






# Special protection of the human rights of older adults. A view from the Latin American legislation

## *Protección especial de los derechos humanos del adulto mayor. Una mirada desde la normativa latinoamericana*

  Asseneth Verdecia Rodríguez<sup>1</sup>

  Edgar Fabián Garzón Buenaventura<sup>2</sup>

  Giuliana Katherine Tirado García<sup>3</sup>

<sup>1</sup> Departamento Formación Académica de Posgrado, Investigaciones e Innovación, Fiscalía General de la República de Cuba, Cuba

<sup>2</sup> Programa de Derecho, Facultad de Derecho, Ciencias Políticas y Sociales, Universidad Libre, Bogotá, Colombia

<sup>3</sup> Escuela de Derecho, Facultad de Derecho y Ciencias Políticas, Universidad César Vallejo, Perú

Fecha de recepción: 10.07.2024

Fecha de revisión: 23.08.2024

Fecha de aprobación: 30.10.2024

Cómo citar: Verdecia Rodríguez, A., Garzón Buenaventura, E. & Tirado García, G. (2024). Special protection of the human rights of older adults.

A view from the Latin American legislation. *Espergesia*, 11(2), e110204.

<https://doi.org/10.18050/rev.espergesia.v11i2.3085>

**Autor de correspondencia:** Asseneth Verdecia Rodríguez

### Abstract

The **objective** of this research was to understand how the legislations of Latin American countries, through a comparative law study, guarantee special protection of the human rights of older adults. **Methodology:** A qualitative study was conducted based on a documentary review of current legislation in Latin America. The analysis focused on six key categories: the right to life and social security, the right to non-discrimination, the right to justice and dignified treatment, the right to education and culture, the right to an adequate standard of living and housing, and the right to work and enjoyment of free time. Data were collected from official and academic sources, and regulations were compared to identify advances and gaps in the protection of the rights of older adults. The **results** showed significant progress in the enactment of laws that protect the human rights of older adults, especially in access to social security and non-discrimination. However, significant deficiencies persist in the implementation of these regulations, particularly in the areas of access to employment, adequate housing, and recreational opportunities. In addition, some legal frameworks lack concrete mechanisms to ensure the effective implementation of established rights. **Conclusions:** Although legal frameworks in Latin America formally recognize the rights of older adults, the practical implementation of these regulations remains a challenge. Therefore, more concrete reforms are required to ensure effective and equitable protection, especially in access to basic services and employment opportunities. The study also underlined the urgent need to strengthen enforcement mechanisms to ensure that the rights of this vulnerable group are fully respected.

**Key words:** human rights; older adults; Latin American legislation; social security; non-discrimination; legal protection.

### Resumen

El **objetivo** de esta investigación fue comprender cómo las legislaciones de los países latinoamericanos, mediante un estudio de derecho comparado, garantizan una protección especial de los derechos humanos de los adultos mayores. **Metodología:** se realizó un estudio cualitativo basado en la revisión documental de las legislaciones vigentes en América Latina. El análisis se centró en seis categorías clave: derecho a la vida y a la seguridad social, derecho a la no discriminación, derecho a la justicia y a un trato digno, derecho a la educación y a la cultura, derecho a un nivel de vida adecuado y a la vivienda, y derecho al trabajo y disfrute del tiempo libre. Los datos fueron recopilados de fuentes oficiales y académicas, y se compararon las normativas para identificar avances y vacíos en la protección de los derechos de los adultos mayores. Los **resultados** mostraron avances significativos en la promulgación de leyes que protegen los derechos humanos de los adultos mayores, especialmente en el acceso a la seguridad social y la no discriminación. Sin embargo, persisten deficiencias importantes en la implementación de estas normativas, particularmente en las áreas de acceso al empleo, vivienda adecuada y oportunidades recreativas. Además, algunos marcos legales carecen de mecanismos concretos para garantizar la aplicación efectiva de los derechos establecidos. **Conclusiones:** aunque los marcos legales en América Latina reconocen de manera formal los derechos de los adultos mayores, la implementación práctica de estas normativas sigue siendo un reto. Por tanto, se requieren reformas más concretas que garanticen una protección efectiva y equitativa, especialmente en el acceso a servicios básicos y oportunidades laborales. Asimismo, el estudio subrayó la necesidad urgente de fortalecer los mecanismos de cumplimiento para asegurar que los derechos de este grupo vulnerable sean plenamente respetados.

**Palabras clave:** derechos humanos; adultos mayores; legislación latinoamericana; seguridad social; no discriminación; protección legal.

## INTRODUCTION

In the last two decades, population aging has emerged as one of the most relevant demographic transformations occurring in the international context, arousing growing concern in the international community. Demographic aspects such as the constant increase in life expectancy, combined with declining birth rates, have led to a change in the structure of populations, in which older adults constitute an increasingly important proportion. This new scenario highlights the need to protect the human rights of the elderly, as an age group that, despite their contribution to society, faces specific vulnerabilities such as limited access to social and health services, age discrimination and lack of job opportunities, among others (Huenchuan, 2013). In this sense, the phenomenon of population aging, in addition to altering the composition of societies, has brought to the table the need to protect the rights of older adults, such as limited access to health services and social support, age discrimination, and fewer opportunities to work (Huenchuan, 2013).

### Review of the literature

The right to life, for example, in addition to being essential for older adults, ensures their existence under conditions of equality and respect. Although this right is not explicitly enshrined in all the Latin American legislations included in this study, its protection implies that this age group can live (and coexist) harmoniously during this important stage of life.

