

Brazil

Identification of possible gaps in the protection of the human rights of older persons and how best to address them

QUESTIONNAIRE

The Questions

Identification of gaps

1. For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons. (500 words each)

a) Equality and non-discrimination

People do not age homogeneously and a significant part of the Brazilian population reaches this stage of the life cycle having experienced situations of vulnerability and multiple forms of discrimination that strongly interfere with the aging process. For example, the recently released Research on Continuous Education (PNAD Education 2022) indicates that out of 9.6 million people aged 15 or over who could not read and write, 54.1% (5.2 million) were aged 60 or over. In the city of São Paulo, black older persons have the worst income conditions, as well as poorer schooling, hypertension and access to private services when compared to white persons. With regard to “quilombola”¹ communities, 71.4% of the population did not have access to family health teams; 85% lived in communities without a basic health unit; and 45% of the households surveyed were made up of families living in extreme poverty. If we consider the LGBTQI+ population, people belonging to this social group aged 50 and over have the worst access to public and private health systems and often have to hide their gender or sexual orientation in order to be accepted into long-term care facilities for the older persons.

b) Violence, neglect and abuse

With regard to violence against the elderly, data released by the Data Panel of the National Human Rights Ombudsman's Office indicate that this group as the second group with the most complaints of human rights violations, accounting for 27% of all complaints registered in the first half of 2023. In the first three months of 2023, human rights violations against people reached 202,300 cases across the country. This figure is 97% higher compared to the same period in 2022, when there were 102,800 violations were recorded. These figures may involve

¹ A “quilombola” is an Afro-Brazilian resident of quilombo settlements first established by escaped slaves in Brazil.

a smaller number of individuals as a complaint can be registered in relation to more than one violation.

c) Long-term care and palliative care

The trend towards an ageing population is a global phenomenon and the World Health Organization (WHO) has already estimated that in approximately 30 years, the number of elderly people will be equivalent to the number of children. According to the IBGE, Brazil will have approximately 41.5 million people over the age of 60 in 2030 and, by 2060, this number will rise to 73.5 million, at which point we will have a country very different from our current reality in terms of demographic composition. Considering these estimates, Latin American and Caribbean countries face the challenge of developing public policies that take into account both active and healthy ageing of their elderly populations, as well as the heterogeneity of old age, given the socio-economic inequality that has historically permeated the region.

d) Autonomy and independence

Brazil seeks to promote the cohesion of laws and regulations on the protection of the human rights of older people. Brazil's National Policy for the Older Persons stipulates, in Article 3, the principles and guidelines for the protection of older persons. Family, society and the state have the obligation to guarantee the right to citizenship, ensuring the participation of older persons in society and defending their dignity, well-being and right to life.

The National Secretariat for the Human Rights of Older Persons aims at unifying aspects of health, social assistance and social security as a means of maintaining the focus of public policies on care and prevention and thus guaranteeing autonomy and independence for older persons. By reducing emergency demands on the health system and focusing on prevention, it is possible to envision increased longevity with quality of life, reflecting greater participation by older people in the social, economic, political and cultural spheres.

e) Protection et sécurité sociales (y compris protection sociale minimale)

In Brazil, the government is currently promoting the combination of health assistance, through the Unified Health System (SUS), and social assistance, through the the Unified Social Assistance System (SUAS), to care for and protect older persons. One of the positive results of this combination of public policies is the increase in longevity in Brazil. According to the 2023 population census, there are 32 million older persons in Brazil, which accounts for almost 16% of the total population and is the fastest growing age group in recent decades.

f) Education, training, lifelong learning and capacity-building

In terms of education, the population aged 60 and over accounted for 30% of illiterate people in the country in 2010, according to the data presented by the Census.

For countries like Brazil, reducing illiteracy and increasing the years of schooling of older people is one of the main challenges in promoting citizenship and social integration, as well as reducing violence against older people.

