

## **Aging In Contemporary Society: Reflections On Public Policies Aimed At Protecting The Elderly In Brazil<sup>1</sup>**

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### **Abstract:**

**Background:** The increase in the elderly population is one of the most significant phenomena in recent times and is occurring in various countries around the world. This new demographic scenario has caused several changes in all sectors of society, demanding the creation of public policies aimed at this segment. In this context, this article addresses the phenomenon of aging as a personal right, as well as the issue of public policies and state guidelines implemented in Brazil for its realization.

**Materials and Methods:** To this end, a bibliographical and documentary research was conducted, using the deductive method.

**Results and Conclusion:** Although the Brazilian legal framework has an integrated and comprehensive system of state guidelines for protection, the protection of the elderly has not been sufficient, revealing new challenges for the effective protection of the rights of current and future generations.

**Key Word:** Rights of Personality; Aging; Elderly Person..

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### **I. Introduction**

The phenomenon of population aging is a global occurrence, especially in Western countries, leading to an increase in the number of studies related to this subject. This change has occurred, particularly due to the decline in mortality and birth rates as a result of the improvement in the quality of life of the population (World Health Organization [WHO], 2018).

The increase in life expectancy and population aging in Brazil and the world have been occurring rapidly, which makes it relevant to reflect on the conditions in which people are aging. Aging is a complex process that involves discussions in the areas of health, education, social assistance, retirement, and housing, encompassing the social, political, and economic aspects that affect the quality of life of the aging population. The combination of these circumstances constitutes the right to dignified aging, recognized as a personal right, and whose protection is a social right.

However, reality diverges from theory when it is witnessed that, in practice, the elderly population suffers due to their aggravated vulnerability, prejudices, and neglect deeply rooted in Brazilian culture, which sees the elderly person as a passive/unproductive being and consequently deprives them of autonomy and dignity in conducting their life.

Due to the legal nature of aging within the Brazilian legal system, society and as whole, and the government especially, is required to take positive actions to ensure dignified conditions for life in old age. This is achieved through the provision and implementation of public policies targeted at this segment of the population. In this sense, this article aims to reflect on the phenomenon of the right to aging in Brazil, focusing on its approach and treatment in the public policies provided for in the legal system.

In order to meet the objective of the study, the deductive method was employed to address the rights of personality and the characterization of aging as such, as well as its form of protection by the government

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through a welfare perspective. The procedure used for this purpose was bibliographical and documentary research, with the Brazilian legislation, articles, books, and other publications on the subject serving as sources.

## **II. Aging in Brazil**

Simultaneously with the peak of the Covid-19 pandemic, in December 2020, the United Nations General Assembly declared the beginning of the Decade of Healthy Aging between the years 2021 and 2030, in support of social actions for quality of life and the reduction of age-based inequalities (PAHO, 2020). This act aligns with the objectives and targets set forth in the United Nations' 2030 Agenda, specifically regarding the Sustainable Development Goals (SDGs) of Health and Well-being (SDG 3) and the Reduction of Inequalities (SDG 10), which require special effort and attention due to the peculiarities of aging treatment in Brazil.

Bobbio (1997) divides old age into three perspectives: a *chronological* perspective, purely based on age; a *bureaucratic* perspective, in which age is used as a criterion for obtaining benefits; and a *psychological/subjective* perspective, which takes into account the individual's psyche and self-understanding as an elderly person. Brazil, aiming for objectivity within subjectivity, has adopted the first criterion to define this condition, considering individuals aged 60 years and older as elderly.

Brazil, once referred to as a country of young people, is also undergoing its demographic transition and experiencing a rapid process of population aging like other countries, especially in Latin America. This occurs amidst profound economic, social, political, ideological, and scientific transformations (Moreira & Nogueira, 2008).

According to data from the Brazilian Institute of Geography and Statistics (IBGE, 2017), Brazil is experiencing a rapid aging process, as the average life expectancy increased from 54 to 75 in less than 80 years (1940-2016).

According to Hoffman (2017), it is likely that by the year 2050, approximately 30% of the Brazilian population will be composed of people aged 65 or older, and by 2025, the country will rank sixth globally in terms of the number of elderly individuals. This growth in the elderly population requires special attention from scientists and the Brazilian government in order to create social policies and enable a healthy life for these individuals. The increase in longevity is a cause for celebration, but there are many challenges ahead, starting with the issue of social inequalities.

Supporting this viewpoint, Silva and Yazbek (2014) emphasize that human longevity in contemporary society can be considered a social achievement. On one hand, old age is a period of life characterized by the exercise of freedom reflected through experience, independence, participation, and integration. On the other hand, it is also a sequential, individual, cumulative, irreversible, universal process of deterioration of a mature organism, common to all members of a species.

