responsibilities for the family, society, and the State.

At the same time, demographic data show that the issue will become even more important. With 32.1 million people aged 60 or over in 2022, accounting for 15.8% of the

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population, aging has become a matter for planning in health, mobility, work, housing, social security, education, safety, and urban development, as well as social assistance (IBGE, 2023).

Data on reports of violence also show that protection must take tangible form. Reports recorded through Disque 100 show a demand for prevention, services, and accountability, although these records alone do not capture all violence against older people (BRASIL, 2025).

The main challenge identified therefore involves both the absence of legal provisions and the gap between what the law requires and what actually reaches the population. Closing this gap requires funded policies, accessible services, coordination between healthcare and social assistance, mechanisms for protection against violence, enforcement, and regular evaluation of results.

Active aging should also be part of this agenda. Ensuring dignity in old age means protecting people who depend on care and creating conditions for older people to continue participating in society, working when they wish and are able to do so, studying, engaging in physical activity, spending time with others, and exercising their citizenship.

Legal protection for older people must therefore be understood as an ongoing commitment to realizing rights. The law sets out the obligation, and public policies, funding, services, and oversight are the means by which that obligation can produce tangible results.

The research uses a qualitative approach based on bibliographic and documentary sources. It examines the 1988 Federal Constitution, Law No. 8,842/1994, Law No. 10,741/2003, Law No. 14,423/2022, and legislation related to social assistance. Official IBGE data and documents from the Ministry of Human Rights and Citizenship were also consulted.

The research combines legal analysis and public policy analysis. The legal analysis examines rights, duties, and protective mechanisms. The public policy analysis considers implementation problems, especially violence, health, accessibility, income, and long-term care.

The research does not seek to measure the effectiveness of each public policy directly. The analysis is documentary and uses official indicators to show the scale of the problems and examine them alongside the guarantees established in the legal system.

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