The issues of economic fragility and the promotion of social equality are central to countries like Brazil. The discussion on digitalization is undoubtedly necessary, but in many countries of the Global South, the challenge of illiteracy and providing basic education to a considerable portion the population of older persons is a priority.

g) Right to Work and Access to the Labor Market

In Brazil, the right to work and access to the labor market for older persons is an integral component of the country's commitment to social inclusion and economic participation. The Brazilian Constitution, enacted in 1988, recognizes the dignity of all individuals and their right to work, irrespective of age. This constitutional guarantee extends to older citizens, emphasizing the importance of their continued engagement in the workforce.

To reinforce this commitment, Brazil has implemented various legislative measures aimed at promoting equal opportunities for older individuals in the labor market. Laws prohibit age discrimination in employment and underscore the significance of fair and inclusive hiring practices. These legal provisions are crucial in fostering an environment where older persons can actively contribute to the nation's economy and society.

Despite these positive steps, challenges persist, such as stereotypes and prejudices associated with older age. Addressing these issues requires ongoing efforts from both the government and private sector to dismantle age-related biases and promote a culture of inclusivity.

h) Access to justice

In Brazil, the Federal Constitution that guarantees equal rights to all. The constitutional guidelines are complemented by the National Policy for Older Persons and the Statute of Older Persons, adopted 30 and 20 years ago, respectively. In this legal framework, access to justice is guaranteed to older persons, but there remain the challenges of implementation and education.

i) Contribution of Older Persons to Sustainable Development

Understanding the ageing of different Peoples and Traditional Communities is a challenge and an urgency when it comes to and possibilities for active and healthy aging, because human bodies are not the same everywhere, they are variants of countless historical, social of countless historical, social, environmental and political dynamics that need to be considered in all decision-making involving public policies for the senior population.

It is worth noting that Brazil's "quilombola" population was for the first time counted by the Brazilian Institute of Geography and Statistics in the 2022 census, a step forward by including another group of traditional peoples and communities in the census.

The Brazilian government is promoting a public call for proposals for the treatment of older people in traditional communities, with 28 traditional communities benefiting, with the aim of promoting actions in two areas: (i) the solidarity economy and (ii) health.

From the point of view of companies, tax incentives can be offered when implementing programs. In Brazil, it is possible to allocate part of the income tax due to the fund for older persons. With this, companies can participate in programs based on the implementation of the SDGs and other initiatives to promote gender equality and social inclusion related to the protection of older people.

j) Economic security

With regard to poverty indicators, according to the data provided by SISAPI², the older persons accounted for 7% of those who received the continued benefit in 2018. This percentage reached approximately 44% in 2019. While there has been an increase in access to benefit, data from 2010 shows that 20% of older persons in Brazil earned up to half a minimum wage, while 6% received only 1/8 of the minimum wage.

With regard to hunger, data from 2019 revealed that the death rate of older people due to malnutrition was 51.89 per 100,000 older persons. The hospitalization rate of older persons due to nutritional deficiencies considered avoidable was preventable was 36.41. These figures indicate that hunger and malnutrition affect older persons more than children.

k) Right to Health and Access to Health Services

With regard to the mortality rate for the older persons, it should be noted that in 2019, the rate was 1,046.17 per 100,000 elderly people. With regard to older women, in 2013, more than a quarter of the population had never had a mammogram and approximately 40% had never had ever used the services of the Unified Health System (SUS), contributing to the fact that the premature mortality rate of elderly people (60 to 69 years old) from the four main chronic non-communicable of the four main chronic non-communicable diseases was 987.68 per 100,000 older women.

l) Social Inclusion

The construction of public policies that guarantee the human rights rights of the elderly is an urgent issue for our society. Beyond the demographic issue, we need to understand the diversity of ways of growing old in our country, conditioned by profound social inequalities related to income, gender, race, culture, territory, etc. These social inequalities reinforce multiple vulnerabilities and discrimination, exposing older people to a hostile environment of constant violations of their human rights and dignity.

m) Accessibility, infrastructure and habitat (transport, housing and access)

² National System of Indicators of Health and Support to Older Persons (<https://sisapidoso.icict.fiocruz.br/>).