The right to non-discrimination of the elderly, due to its importance and the implications of not having it, has become a central issue for most Latin American legislations. By adopting this right and its adoption guidelines, the first aim is to prevent and, in the worst case, punish discriminatory acts that affect the dignity of the elderly or prevent them from enjoying equal opportunities in different sociocultural contexts (Huenchuan & Morlachetti, 2006). However, despite legislative advances, significant challenges persist in the effective implementation of this right, where policies around retirement and access to medical resources require significant adjustments for a necessary and urgent improvement (Muir, 2015; Kaya, 2023). It is worth noting that with the outbreak of the COVID-19 pandemic, vulnerabilities with respect to this right were

perceived, demonstrating how discriminatory policies disproportionately affected this group. In this sense, the decisions taken during the contingency caused significant collateral damage to the elderly population, underscoring the need to review current regulations to focus protection in times of crisis (Billauer, 2022). However, to date, countries such as Haiti-2021, Cuba-2022, Venezuela-2022 and Peru-2022, have updated their regulatory framework with respect to the topic under study.

In relation to the right to justice and dignified treatment, the aim is for older adults to be able to live in an environment of respect, regardless of their economic, educational, cultural, ethnic, gender or other status. This right is closely related to the protection of physical, emotional and psychological integrity, especially in situations of mistreatment or abuse. In this regard, most Latin American countries have implemented legal mechanisms to prevent elder abuse and ensure their dignity (Huenchuan & Morlachetti, 2006). However, there are significant gaps in criminal law that make it impossible to punish elder abuse, which shows the need for legal reforms in this area. In this regard, legal frameworks play an essential role in protecting the rights of older adults (Abdul Halim *et al.*, 2024).

The right to education and culture are vital to ensure that older adults can remain active and participate in the cultural and social life of their communities. Even so, it is worrying that, although most Latin American legislation includes both rights (Da Silva Oliveira *et al.*, 2011), it rarely specifies -except in countries such as Peru (Law No. 30490, 2022), Costa Rica (Law No. 7935, 1999) and the Dominican Republic (Law No. 352, 1998)- which are the objective mechanisms useful for their social implementation. A very striking aspect is that there are no regulations or reforms linking the right to education and culture with the rise of new information and communication technologies. In this regard, recent studies highlight how online learning platforms have facilitated access to education for the elderly, allowing them to integrate, participate and enjoy an increasingly prevalent digital world (Zhang, 2021; Blazeska -Tabakovska *et al.*, 2021).

The right to an adequate standard of living is fundamental for older adults to enjoy a harmonious life, with education and culture, social services, housing, without recurring basic economic needs, with good food, as well as quality medical

care, among others. In Guatemala, for example, legislation establishes social welfare as a priority, guaranteeing access to services that ensure a good quality of life for the elderly (Decree No. 80-96, 2013). Similarly, countries such as Argentina (Law No. 27,360, 2017), Bolivia (Law No. 369, 2013), Brazil (Lei No. 10.741, 2003), Paraguay (Law No. 1885, 2002), Peru (Law No. 30490, 2022), Venezuela (Organic Law for the Comprehensive Care and Development of Older Adults, 2021), Costa Rica (Law No. 7935, 1999), Guatemala (Decree No. 80-96, 2013), Cuba (Law No. 156, 2022), Dominican Republic (Law No. 352-98, 1998) and Puerto Rico (Law No. 121, 2019), have developed legal frameworks that promote access to decent housing and healthy environments, adapted to the needs of older adults (UN. ECLAC. CELADE, & Swedish International Development Cooperation Agency, 2011).

With respect to the right to adequate housing, it is an elemental factor for the independence and security of older adults. In this sense, having accessible and safe housing plays an essential role in the quality of life of this age group (Redondo *et al.*, 2015). However, in social praxis, this right presents a lot of vulnerability that was materialized with the COVID-19 pandemic, where it was demonstrated that in Latin America and other countries of the world, the housing conditions of older adults, many of them in a situation of abandonment, was critical; significantly influencing the health and welfare of the elderly, especially (Cabrera Cabrera *et al.*, 2023; Módenes *et al.*, 2020).

The right to work of the older adult is a factor of great importance in Latin American legislation, especially in countries such as Argentina (Law No. 27.360, 2017), Ecuador (Organic Law for the Elderly, 2019), Venezuela (Organic Law for the Integral Care and Development of Older Adults, 2021), El Salvador (Decree N° 817, 2021), Guatemala (Decree N° 80-96, 2013), Honduras (Decree N° 199-2006, 2007), Nicaragua (Law N° 720, 2010), Panama (Law N° 36, 2016), Dominican Republic, (Law N° 352, 1998). These laws place special emphasis on non-discrimination based on age and the promotion of fair employment opportunities. But, the implementation of this right still faces obstacles such as ageism, misperceptions about the productivity of older workers, and the lack of flexible labor policies (Byrnes *et al.*, 2019). Moreover, although there are laws that promote the inclusion of older adults in the labor market, significant challenges persist

in channeling their crystallization (Sewdas *et al.*, 2020). Finally, the right to the enjoyment of leisure time is also essential for the well-being of older adults. This right includes access to recreational, cultural and spiritual activities, allowing older adults to enjoy a full and active life (OAS, 2013).