The accelerated growth of the elderly population worldwide brings several dilemmas for societies and their governments, including the need to reconfigure life cycles and social policies that concern them (Amaral, Melo & Oliveira, 2015).

The needs and limitations faced by elderly individuals began to be prioritized on the government's public agenda only in 1988, with the advent of the Citizen Constitution (1988). From the promulgation of the Constitution, it was established that the care of the elderly would be a shared responsibility among family, society, and the state, with the aim of ensuring support for senior citizens, guaranteeing their participation, and upholding their dignity (Article 230, *caput*, CF/88). As we can see, the Constitution influences ordinary laws to conform to its principles, and concerning dignity and fundamental rights, Article 3, *caput*, of the Elderly Statute states that:

Article 3: It is the obligation of the family, the community, society, and the government to ensure, with absolute priority, the fulfillment of the elderly person's rights to life, health, food, education, culture, sports, leisure, work, citizenship, freedom, dignity, respect, and family and community coexistence (Brasil, 2004, online).

Thus, demographic transition brings to the forefront the increasing demands arising from the aging of the population, making it increasingly necessary for effective and planned state action to ensure rights and enable autonomy and dignified aging for the elderly (Rodrigues & Ribeiro, 2018).

## **III. Aging as a right of personality and its form of effectiveness**

To age is an inherent process of life. Everything is born, ages, and eventually dies, just like flowers bloom and wither, just like stars shine and fade away. Such is the nature of human life. This is precisely the concept of impermanence, which preaches that everything is in constant change, in motion, never the same. Human life, within a fleeting span of time, encompasses all the sensations experienced in earthly existence. Despite the brevity of life, human dignity is assured, serving as the foundation upon which all other rights are validated and guided, aiming to protect and ensure social inclusion.

As Pope John Paul II stated in his letter to the elderly:

Elders help to contemplate earthly events with more wisdom because the vicissitudes have made them more experienced and mature. They are guardians of collective memory and, therefore, privileged interpreters of that set of ideals and human values that maintain and guide social coexistence. To exclude them is like rejecting the past, where the roots of the present penetrate, in the name of a memoryless modernity. The elderly, thanks to their matured experience, are capable of offering valuable advice and teachings to the young. In this light, the aspects of human fragility, more visibly linked to old age, become a call to interdependence and the necessary solidarity that connects generations, as each person needs the other and enriches themselves with the gifts and talents of all. (Paulo II, 1999, online).

It is worth noting that the recognition of the fragility and the need for special protection of the elderly is a long-acknowledged issue, yet it is challenging for society to embrace it due to the negative image associated with them. Unlike children and adolescents, who rely on the legal system to recognize their autonomy, the elderly require legal protection to maintain it, “faced with the constant threat of denial, if not deprivation, due to their natural and increasing fragility in the face of the complex demands of life” (Barboza, 2020, p. 13). In the post-modern culture, there is a worship of the new and marginalization of the old, resulting in the exclusion of the elderly from social participation and private autonomy, reducing them to mere spectators of their own decline.

Nevertheless, every person is entitled to age with dignity, enjoying life to the fullest while having all their fundamental rights of personality guaranteed. However, the aging process of the population and its treatment by society have become recent concerns and issues in the Brazilian context (Silva & Yazbek, 2014).

Valuing the dignity of the elderly and enshrining this principle aligns with human dignity as a principle of the republic and the foundation of the Rule of Law. Human dignity, as currently conceived, consists of the unique, internal, and absolute nature of the human being, valued as an end and internal and absolute foundation of the legal system (Barroso, 2013). In the words of Kant (1986, p. 77), “[...] when something has a price, one can put anything else in its place as an equivalent; but when something is above all price, and, therefore, allows no equivalent, then it has dignity.” This premise is enshrined in the Brazilian Federal Constitution (CF/88) through the general clause protecting the dignity of the human person (Article 1, III, CF/88), a fundamental principle structuring the entire legal system and responsible for granting validity to all other existing provisions (Tepedino, 2004) that expressly or implicitly contemplate it in their wordings, under penalty of nullifying any effectiveness of any provision that goes against the premise of human dignity.