In Brazil, ensuring accessibility, appropriate infrastructure, and suitable housing for older persons is a paramount concern in the pursuit of an age-friendly society. Efforts have been made to enhance the accessibility of public spaces, transportation, and buildings, recognizing the diverse needs of the elderly population. Infrastructure development prioritizes age-friendly design, incorporating features like ramps and handrails to facilitate mobility. Additionally, there is an increasing focus on creating housing options that cater to the specific requirements of older individuals, including single-floor residences and accessible amenities. Despite progress, challenges persist in achieving universal accessibility, calling for continued collaboration between government agencies, urban planners, and the private sector to build a more inclusive environment that empowers older persons to lead independent and fulfilling lives.

n) Participation in the public life and in decision-making processes

The construction of public policies that guarantee the human rights of the older persons is an urgent issue for our society. Beyond the demographic issue, we need to understand the diversity of ways of ways of growing old in our country, conditioned by profound social inequalities related to income, gender, race, culture, territory, etc. These social inequalities reinforce multiple vulnerabilities and discrimination, exposing older people to a hostile environment of constant violations of their human rights and dignity.

[Options on how best to address the gaps](#)

1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons. (500 words)

If, on the one hand, longevity is evidence of human progress, on the other hand, it poses a challenge for the construction of mechanisms to protect and promote rights. It is thus clear that Brazil needs to speed up its responses to the demands for systemic and cross-cutting public policies in order to ensure respect for and fulfillment of the human rights of older persons. Unfortunately, aging with dignity is not a right exercised by all people, but rather a privilege.

The Universal Declaration of Human Rights (UDHR) states in its Article 1, that all human beings are born free and equal in dignity and rights and, in Article 3, states that they have the right to life, liberty and security. In line with the UDHR, the 1988 Federal Constitution (FC) states that Brazil is a democratic state governed by the rule of law and that its foundations include citizenship and the dignity of the human person. Article 5 deals with individual and collective rights and duties. Everyone is equal before the law, without distinction of any kind. Brazilians and foreigners residing in the country are guaranteed the inviolability of the right to life, liberty and equality.

Brazil's legislation is in line with the provisions of the main regional instrument, the Inter-American Convention on the Protection of the Human Rights of Older Persons, which contains the same elements of rights protection in its articles 5 (non-discrimination and equality), 6 (life and dignity), 7 (independence and autonomy), 8 (participation and humanitarian integration), among others.

2. Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate. *(500 words)*

This set of rules has been combined with the Unified Health System (SUS) and the Unified Social Assistance System (SUAS) to care for and protect older persons in Brazil. In fact, one of the positive results of this combination of rules and public policies is the increase in longevity in Brazil. As mentioned above, according to the 2023 population census, there are 32 million older persons in Brazil, which accounts for almost 16% of the total population, and this is the fastest growing age group in recent decades.

3. What other options can be considered to strengthen the protection of older persons? Please elaborate. *(500 words)*

The unification of legislation and public policy in order to establish a cross-cutting approach to the protection of the human rights of older persons: ministries such as Human Rights and Citizenship, Women's Affairs, Indigenous Peoples, Racial Equality and Labor, in ongoing consultations with civil society, academia, companies, all with a focus on the older persons, who should be at the center of the formulation of such policies. In other words, the transversal approach must have older people as participants and decision-makers in the formulation of public policies and the implementation of legislative frameworks.

Unification also involves the cohesion of laws and regulations on the promotion and protection of the human rights of older people. In this sense, Brazil's National Policy for the Older Persons stipulates, in Article 3, the principles and guidelines for the protection of older persons. In our law, therefore, family, society and the state have the obligation to guarantee the right to citizenship, ensuring their participation in society and defending their dignity, well-being and right to life.

4. *If applicable*, what is your assessment on the protection of the human rights of older persons according to regional and international instruments? *(500 words)*

Brazil is a signatory of the Inter-American Convention on the Rights of Older Persons and is currently in the process of ratification.