The objective of this research was to understand how the legislations of Latin American countries, through a comparative law study, guarantee special protection of the human rights of older adults. To this end, an exhaustive documentary review was carried out to compare how the different Latin American regulations include categories such as the right to life and social security, the right to non-discrimination, the right to justice and dignified treatment, the right to education and culture, the right to an adequate standard of living and housing, as well as the right to work and to the enjoyment of free time. The question is, how do the legislations of Latin American countries guarantee special protection of the human rights of older adults?

## METHODOLOGY

This research responds to a qualitative approach, which focused on interpreting the protection of the human rights of the elderly in Latin America, from a critical view of the current legal framework. The categories under study, interpreted in the Latin American legal frameworks were: Right to life and social security; Right to non-discrimination; Right to justice and dignified treatment; Right to education and culture; Right to an adequate standard of living and housing; and Right to work and enjoyment of leisure time.

Documentary review was used for data collection, focusing on the analysis of Latin American normative texts related to the human rights of older adults (Corona *et al.*, 2023). This technique was basic to examine in depth the legal frameworks in force, identifying possible gaps, contradictions or advances in the protection of the rights of this vulnerable group. National legislations of Latin American and Caribbean countries that specifically addressed the protection of the human rights of older adults were included. Likewise, only those legal frameworks published and accessible in official and academic sources were considered.

This research did not involve the collection of sensitive data or the direct participation of human subjects. However, steps were taken to ensure

that the sources used were reliable, cited in the body of the paper and referenced at the end of the paper, using APA Standards, 7th edition.

## RESULTS

**Tabla 1.**

Protection of the human rights of older adults in South American legislation.

Legal framework (South America)	Categories						Remarks
	1	2	3	4	5	6	
Argentina (Law 27.360, 2017)	a	a	a	a	a	a	In Argentina's legislation, despite complying with all the categories, the enforcement mechanisms of this law are not strengthened, ensuring that the rights of older adults are fully respected.
Bolivia (Law N° 369, 2013)	a	a	a	a	a	c	In Bolivia, despite adequately addressing labor and recreational rights, there are no clear guidelines for creating or strengthening labor inclusion programs and guaranteeing adequate infrastructure for recreational activities in all regions of the country.
Brasil (Law N° 10.741, 2003)	a	a	a	a	a	c	Although Brazilian law covers the rights of the elderly, there are no enforcement mechanisms for the practical implementation of the labor and recreational rights of older adults.
Chile	-	-	-	-	-	-	It is not possible to locate a final Law in the formal digital platforms that would allow the analysis to be developed.
Colombia (Law N° 1850, 2017)	a	a	a	c	c	c	The Colombian law partially complies with the categories of the right to education and culture, but without specifically detailing access to education and how to guarantee it. As for the right to housing, it is not explicitly mentioned in the law. However, having a place to live is generally included in the measures to ensure an adequate standard of living that covers the need for housing, especially for those in conditions of abandonment or vulnerability. Finally, with respect to the right to work, the law does not explicitly mention it for older persons.

Ecuador (Law Organic Law on Older Adults, 2019)	a	a	a	a	c	a	La ley ecuatoriana, respecto al acceso a la vivienda, aunque menciona la necesidad de garantizar una vivienda adecuada, no detalla mecanismos específicos o claros para asegurar su implementación.
Paraguay (Law N° 1885, 2002)	c	a	a	c	a	b	In Paraguayan law, with respect to the right to life and social security, the law partially complies with both categories, but does not provide specific details on concrete implementation mechanisms. Although Article 3 of the law mentions that the elderly have the right to priority in education, no details are specified as to how this right is implemented. Finally, there is no direct evidence in the law regarding the right to work and the right to enjoy leisure time. However, it focuses more on guaranteeing the well-being of older adults through priority access to social services, medical care and protection programs, but in a generic manner.
Perú (Law N° 30490, 2022)	a	a	a	a	c	c	Although the Peruvian law addresses all categories objectively, with respect to the right to work and enjoyment of leisure time, it is recommended that implementation details be incorporated to ensure that older adults can access both work and recreational opportunities without being discriminated against because of their condition.
Uruguay (Law N° 19.430, 2016)	a	a	a	a	c	c	Although Uruguayan law explicitly recognizes all categories, with respect to the right to housing, although this right is recognized, it is necessary to incorporate guidelines to reinforce this right for the benefit of older persons in vulnerable situations. Similarly, the right to work, although it speaks of decent employment without discrimination, it is necessary to make explicit specific mechanisms that benefit the inclusion of older persons in the labor market.
Venezuela (Organic Law for the Integral Care and Development of Older Adults, 2021)	a	a	c	a	a	a	While Venezuelan legislation addresses the right to justice, it does not explicitly detail how access to justice would be carried out in terms of judicial procedures for older persons.

1=Right to life and social security, 2=Right to non-discrimination, 3=Right to justice and dignified treatment, 4=Right to education and culture, 5=Right to an adequate standard of living and housing, 6=Right to work and enjoyment of leisure time // a=yes; b=no; c=partially.

**Table 2**

Protection of the human rights of older adults in Central American and Caribbean legislation.