Dignity is considered a value linked to morality and, after the war, it became an ideal established as a political goal by the victorious countries. It has a dual dimension: the first, internal, associated with the intrinsic value of each person and inviolable due to the impossibility of devaluing the human person; the second, external, is the institute from which all other rights and obligations are derived, and can be violated to that extent (Barroso, 2013). As a constitutional principle, it influences legal construction and political choices in the internal order and can only be weighed against other principles and collective goals, usually prevailing because it is the priority institute, even in relation to other constitutional principles, as it is the human being, realized in their dignity, who is the end and foundation of the entire legal system. For this reason, it is even argued that the principle of human dignity, due to its outstanding normative force, would be considered a matrix principle or a super-principle within the Brazilian legal system:

The magnitude of the principle of human dignity is precisely reflected in the fact that, as a foundation of the Republic, it is a true super-principle, which guides and drives the entire interpretation of other principles, guarantees, and rights contained in the Constitution, binding not only the entire Public Power but also individuals (Cantali, 2009, p. 89).

As a normative source, dignity encompasses the fundamental rights of personality, in essence, the normative values that protect the inherent aspects of the person and their dignified life in society. It is not forgotten that there is doctrinal differentiation between these institutes, conceiving fundamental rights as those expressly or implicitly enshrined within the constitutional law of the sovereign state (Sarlet, 2021), operating in the field of public law and vertical and horizontal relationships. On the other hand, rights of personality are the institutes, within the scope of private law, aimed at protecting the aspects that make up an individual’s personality (Szaniawski, 2005). However, even if selected by the dichotomy of *public* and *private* law due to their field of regulation, both fundamental rights and rights of personality are based on human dignity as their foundation, thus sharing the same ontological content and protection, which is the human being.

Thinking about personality rights is walking hand in hand with fundamental rights, as these institutes often correspond to each other in terms of nature and degree and, therefore, have a similar legal application when interpreted in specific cases. In other words, rights of personality have a legal framework in Civil Law that corresponds to fundamental rights in Constitutional Law, both rooted in the axiological value of human dignity,

thus, can be called fundamental rights of personality (Cantali, 2009), receiving protection from the government in case of violation.

Personality, from the perspective of legally protected values, refers to the “set of characteristics and attributes of the human person, considered a privileged object of protection throughout the legal system, a legal interest represented by the affirmation of human dignity” (Tepedino, Barboza & Moraes, 2008, p. 4). Therefore, if rights of personality, as subjective rights, encompass the set of attributes with legal force that form and allow for the protection of human dignity in all its aspects, certainly dignified aging, as an inexorable part of human life, can be considered a right of personality and, consequently, be protected and realized through positive actions by the State for its materialization. In this sense, art. 8 and 9 of the Statute of the Elderly, when inaugurating the catalog of protection of the fundamental rights of the elderly, state that:

Article 8: Aging is a personal right, and its protection is a social right, in accordance with this Law and the current legislation.

Article 9: It is the State’s obligation to guarantee the elderly person’s protection of life and health through the implementation of public social policies that allow healthy aging in conditions of dignity (Brasil, 2004, online).

Although it is argued that aging is an autonomous and personal right, it is common to relate it to other rights of personality that are equally individually recognized, such as integrity, honor, privacy, autonomy, life, and the free development of personality.

By correctly classifying aging as a right related to personality and, subsequently, affirming that the protection of this right constitutes a social right, it is immediately evident that the realization of dignified aging is ensured through proactive actions by the government, accomplished through so-called public policies. The so-called second dimension of fundamental rights refers to social rights, those intended to reduce inequalities and improve overall quality of life. These social rights, due to their distributive nature, do not impose any limit on the State; on the contrary, they are guaranteed by the State through material benefits. On this basis, Silva defines them:

[...] as a dimension of fundamental human rights, positive rights are positive actions provided directly or indirectly by the State, as stated in constitutional norms, to improve the living conditions of the weaker individuals. These rights aim to achieve social equality by equalizing unequal social situations. Therefore, they are rights connected to the right to equality. They serve as prerequisites for the enjoyment of individual rights, since they create more favorable material conditions for achieving real equality, which, in turn, enables a more compatible environment for the effective exercise of freedom (Silva, 1995, p. 276).

The State, as the entity responsible for the realization of fundamental rights, is the primary actor in the implementation of social rights, carrying them out through the creation of public policies, programmatic actions of the government that mediate the relationship between the State and individuals aiming at a legally defined goal. Dworkin (2007, p. 36) defines public policies in the legal context as “[...] that kind of pattern that sets an objective to be achieved, usually an improvement in some economic, political, or social aspect of the community.” Comparato (1998), on the other hand, thinking about the phenomenon as an activity, defines it as an organized set of rules and acts unified by the purpose of achieving a specific objective.

Although budgetary issues may influence the actions taken to realize the right, the notion of “the possible reserve” cannot be invoked lightly and detached from the concrete circumstances when the State is demanded. The State’s objective, as stated in Article 3 of the Constitution, is to build a just society that guarantees national development, reduces inequalities, and promotes the well-being of all indiscriminately.

