



**AMPID - Associação Nacional dos Membros do Ministério Público de Defesa dos
Direitos das Pessoas Idosas e Pessoas com Deficiência**
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Access to Justice

The increase in Brazilian longevity took place over of decades, without waking up to the implications for aging population. And let us also remember that this phenomenon is common to both peripheral and advanced countries since the beginning of this century.

Based on data from the National Household Sample Survey - PNAD (IBGE, 2017), it is observed that there is a tendency to increase the elderly population - the registry is about **28 million people aged 60 years or more**, which corresponds to **13.5%** of the total population. Estimates indicate that in 2025 Brazil will have the sixth largest population of the planet, behind only Indonesia, Japan, the United States, India and China.

National legal framework.

Taking care of ageing parents is a legal duty (art.229, Federal Constitution of 1988) as well as a moral obligation of their children. In Brazil the guarantee of specific rights of the elderly is found in Federal Laws 8.842 / 94 (National Policy of the Elderly) and 10.741 / 03 (Statute of the Elderly), although there are several other laws that guarantee the rights of the elderly Brazilians. Also noteworthy is the Federal Constitution of 1988 which in the chapter on the family provides for aging as a very personal right.

Steps taken to ensure the availability of judicial and non-judicial mechanisms for older persons.

The Statute of the Elderly¹, Federal Laws No. 10,741, dated October 1, 2003, have a title dedicated to Access to Justice (Articles 69 / 71 and arts 79/83), in which provisions are set out that provide for the possibility of creating special and exclusive rods for the elderly (Article 70), and ensures priority in the processing of procedures and in the execution of acts and diligences (60) in any instance (art. 71).

In Brazil we have two important institutions responsible for guaranteeing the rights of the elderly: **the Public Prosecution Service and the Public Defender's Office.**

The Elderly Statute reserves a prominent role for the Public Prosecution Service in the system of rights guarantees. Already in the chapter on Protective Measures, the legislator gives the Authority the autonomy to determine the application of measures aimed at protecting the elderly person violated or threatened in their rights (art. 45).

Social injustice in Brazil is very serious. For example, only 25% of retired seniors live on three or more minimum wages, so the vast majority of the elderly are poor or miserable.

The Public Defender's Office is called by the Federal Constitution of 1988 as an institution essential to the jurisdictional function of the State, and is responsible for providing legal advice and defending the needy, in all degrees, in the form of art.5 LXXIV (art. 134).

¹ Available at <http://www2.camara.leg.br/a-camara/estruturaadm/gestao-na-camara-dos-deputados/social-responsabilidade-e-ambiental/acessibilidade/legislacao-pdf/Legislaoidoso.pdf> accessed on 29.10.2019.

Specific challenges encountered by older persons in accessing justice and remedy

Brazilian courts are criticized for their slowness, it often taking years to settle a dispute. The Constitutional Amendment No. 45, of December 8, 2004 (Reform of the Judiciary) added to the list of fundamental rights of art.5 of the Constitution: "LXXVII - to all, in the judicial and administrative, the reasonable duration of the process and the means to guarantee the speed of its proceedings are ensured. We are faced with the fundamental right to a reasonable length of time."²

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The person who has reached old age should not and can not be waiting indefinitely to have their legal dispute resolved.

Good practices available in terms of ensuring equal and effective access to justice for older persons

At this point we should consider the role of the National Association of Members of the Public Prosecutor's Office for the Defense of the Rights of the Elderly and Persons with Disabilities (AMPID). Both in its social and legal context, particularly within the Brazilian justice system. How should we understand the creation and performance of an association of prosecutors seeking to contribute to social dialogue and the promotion of social rights for the elderly?

² Available at http://planalto.gov.br/ccivil_03/constituicao/constituicao.htm accessed on 29.10.2019.

³ Available at <http://www2.camara.leg.br/a-camara/estruturaadm/gestao-na-camara-dos-deputados/social-responsabilidade-e-ambiental/acessibilidade/legislacao-pdf/Legislaoidoso.pdf> accessed on 29.10.2019

The history of AMPID began when a group of prosecutors decided in 2003 to create an institution that strengthened, improved and made possible the implementation of public policies for the elderly the Brazilian State.

.Thus, the National Association of Members of the Public Prosecutor's Office for the Defense of the Rights of the Elderly and Persons with Disabilities (AMPID) was created, with the following objects⁴:

- a) The Promotion of the edition of books aimed at the elderly.
- b) Attendance at the National Congress on issues related to the disabled person and elderly person, in hearings with parliamentarians, in detailed notes on the current bills;
- c) The work with International Organizations (OAS, UN) and reporting complaints;
- d) The promotion of partnerships with associations and entities focused on the issues involved;

Submission by National Association of Public Prosecutors' Members of the Elderly and People with Disabilities-Ampid for Eleventh Working Session of the United Nations Open-ended Working Group (April 2020).

⁴ Available at http://www.ampid.org.br/v1/?page_id=68 Accessed on 17.11.2018