Legal framework (Central America and the Caribbean)	Categories						Remarks
	1	2	3	4	5	6	
Costa Rica (Law N° 7935, 1999)	a	a	a	a	a	a	Costa Rican legislation fully complies with all categories.
El Salvador (Decree N° 817, 2021)	a	a	a	a	c	a	Although Salvadoran law includes the right to an adequate standard of living and housing, it does not propose specific legal mechanisms to benefit the inclusion of older persons in the labor market.
Guatemala (Decree N° 80-96, 2013)	c	a	a	c	a	a	The Guatemalan law partially complies with the social security category because, although it establishes social security coverage, it does not detail clear mechanisms for effective implementation.  As for the rights to education and culture, it does not specify concrete implementation mechanisms that benefit older adults.
Honduras (Decree N° 199-2006, 2007)	c	a	a	c	c	a	In Honduras, although the law includes the right to life and social security, it does so only partially. In this sense, it does not detail how universal pensions or full access to health services will be ensured for those who have not contributed to the social security systems.  Also, the right to education and culture is partially fulfilled because although these rights are recognized, no specific mechanisms are detailed to ensure effective access to educational or cultural programs for older adults.  The right to housing is only partially addressed, and in this sense, there are no clear mechanisms to guarantee this right for vulnerable older adults.

<p>Nicaragua (LawN° 720, 2010)</p>	c	a	a	a	c	a	<p>In Nicaragua, with regard to the right to social security, there is partial compliance because, although they are established for older adults, the law does not detail the mechanisms to ensure the effective implementation of these benefits, especially for those who are in a situation of vulnerability.</p> <p>Regarding the right to housing, it is partially fulfilled. Although specific rights are mentioned, there are no details on how to achieve effective implementation of housing programs, as well as financial support for older adults, especially those in vulnerable situations.</p>
<p>Panamá (Law N° 36, 2016)</p>	a	c	c	a	c	a	<p>Although the right to non-discrimination is provided for in Panamanian legislation, the law does not provide clear mechanisms to prevent discrimination in other aspects, such as access to services or employment.</p> <p>And although the legislation guarantees the right to dignified treatment, it does not specify the supervisory mechanisms to avoid possible undignified or inhumane treatment in the different institutions.</p> <p>The law mentions the right to an adequate standard of living in a general way, however, it does not specify the concrete mechanisms to guarantee an adequate standard of living for older adults throughout the country.</p>

Cuba (Law N° 156, 2022)	c	a	a	c	a	C	<p>In the Cuban legal system, the rights to social security, work and life for older adults are covered and recognized in various legal texts. However, it is the Family Code that for the first time explicitly sets forth specific rights for this group in the socio-family environment (family life free of discrimination and violence; accessible, safe, healthy, acceptable environment; social and family participation; self-regulation of future protection) and establishes that families, society and the State must respect their self-determination and guarantee that they can live autonomously and independently, according to their wishes and preferences.</p> <p>As for the right to education, it is taken into account as a priority, and there are specific educational programs for older adults (Cátedras Universitarias del Adulto Mayor).</p>
Dominican Republic (Law N° 352, 1998)	a	a	a	a	a	A	<p>The Dominican legislation is fully compliant with all the categories.</p>
Haití (Law N° 4257, 2021)	a	c	a	a	c	C	<p>Although the right not to be discriminated against is well covered in Haitian law, the legislation does not explicitly detail its implementation in situations of employment discrimination.</p> <p>Although the right to an adequate standard of living is covered, specific protection mechanisms in extreme economic situations are not defined.</p> <p>Regarding the right to housing, also guaranteed, no specific measures are specified to facilitate access in situations of vulnerability, an aspect that is cross-cutting if the country's socio-political and economic conditions are taken into account.</p> <p>The right to work, although covered in the legislation, does not include specific incentives for the employment of older adults in the different economic areas.</p>



Puerto Rico (Law N° 121, 2019)	a	a	a	c	a	C	<p>Although the right to education is included in the legislation of the Puerto Rican government, it does not objectively specify the need for permanent programs tailored to the needs of older adults. As for the right to culture, there are no strategic mechanisms to make viable the financing or mandatory implementation of cultural programs for this age group.</p> <p>As for the right to work, although the law provides for it, it does not indicate the mechanisms to encourage the hiring of older persons in all areas of employment.</p> <p>The right to enjoy leisure time is also guaranteed in the legislation, but there are no guidelines for the equitable enjoyment of this right by older adults.</p>
--------------------------------	---	---	---	---	---	---	--

1=Right to life and social security, 2=Right to non-discrimination, 3=Right to justice and dignified treatment, 4=Right to education and culture, 5=Right to an adequate standard of living and housing, 6=Right to work and enjoyment of leisure time // a=yes; b=no; c=partially.

## DISCUSSION

When comparing the South American regulatory framework, in Argentina, although the law prioritizes all the categories under study, there are still gaps that limit the implementation of mechanisms that ensure the respect and fulfillment of these rights, particularly in relation to work and the use of leisure time. In this regard, Dabove *et al*, (2015), explained that, although the Argentine law for older persons covers multiple areas, the effective implementation in relation to work and leisure presents obstacles linked to multigenerational aging. The legislation of Bolivia and Brazil shows a comparable trend, characterized by legislation that recognizes most rights. However, they lack explicit provisions aimed at strengthening labor inclusion initiatives. In this sense, despite the existence of inclusive legislation, the lack of preparation of companies limits the effective participation of people with disabilities and older adults in the labor market (Neves-Silva *et al.*, 2015), limiting its practical effectiveness.