There is, therefore, no room to interpret discretion when it comes to the realization of social rights. The government has a constitutional duty to enforce and ensure fundamental rights, both being implicitly linked due to their immediate enforceability regulated in §1 of Article 5 of the CF/88 (Siqueira, 2015). The State is forbidden from evading the progressive implementation of public policies to achieve the existential minimum, thus, those basic social rights that are integral to human dignity.

#### **IV. Regulatory instruments and public policies focused on the elderly person in Brazil**

As previously mentioned, dignity in old age is ensured through the implementation of public policies aimed at healthy aging, imposing on the State, as the primary guarantor of this personal right, the adoption of positive actions for this purpose. Regarding such actions, the Elderly Councils, the Public Prosecutor’s Office, the Health Surveillance, and other bodies provided for by law are responsible for monitoring governmental and non-governmental entities that provide services to the elderly (Article 52 of Law No. 10,741/2003).

Regarding public policies, despite the elderly enjoying the priority mentioned in the aforementioned legislations, the number of policies in favor of this highly vulnerable population is still scarce. These citizens are users of social, health, and protection services, and their rights need to be guaranteed. However, they often find themselves at the mercy of limited existing service strategies. In this context, promoting active, healthy, citizen-

centered, and sustainable aging of the Brazilian population through the provision of more elderly-friendly environments and services is an innovative and necessary strategy to address the challenges of population aging.

The Inter-American Convention on the Protection of the Human Rights of Older Persons - the first international legally binding instrument focused on the protection and promotion of the rights of older persons - establishes “dignity, independence, protagonism, and autonomy of the elderly” as a general principle (Article 3, paragraph c). In its preamble, the convention recognizes that as a person ages, they should continue to enjoy a full, independent, and autonomous life with health, safety, integration, and active participation in economic, social, cultural, and political spheres (OEA, 2015).

In the international context, the San Jose Charter on the Rights of Older Persons in Latin America and the Caribbean, agreed upon during the Third Intergovernmental Regional Conference (2012), outlines the improvement of social protection systems to effectively meet the needs of older persons. Among other actions, it urges the “protection, through mechanisms of supervision and periodic controls, of the rights and dignity of older persons residing in public and private institutions or medical establishments” (item 7, sub-item j), as well as work towards improving “housing conditions and the environment of older persons, to strengthen their autonomy and independence” (item 10) (Brazil, 2013, online).

Such guidelines are incorporated into the Federal Constitution based on their aforementioned objectives (Article 3), the general clause protecting human dignity (Article 1, III), and the specific provisions for the protection of older persons. These provisions cover aspects such as providing for their nutritional needs based on mutual solidarity (Article 229) and ensuring their right to life, encompassing health care, assistance, participation, maintenance within the family, and dignity (Article 230).

In addition to the Federal Constitution, another institutional measure in the field of policies for older persons was the National Policy for the Elderly (PNI), Law No. 8,842, enacted on January 4, 1994. The main objective of this policy, as stated in Article 1, is to “[...] ensure the social rights of the elderly, creating conditions to promote their autonomy, integration, and effective participation in society” (Brazil, 1994). Thus, the family, society, and the State share equal responsibilities in providing conditions that allow this social segment to fully exercise their citizenship.

The National Policy for the Elderly also provides for the accommodation of elderly individuals aged 60 or older, of both sexes, who are either independent or have varying degrees of dependency. The nature of this reception should be temporary and, exceptionally, long-term when all possibilities of self-sustainability and living within the family environment have been exhausted<sup>2</sup>. Elderly individuals with family ties or affinity – couples, siblings, friends, etc. – should be accommodated in the same facility. Preferably, elderly couples should be offered the option to share the same room. Elderly individuals with disabilities should also be included in these services to avoid segregation and isolation of this segment.

According to Rodrigues and Ribeiro (2018), due to the increasing number of elderly individuals in need of care and the decrease in the availability of family caregivers, various institutions have emerged to provide collective housing and long-term care services for the elderly. These institutions have been given various names, such as shelter, nursing home, retirement home, geriatric residential care with full-time care, protected residences for the elderly, and elderly housing with accommodation. Currently, these facilities are legally defined as Long-Term Care Institutions for the Elderly (ILPIs)<sup>3</sup>.