In Colombia, the scope of coverage is limited in the areas of education, culture and housing. This result coincides with a study consulted where it was found that Colombian legislation provides limited access to education and culture for the older adults. This fact negatively impacts their social inclusion (Pinilla-Roncancio *et al.*, 2022), while the issue of access to employment for older persons is not explicitly addressed. Regarding the Ecuadorian law, it presents significant obstacles in its implementation, mainly due to the lack of clarity in the mechanisms designed to ensure access to housing for Ecuadorians. In this regard, the study proposed by Rofman *et al.*, (2014) indicated that the implementation of housing policies for older adults in Ecuador is hindered by the absence of clear mechanisms.

In Paraguay, although the country meets most of the categories of this research, the law is still deficient with respect to specificity regarding labor and recreational rights. Related to this, Rofman *et al.* (2014) explained that employment and social protection policies in Paraguay are limited due to labor informality

and lack of equitable access to recreational services. In contrast, the legal frameworks of Peru and Uruguay recognize all fundamental rights. However, they do not present specific guidelines to facilitate access to employment. Coincidentally, Saldaña *et al.* (2021) noted that, in Peru, although there are gerontological service programs, access to employment and recreational activities is still limited for older adults. These results also coincide with Rofman *et al.* (2014), who explained that, in Uruguay, although these rights to decent employment are recognized, there are no specific guidelines to ensure their effective implementation. Regarding Venezuela's legislation, it stands out for its integral approach to address rights to justice, although without objectively delineating specific judicial procedures to enforce the right to life and social security. In this regard, Rofman *et al.* (2014) also highlight the need to improve judicial mechanisms in Venezuela to guarantee the social rights of the older persons. Finally, Chile constitutes an anomaly, as no formal legislation was identified in the official platforms that would allow its substantive analysis.

On the other hand, the legislation of Central America and the Caribbean stands out for its integral adherence to all the categories examined. On the other hand, although El Salvador guarantees most of the rights, its legislation does not clearly indicate the mechanisms that facilitate the labor integration of the elderly. In this regard, the research by Cáceres (2021) highlighted that the labor market in El Salvador presents limitations in the quality of available employment, which particularly affects older workers. Mesa-Lago (2012) agrees with the results of this study by identifying deficiencies in Nicaragua's pension system, highlighting those recent reforms have failed to address the needs of the elderly population. For their part, Guatemala and Honduras show partial adherence to rights related to social security, education and housing. The study proposed by Díaz-Tendero (2017) explained that both countries present deficiencies in their contributory and non-contributory pension systems, which generates incomplete social security coverage, and lack definitive mechanisms to ensure their effective realization, particularly for marginalized groups. Meeker *et al.* (2020) highlighted that the most vulnerable populations in Guatemala and Honduras face

significant barriers to accessing social support services, compounded by inequality and limited control over resources. Nicaragua, for its part, also experiences limitations in relation to social security and housing, characterized by incomplete implementation and ambiguity in the available support mechanisms. In agreement, Mesa-Lago (2012) identified deficiencies in Nicaragua's pension system, highlighting those recent reforms have failed to address the needs of the elderly population.

In Panama, although its regulatory framework generally complies with the categories under study, no objective mechanisms were identified with key actions to prevent discrimination, ensure equitable treatment, raise the standard of living and guarantee employment opportunities for older adults. Linked to this, research consulted warns that, although there are laws against discrimination in employment, social and economic mechanisms continue to perpetuate inequalities that particularly affect vulnerable populations (Adamczyk, 2013). It is worth noting that in Cuban legislation, the provisions on social security and social participation of older adults are well argued. As for Haiti and Puerto Rico, these nations have regulations that cover most of the rights. However, they present deficiencies in the effective implementation of rights, particularly in areas such as access to housing. Coincidentally, Soler & Adamczyk (2023) argued in their study that social security infrastructures are ill-equipped to serve vulnerable populations, such as older persons, especially in access to basic services such as housing, employment, non-discrimination and social inclusion.

### **Contributions to knowledge**

This research not only offers an important contribution to comparative law, but also analyzes the special protection of the human rights of older adults in Latin American legislation. In this sense, it provides a clear overview of the normative advances in key areas, such as the right to life and social security, the right to non-discrimination, the right to justice and dignified treatment, the right to education and culture, the right to an adequate standard of living and housing, as well as the right to work and to the use of leisure time. It also stresses the importance of implementing more effective reforms to ensure the correct application of these rights.

## Limitations

The study focuses on Latin American legislation, excluding any comparative analysis with other regions, which limits its conclusions and recommendations. Therefore, it is necessary to take these results with caution, especially if they are to be replicated in other legislative contexts.

## CONCLUSIONS

With respect to the right to life and social security, despite the significant progress that has been made through various legislative measures and reforms, there are still challenges that hinder the effective implementation and operationalization of social security policies, which are crucial to ensure that older adults have universal and adequate access to essential health and pension services, particularly in those countries characterized by fragmentation and insufficient social protection frameworks that do not comprehensively address the needs of their populations.

Regarding the right to non-discrimination, although a considerable number of countries in the Latin American region have implemented legislative measures to safeguard the rights of older adults against acts of discrimination, obstacles persist that continue to impede the full realization of these rights, especially in relation to the accessibility of essential health services and opportunities for paid employment.

In the right to justice and dignified treatment, legislative advances aimed at improving the protection of older adults against the various forms of mistreatment and abuse that they may encounter in society are evident. However, the absence of effective criminal mechanisms specifically designed to impose appropriate punitive measures for such reprehensible acts underscores the urgency of implementing more comprehensive and robust reforms that unequivocally guarantee the preservation of their dignity and respect.