However, despite the existence of places other than the family environment, the promotion of alternative forms of care that encourage social, and family interaction is essential to ensure the rights of elderly individuals. For this purpose, national legislation provides, in an exemplary manner, options for care that go beyond institutionalization. These modalities are regulated by Decree No. 9.921/2019, which establishes:

Article 17. For the purposes set forth in this Chapter, the following are considered non-institutional care modalities:

I - Social center - a place intended for the daytime stay of the elderly, where physical, work-related, recreational, cultural, associative, and citizenship education activities are developed;

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<sup>2</sup>The care in Long-Term Care Institutions is provided for elderly individuals who lack the conditions to remain with their family, experience situations of violence and neglect, are homeless or abandoned, and have weakened or broken family ties.

<sup>3</sup>According to the National Health Surveillance Agency (ANVISA), Long-Term Care Institutions (ILPIs) are government or non-governmental residential facilities intended for collective housing of individuals aged 60 or older, with or without family support (Brazil, 2005). The importance of these institutions is so significant that recently there was the issuance of the Collegiate Board Resolution of ANVISA (RDC) 502/2021 (replacing the previous RDC 293/2005) which establishes the minimum operating standards for Long-Term Care Institutions for the Elderly.

II - Daycare center: hospital-day and day-center - a place intended for the daytime stay of dependent elderly individuals or those with temporary disabilities who require medical or multiprofessional assistance;

III - Group home - a residence, operated under a participatory system, provided by public authorities or private entities, intended for elderly individuals with insufficient income for their maintenance and without family support;

IV - Sheltered workshop - a place intended for productive activities for the elderly, providing opportunities to increase their income, governed by specific rules;

V - Home care - service provided in the home of a dependent elderly person who lives alone, by healthcare professionals or members of the community itself, with the purpose of meeting their daily life needs; and

VI - Other forms of care - initiatives developed within the community itself, aimed at promoting the integration of the elderly person into the family and society (Brasil, 2019, online).

These care modalities, among others, such as foster families and elderly group homes, allow for the prevention of situations of risk, isolation, and social exclusion. In cases where the elderly person, with a condition of dependency or semi-dependency, remains with their family, support in caregiving activities may be necessary through home care services, contributing to an improved quality of life.

Furthermore, it is important to emphasize that the National Elderly Policy (PNI) is replicated at the state level in the State of Paraná by State Law No. 11.863/1997, which determines in its article 1 that “[t]he State Policy for the Rights of the Elderly, in the scope of the State of Paraná, aims to ensure the rights of individuals over 60 years of age, creating conditions for their autonomy, integration, and effective participation in society” (Brazil, 1997, online). This state policy reiterates the same age-related principles previously mentioned, in order to regulate actions to promote and provide social assistance, healthcare, education, employment, housing and urban development, justice, culture, sports, leisure, and finally, science and technology, specifically for the elderly.

It is worth noting that even before the promulgation of the PNI, in 1993, the Organic Law of Social Assistance (LOAS), Law No. 8.742/1993, already recognized the elderly as one of its priority target groups. The LOAS establishes in article 2 that social assistance has among its objectives: “[...] the guarantee of a monthly benefit of one minimum wage to the disabled person and the elderly person who does not have the means to provide for their own maintenance or have it provided by their family” (Brazil, 1993, online), a reality materialized through the Continuous Cash Benefit (BPC).

As an unfolding of the Organic Health Law (Law No. 8.080/1990), which ensured universal and comprehensive health rights, the National Health Policy for the Elderly was established in 1999, contributing to the expansion of access to preventive and curative medical services, enabling better healthcare for the elderly. This policy is guided by the promotion of active and healthy aging, following the guidelines of the United Nations (UN), as well as recognizing the vulnerability of institutionalized elderly individuals by stating that:

An elderly person is considered frail or in a situation of fragility if they: live in a Long-Term Care Institution (ILPI), are bedridden, have been recently hospitalized for any reason, have known diseases causing functional impairment – such as stroke, dementia, and other neurodegenerative diseases, alcoholism, terminal cancer, or limb amputations – have at least one basic functional disability, or experience domestic violence situations (Brasil, 2006, online).

Another important measure created by the Brazilian government to ensure the protection and well-being of elderly individuals was the Statute of the Elderly, Law No. 10.741/2003. This law aims to regulate the rights guaranteed to elderly persons aged 60 years or older. In Articles 2 and 3, the Statute provides:

Article 2: The elderly enjoy all fundamental rights inherent to the human person, without prejudice to the comprehensive protection provided by this law, ensuring them, through laws or other means, all opportunities and facilities for the preservation of their physical and mental health, and their moral, intellectual, spiritual, and social development, in conditions of freedom and dignity.

Article 3: It is the obligation of the family, community, society, and the government to ensure the elderly, with absolute priority, the realization of the right to life, health, nutrition, education, culture, sports, leisure, work, citizenship, freedom, dignity, respect, and family and community coexistence (Brasil, 2003, online).

The Statute of the Elderly also provides important rights for elderly individuals residing in institutions, regulating the matter in two chapters: Chapter II “On Institutions for the Elderly” (articles 48 to 51) and Chapter III “On the Inspection of Institutions” (articles 52 to 55). It is worth noting that the requirements and principles to be observed by these institutions were defined, including the civil and criminal responsibility of the institution’s director, the obligations of the institution, the authorities responsible for its inspection, including the Public Prosecutor’s Office, as well as the applicable penalties according to the severity of non-compliance with the provisions of this Law.

The Statute of the Elderly Person, which covers both substantive and procedural law, presupposes in its article 49 the rights of the institutionalized elderly person:

Article 49: Entities that develop long-term institutionalization programs shall adopt the following principles:

- I - preservation of family bonds;
- II - personalized and small group care;
- III - keeping the elderly person in the same institution, except in cases of force majeure;
- IV - involvement of the elderly person in community activities, both internal and external;
- V - observance of the rights and guarantees of the elderly;
- VI - preservation of the elderly person's identity and providing an environment of respect and dignity (Brasil, 2003, online).

Rodrigues and Ribeiro (2018) explain that the institutionalization process of the elderly person cannot occur against their will, except by court decision in cases of demonstrated risk. The fact that an elderly person is in a situation of risk cannot deprive them of their human condition and their right to make choices in their life. Therefore, based on the provisions of the National Policy for the Elderly and the Statute of the Elderly, the recognition of the elderly person's status in Brazilian society presupposes the guarantee of efforts that promote their full citizenship, ensuring their autonomy, integration, and effective participation in society.

This redefinition of old age requires a redirection of the public agenda to strengthen opportunities for debate on the issue of aging and to integrate effective measures aimed at meeting their social needs.

The framework composed of the LOAS, PNI, and Statute of the Elderly is further complemented, in 2004, by the National Social Assistance Policy (PNAS), established through Resolution no. 145, of October 15th, which includes in its guidelines basic social protection and special social protection, aimed at priority social segments, including the elderly (Brazil, 2004).

With regard to elderly people with disabilities, the Brazilian Law for the Inclusion of Persons with Disabilities, Law n.º 13,146/2015 emphasizes, in the sole paragraph of its fifth article, that these subjects are considered especially vulnerable people:

Article 5: Persons with disabilities shall be protected from all forms of negligence, discrimination, exploitation, violence, torture, cruelty, oppression, and inhuman or degrading treatment.

Sole Paragraph: For the purposes of the protection mentioned in the main provision of this article, children, adolescents, women, and elderly persons with disabilities are considered particularly vulnerable (Brasil, 2015, online).

However, it should be noted that the fragility of the elderly should not justify or even be confused with the authorization to interfere with their autonomy, as this would affect their loss of freedom, therefore, their condition as citizens.

Although the aforementioned legislation is an important instrument for implementing the right to dignified aging in society, its implementation is only a few steps away, which requires more energetic measures to adapt the State to international treaties and the constitutional text. To this end, the "elder-friendly city" certificate was instituted, first at the international level, as a result of a joint initiative by PAHO and the World Health Organization (WHO) to encourage the promotion of public actions and policies, the active participation of municipal councils and carrying out actions to address the vulnerabilities of this public.

This strategy was applied in *Brasil Amigo da Pessoa Idosa*, through Decree No. 9,328/2018. Currently revoked and regulated by Decree No. 9,921/2019, which consolidates normative acts by the executive branch on the subject of the elderly and distributes powers within the executive branch for the coordination of public policies related to the elderly in Brazil. In the aforementioned decree, the guideline is, in addition to the protagonism of the elderly, the strengthening of public services aimed at the elderly, within the scope of social assistance, health, urban development, human rights, education, and health policies. communication.

The classification of the city gradually improves, in proportion to the quality of aging in its interior, as provided for in art. 23 of the aforementioned decree:

Article 23: For the purposes of this Chapter, the following definitions apply:

- I - Active aging - the process of improving health conditions, participation, and safety to enhance the quality of life during aging;
- II - Healthy aging - the process of developing and maintaining functional capacity that allows the well-being of the elderly person;
- III - Citizen aging - the one in which civil, political, and social rights are exercised;
- IV - Sustainable aging - one that ensures the well-being of the elderly person regarding rights, income, health, activities, and respect, and also concerning society, encompassing aspects of production, intergenerational coexistence, and harmony, with a broad concept of economic development; and

V - Age-friendly community and city - one that encourages active aging by providing opportunities for improving health, participation, and safety, aiming to enhance the quality of life for elderly individuals during the aging process (Brasil, 2019, online).