In analyzing the right to education and culture, it was found that, despite the formal recognition of the importance of access to education and culture in the legislations consulted, a considerable number of Latin American nations

show deficiencies in establishing explicit and effective mechanisms for the implementation of this right, particularly in relation to the critical areas of digital inclusion and the facilitation of participation in various online learning platforms that have become fundamental in current times.

Linked to the right to an adequate standard of living and housing, while a variety of legislative frameworks were found to improve and promote equitable access to decent and livable housing for older adults, the actual implementation and enforcement of these measures have proven to be markedly inadequate and insufficient. A clear example of this was COVID-19. In this context, critical deficiencies came to light that impacted the housing conditions of many older adults in the Latin American context.

Finally, regarding the right to work and enjoyment of free time, it is relevant to recognize that, although most of the legislative frameworks analyzed provide for employment opportunities for older adults without discrimination, there are important and multifaceted challenges that persist, especially the widespread problem of age discrimination, along with the insufficient availability of adaptable labor policies that facilitate their meaningful and active participation in the labor market. Regarding the exercise of leisure time, limitations were found in the implementation of this right, especially due to the lack of mechanisms and spaces for recreation.

### Authors' contribution:

**Asseneth Verdecia Rodríguez:** Conceptualization, Formal Analysis, Research, Methodology, Project Management, Supervision, Validation, Writing - Original Draft, Writing - Proofreading and Editing.

**Edgar Fabián Garzón Buenaventura:** Conceptualization, Formal analysis, Research, Methodology, Validation, Visualization, Writing - Original draft, Writing - Review and editing.

**Giuliana Katherine Tirado García:** Conceptualization, Research, Methodology, Project Management, Visualization, Writing - Original Draft, Writing - Proofreading and Editing.

### Conflictos de interés

The authors declare that there are no conflicts of interest.

## REFERENCES

- Abdul Halim, A., Anas, N., Mohd Sobali, A., Salaeh, A., Syed Hassan, S. N., & Izzuddin Agiman, M. (2024). Community and legal right on elderly care. *International Journal of Academic Research in Business and Social Sciences*, 14(5), 117–131. <https://doi.org/10.6007/ijarbss/v14-i5/21151>
- Adamczyk, S. R. (2013). Employment law and social equality. *Mich. L. Rev.*, 112, 225. <https://doi.org/10.2139/SSRN.2208883>
- Billauer, B. P. (2022). Discrimination Today - The Dangers of Pariah-tizing the Elderly during the COVID Pandemic. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4105435>
- Blazeska-Tabakovska, N., Jolevski, I., Ristevski, B., Savoska, S., & Bocevka, A. (2022). Implementation of e-learning platform for increasing digital health literacy as a condition for integration of e-health services with PHR. *Conference Proceedings*. <https://dblp.org/rec/conf/isgt2/Blazeska-Tabakovska22.html>
- Byrnes, A., Doron, I., Georgantzi, N., Mitchell, B., & Sleaf, B. (2019). *The right of older persons to work and access the labour market*. University of New South Wales. [https://papers.ssrn.com/sol3/Delivery.cfm/SSRN\\_ID3511220\\_code722134.pdf?abstractid=3504975&mirid=1](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3511220_code722134.pdf?abstractid=3504975&mirid=1)
- Cabrera Cabrera, X., Tapia Vásquez, L. M., & Pérez Nájera, C. (2023). Ineffectiveness of Law N° 30490 to guarantee the fundamental rights of older adults in a Peruvian region. *Espergesia*, 10(2), 42-53. <https://doi.org/10.18050/rev.espergesia.v10i2.2623>
- Cáceres, L. (2021). Economic Integration, Labor Markets and Regional Social Externalities in Central America. *The Journal of Developing Areas*, 55, 427 - 454. <https://doi.org/10.1353/jda.2021.0097>
- Corona, J. I. M., Almón, G. E. P., & Garza, D. B. O. (2023). Guía para la revisión y el análisis documental: propuesta desde el enfoque investigativo. *Revista Ra Ximhai*, 19(1), 67-83. <https://doi.org/10.35197/rx.19.01.2023.03.jm>
- Da Silva Oliveira, R., Da Silva Oliveira, F., & Scortegagna, P. A. (2011). Universidade aberta para a terceira idade: a construção de saberes para um novo olhar sobre a velhice. *Memorialidades*, 8(15), 63-84. <https://periodicos.uesc.br/index.php/memorialidades/article/view/89>
- Dabove, M. I., & Di Tullio Budassi, R. G. (2015). Prestaciones alimentarias en la vejez multigeneracional: nuevas consideraciones del Derecho argentino. *Revista chilena de derecho*, 42(1), 7-33. <http://dx.doi.org/10.4067/S0718-34372015000100002>
- Decreto Legislativo No. 199-2006. Ley integral de protección al adulto mayor y jubilados. (2007, 15 de enero). Congreso Nacional. Diario Oficial La Gaceta, 5 de febrero del 2007. <http://www.bvs.hn/Honduras/salud/ley.integral.de.proteccion.al.adulto.mayor.y.jubilados.pdf>
- Decreto No. 80-96. Ley de Protección para las Personas de la Tercera Edad. (2013, diciembre). El Congreso de la República de Guatemala. <https://www.pdh.org.gt/promocion-y-educacion/promocion-y-educacion-en-derechos-humanos/material-educativo/4278-cartilla-ley-de-proteccion-para-las-personas-de-la-tercera-edad/file.html>
- Decreto No. 817. Ley especial para la protección de los derechos de la persona adulta mayor. (2021, 22 de abril). Asamblea Legislativa - República de El Salvador. <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/2FEA2904-818A-4175-93DA-779CE71E3F13.pdf>
- Díaz-Tendero, A. (2017). Political Economy of Aging in Latin America and the Caribbean: Economic (In) Security of Older Persons in the Twenty-First Century. *Open Journal of Social Sciences*, 5(8), 83-100. <https://doi.org/10.4236/JSS.2017.58007>
- Huenchuan, S. (2013). *Perspectivas globales sobre la protección de los derechos humanos de las personas mayores, 2007-2013*. Naciones Unidas. <https://repositorio.cepal.org/server/api/core/bitstreams/8a5d7e1a-f4e4-4eec-ae55-ed26eec43cfa/content>