Although budget barriers are a factor that often slows down specific works designed to serve this segment of the population, measures such as certification are interesting to encourage public authorities to effectively implement the adaptations necessary for dignified aging of the elderly, since the counterpart, in addition to the quality of life and fulfillment of the state's role, lies in the greater attractiveness of the allocation of resources and foreign investments. Such a measure seems interesting and meets the promotional function of responsibility, which is based on encouraging ethical conduct and positive actions by the government, in order to achieve the best interest of the elderly and aging as a highly personal right.

### **V. Final considerations**

In this article, aging was approached as a highly personal right, and the normative diplomas that ensure it by predicting the implementation of public policies, which was done as a general overview, without the capacity and possibility of further deepening the details of each one due to the spatial limitation of the work.

We observe, however, that despite the legal progress in the field of the rights of the elderly, there is a vast distance between the legal provisions and the daily reality of the elderly in Brazil. This 'truth' requires, in our view, greater rigidity in relation to the applicability of laws, since public policies must effectively ensure a dignified aging process for the person, in which he/she can count on health, autonomy, leisure, education, and all fundamental rights of the personality guaranteed by the legal system.

This idea is crucial, as many people share the mindset that long-term care facilities are sufficient or ideal options to meet the needs of older people. The Statute of the Elderly Person prioritizes care provided by the family itself, to the detriment of asylum care, except in cases of elderly people who do not have one or who lack conditions to maintain their own survival. However, it is necessary to discuss alternatives to institutionalization, since many elderly people are in ILPIs due to the lack of these public policies, which are fundamental to ensure dignified aging.

We also believe that there is a need for joint and articulated action between the various public bodies and civil society organizations, in order to promote a broad debate on the importance of the active role of the elderly in formulating proposals for the improvement of their conditions. of life, in their various contexts and social insertions. Thus, we believe that, alongside the effectiveness of laws and public policies, an educational process is also crucial to allow for a change in the social representations of the population regarding the rights of elderly people in Brazil.

### **References**

- [1]. Amaral, T. M. R., Melo, E. M. & Oliveira, G. L. (2015). Comparação Do Perfil De Idosos Ativos E Não Ativos Do Programa Bolsa Família. *Revista Brasileira De Geriatria E Gerontologia*, V.18, N.2, P. 351-360.
- [2]. Barboza, H. H. (2020). O Princípio Do Melhor Interesse Da Pessoa Idosa: Efetividade E Desafios. In: Barletta, F. R. & Almeida, V. (Coords.). *A Tutela Jurídica Da Pessoa Idosa: 15 Anos Do Estatuto Do Idoso*. Indaiatuba, SP: Editora Foco, P. 03-20.
- [3]. Barroso, L. R. (2013). A Dignidade Da Pessoa Humana No Direito Constitucional Contemporâneo. Belo Horizonte: Forum.
- [4]. Brasil. (1988). *Constituição Da República Federativa Do Brasil De 1988*. Brasília, DF: Presidência Da República.
- [5]. Brasil. (1990). Lei N. 8.080, De 19 De Setembro De 1990. Dispõe Sobre As Condições Para A Promoção, Proteção E Recuperação Da Saúde, A Organização E O Funcionamento Dos Serviços Correspondentes E Dá Outras Providências. Brasília DF: Presidência Da República.
- [6]. Brasil. (1993). Lei N. 8.742, De 07 De Dezembro De 1993. Dispõe Sobre A Organização Da Assistência Social E Dá Outras Providências. Brasília DF: Presidência Da República.
- [7]. Brasil. (1994). Lei N. 8.842, De 04 De Janeiro De 1994. Dispõe Sobre A Política Nacional Do Idoso, Cria O Conselho Nacional Do Idoso E Dá Outras Providências. Brasília DF: Presidência Da República.
- [8]. Brasil. (2003). Lei N. 10.741, De 01 De Outubro De 2003. Dispõe Sobre O Estatuto Do Idoso E Dá Outras Providências. Brasília DF: Presidência Da República.
- [9]. Brasil. (2004). Resolução N. 145, De 15 De Outubro De 2004. Dispõe Sobre Política Nacional De Assistência Social.
- [10]. Brasil. (2005). Resolução De Diretoria Colegiada - RDC N° 283, De 26 De Setembro De 2005.
- [11]. Brasil. (2006). Portaria N. 2.528, De 19 De Outubro De 2006. Aprova A Política Nacional De Saúde Da Pessoa Idosa.
- [12]. Brasil. (2013). Carta De São José Sobre Os Direitos Dos Idosos Da América Latina E Caribe. Secretaria De Direitos Humanos Da Presidência Da República. Brasília, P. 507-519.
- [13]. Brasil. (2015). Lei N° 13.146, De 06 De Junho De 2015. Institui A Lei Brasileira De Inclusão Da Pessoa Com Deficiência (Estatuto Da Pessoa Com Deficiência). Brasília DF: Presidência Da República.
- [14]. Brasil. (2019). Decreto N° 9.921, De 18 De Julho De 2019. Consolida Ato Normativo Editado Pelo Poder Executivo Federal Que Dispõem Sobre A Temática Da Pessoa Idosa. Brasília DF: Presidência Da República.
- [15]. Bobbio, N. (1997). *O Tempo Da Memória: De Senectude E Outros Escritos Autobiográficos*. Rio De Janeiro: Campus.
- [16]. Cantali, F. B. C. (2009). *Direitos Da Personalidade: Disponibilidade Relativa, Autonomia Privada E Dignidade Humana*. Porto Alegre: Livraria Do Advogado.
- [17]. Comparato, F. K. (1998). Ensaio Sobre O Juízo De Constitucionalidade De Políticas Públicas. *Revista De Informação Legislativa*, Brasília, Ano 35, N.138, P. 39-48.
- [18]. Dworkin, R. (2007). *Levando Os Direitos A Sério*. Tradução De Nelson Boeira. 2. Ed. São Paulo: Martins Fontes.



- [19]. Hoffman, M. C. (2017). Envelhecimento: Brasil - Um País De Idosos?
- [20]. Instituto Brasileiro De Geografia E Estatística - IBGE. (2017).
- [21]. João Paulo II. (1999). Carta Do Papa João Paulo II Aos Anciãos.
- [22]. Kant, I. (1986). Fundamentação Da Metafísica Dos Costumes. Tradução: Paulo Quintela. Lisboa: Editora 70.
- [23]. Moreira, V. & Nogueira, F. N. N. (2008). Do Indesejável Ao Inevitável: A Experiência Vivida Do Estigma De Envelhecer Na Contemporaneidade. *Revista Psicologia USP*, V.19, N.1, P. 59-79.
- [24]. Organização Dos Estados Americanos – OEA. (2015). Convenção Interamericana Sobre A Proteção Dos Direitos Humanos Dos Idosos De 2015.
- [25]. OPAS/OMS - Organização Pan-Americana Da Saúde. Década Do Envelhecimento Saudável Nas Américas (2021-2030).
- [26]. Rodrigues, M. C. & Ribeiro, D. S. D. (2018). Instituições De Longa Permanência Para Idosos, Formas Alternativas À Institucionalização E O Papel Do Ministério Público Estadual. *Revista Jurídica Do Ministério Público Do Estado Do Paraná*, V. 5, P. 16-37.
- [27]. Sarlet, I. W. (2021). Fundamentos Constitucionais: O Direito Fundamental À Proteção De Dados. In: Mendes, L. S., Doneda, D., Sarlet, I. W. & Rodrigues Junior, O. L. (Coords.). *Tratado De Proteção De Dados Pessoais*. Rio De Janeiro: Forense, P. 21-59.
- [28]. Silva, J. A. (1995). *Curso De Direito Constitucional Positivo*. 10 Ed. São Paulo: Malheiros.
- [29]. Silva, M. R. F. & Yazbek, M. C. (2014). Proteção Social Aos Idosos: Concepções, Diretrizes E Reconhecimento De Direitos Na America Latina E No Brasil. *Revista Katálysis*, V.17, N.1, P. 102-110.
- [30]. Siqueira, D. P. (2015). *A Dimensão Cultural Do Direito Fundamental À Alimentação*. 2.Ed. Birigui - SP: Editora Boreal.
- [31]. Szaniawski, E. (2005). *Direitos De Personalidade E Sua Tutela*. 2. Ed. São Paulo: Revista Dos Tribunais.
- [32]. Tepedino, G. (2004). *A Tutela Da Personalidade No Ordenamento Civil-Constitucional Brasileiro*. In: Tepedino, Gustavo (Coord.). *Temas De Direito Civil*. 3. Ed. Rio De Janeiro: Renovar, P. 23-54.
- [33]. Tepedino, G., Barboza, H. H. & Moraes, Maria C. B. (2008). *Código Civil Interpretado Conforme A Constituição Da República*. 2. Ed. Rio De Janeiro: Renovar.
- [34]. World Health Organization - WHO. (2018). *Ageing And Health*.