- Huenchuan, S., & Morlachetti, A. (2006). Análisis de los instrumentos internacionales y nacionales de derechos humanos de las personas mayores. *Notas de población*, (81), 41-72. <https://repositorio.cepal.org/server/api/core/bitstreams/bd9a575c-c98e-4d5c-967c-17574e24447d/content>
- Kaya, G. (2023). Searching for a fair allocation of scarce medical resources under EU law: A need for balance for the elderly? *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, 72(2), 389-408. <https://doi.org/10.32450/aacd.1327050>
- Lei Nº 10.741. Dispõe sobre o Estatuto da Pessoa Idosa e dá outras providências. (2003, 1º de outubro). Presidência da República - Casa Civil - Subchefia para Assuntos Jurídicos. [https://www.planalto.gov.br/ccivil\\_03/leis/2003/L10.741compilado.htm](https://www.planalto.gov.br/ccivil_03/leis/2003/L10.741compilado.htm)
- Ley Nº 19.430. (2016, 24 de agosto). Presidencia de la República Oriental del Uruguay, 8 de septiembre del 2016. <https://www.impo.com.uy/bases/leyes-internacional/19430-2016>
- Ley Nº 121. Ley de la Carta de Derechos y la Política Pública del Gobierno a favor de los Adultos Mayores. (2019, 1 de agosto). Gobierno de Puerto Rico. [https://oig.cepal.org/sites/default/files/2019\\_ley121\\_pri.pdf](https://oig.cepal.org/sites/default/files/2019_ley121_pri.pdf)
- Ley Nº 156/2022. Código de las Familias. (2022, 22 de julio). Asamblea Nacional del Poder Popular. Gaceta Oficial de la República de Cuba Nº 99 Ordinaria de 27 de septiembre de 2022. <https://www.minjus.gob.cu/sites/default/files/archivos/publicacion/2022-09/goc-2022-o99.pdf>
- Ley Nº 1850. Por medio de la cual se establecen medidas de protección al adulto mayor en Colombia, se modifican las leyes 1251 de 2008, 1315 de 2009, 599 de 2000 y 1276 de 2009, se penaliza el maltrato intrafamiliar por abandono y se dictan otras disposiciones. (2017, 19 de julio). El Congreso de Colombia - Gobierno Nacional. <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/INEC/IGUB/ley-1850-de-2017.pdf>
- Ley Nº 1885 / De las Personas Adultas. (2002, 30 de abril). Ministerio de Salud Pública y Bienestar Social. Congreso de la Nación Paraguaya. <https://www.bacn.gov.py/leyes-paraguayas/5100/de-las-personas-adultas>
- Ley Nº 21.144. Modifica La Ley Nº 19.828, que crea el Servicio Nacional del Adulto Mayor, para establecer el Concepto de Cuarta Edad. (2019, 20 de febrero). Ministerio de Desarrollo Social. Diario Oficial de la República de Chile el 1 de marzo de 2019. <https://www.diariooficial.interior.gob.cl/publicaciones/2019/03/01/42293/01/1555568.pdf>
- Ley Nº 27.360. Protección de los derechos humanos de los adultos mayores. (2017, 9 de mayo). Honorable Congreso de la Nación Argentina. Publicada en el Boletín Nacional del 31 de mayo, 2017. <https://www.argentina.gob.ar/justicia/derechofacil/leysimple/proteccion-de-los-derechos-humanos-de-los-adultos-mayores>
- Ley Nº 30490. Ley de la Persona Adulta Mayor. (2022, 1 de marzo). El Presidente de la República, el Congreso de la República. Diario Oficial El Peruano, 21 de julio, 2016. <https://www.leyes.congreso.gob.pe/Documentos/Leyes/30490.pdf>
- Ley Nº 352-98. Protección de la Persona Envejeciente. (1998, 15 de agosto). Congreso de la República Dominicana. <https://fiapam.org/wp-content/uploads/2012/10/Ley-352-98-personas-envejecientes.pdf>
- Ley Nº 36. Normativa para la protección integral de los derechos de las personas adultas mayores. (2016, 2 de agosto). La Asamblea Nacional. [https://www.sijusa.com/wp-content/uploads/2020/08/l\\_36\\_2016.pdf](https://www.sijusa.com/wp-content/uploads/2020/08/l_36_2016.pdf)
- Ley Nº 369. Ley General de las Personas Adultas Mayores. (2013, 1 de mayo). Asamblea Legislativa Plurinacional. Gaceta Oficial del Estado Plurinacional de Bolivia, el 1 de mayo del 2013. <https://fiapam.org/wp-content/uploads/2013/11/leypan.pdf>
- Ley Nº 720. Ley del Adulto Mayor. (2010, 6 de mayo). El Presidente de la República de Nicaragua. La Asamblea Nacional. La Gaceta, Diario Oficial Nº 111 del 14 de junio de 2010. <http://legislacion.asamblea.gob.ni/Normaweb.nsf/fb812bd5a06244ba062568a30051ce81/6f892d6cb252254e0625775e0056bc37?OpenDocument>
- Ley Nº 7935. Ley Integral para la Persona Adulta Mayor. (1999, 25 de octubre). Asamblea Legislativa de la República de Costa Rica. <https://extranet.who.int/mindbank/item/5096>



- Ley Orgánica de las Personas Adultas Mayores. (2019, 29 de abril). Presidencia de la República del Ecuador. Suplemento del Registro Oficial No. 484, 9 de mayo 2019. [https://www.gob.ec/sites/default/files/regulations/2019-06/Documento\\_%20LEY%20ORGANICA%20DE%20LAS%20PERSONAS%20ADULTAS%20MAYORES.pdf](https://www.gob.ec/sites/default/files/regulations/2019-06/Documento_%20LEY%20ORGANICA%20DE%20LAS%20PERSONAS%20ADULTAS%20MAYORES.pdf)
- Ley Orgánica para la Atención y Desarrollo Integral de las Personas Adultas Mayores. (2021, 13 de septiembre). Asamblea Nacional de la República Bolivariana De Venezuela. Gaceta Oficial de la República Bolivariana De Venezuela, 13 de septiembre de 2021. [https://oig.cepal.org/sites/default/files/2021\\_leyadultomayor\\_ven.pdf](https://oig.cepal.org/sites/default/files/2021_leyadultomayor_ven.pdf)
- Loi N° 4257. (2021, 15 juin). Assemblée Nationale. [https://www.assemblee-nationale.fr/dyn/15/textes/l15b4257\\_proposition-loi.pdf](https://www.assemblee-nationale.fr/dyn/15/textes/l15b4257_proposition-loi.pdf)
- Meeker, K. A., Hayes, B. E., Randa, R., & Saunders, J. (2024). Examining risk factors of intimate partner violence victimization in Central America: A snapshot of Guatemala and Honduras. *International journal of offender therapy and comparative criminology*, 68(5), 468-487. <https://doi.org/10.1177/0306624X20981049>
- Mesa-Lago, C. (2012). The performance of social security contributory and tax-financed pensions in Central America, and the effects of the global crisis. *International Social Security Review*, 65(1), 1-27. <https://doi.org/10.1111/j.1468-246X.2011.01417.x>
- Módenes, J. A., Marcos, M., & García García, D. M. (2020). Covid-19: Does Housing Protect the Elderly in Latin America? Argentina and Colombia Compared with Spain. *Perspectives Demographiques*, (20), 1-4. <http://hdl.handle.net/11336/108168>
- Muir, E. (2015). Fine-tuning non-discrimination law. *European Human Rights Law Review*, 3, 273-285. <https://doi.org/10.1177/1358229114558387>
- Neves-Silva, P., Prais, F., & Silveira, A. (2015). The inclusion of disabled persons in the labor market in Belo horizonte, Brazil: scenario and perspective. *Ciencia & saude coletiva*, 20(8), 2549-58. <https://doi.org/10.1590/1413-81232015208.17802014>
- NU. CEPAL. CELADE., & Swedish International Development Cooperation Agency. (2011). *Los derechos de las personas mayores: materiales de estudio y divulgación*. Naciones Unidas. <https://hdl.handle.net/11362/21497>
- Organización de Estados Americanos [OEA]. (2013). *Actividades del grupo de trabajo durante el período 2012-2013 (Informe de la Presidencia del Grupo de Trabajo a ser presentado ante la Comisión de Asuntos Jurídicos y Políticos)*. [https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.scm.oas.org%2Ffidms\\_public%2FSPANISH%2Fhist\\_12%2F-CPSC05159S02.doc&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.scm.oas.org%2Ffidms_public%2FSPANISH%2Fhist_12%2F-CPSC05159S02.doc&wdOrigin=BROWSELINK)
- Pinilla-Roncancio, M., & Caicedo, N. (2022). Legislation on Disability and Employment: To What Extent Are Employment Rights Guaranteed for Persons with Disabilities? *International Journal of Environmental Research and Public Health*, 19(9), 5654. <https://doi.org/10.3390/ijerph19095654>
- Redondo, N., Díaz Fernández, M., Llorente Marrón, M., Garay, S., Guidotti González, C., & Mendoza Villavicencio, L. (2015). El espacio residencial del cuidado de los adultos mayores en América Latina y España. *Notas de Población*, (100), 223-258. <https://www.cepal.org/es/publicaciones/38529-espacio-residencial-cuidado-adultos-mayores-america-latina-espana>
- Rofman, R., Apella, I., & Vezza, E. (2014). Beyond Contributory Pensions: Fourteen Experiences with Coverage Expansion in Latin America. *World Bank Publications*, 1-451. <https://doi.org/10.1596/978-1-4648-0390-1>
- Saldaña, K. B. R., Nomura, H. E. R., & Bracamonte, L. D. R. (2021). Política de envejecimiento en el Perú y los servicios gerontológicos sociales en el centro del adulto mayor—ESSalud 2019. *Revista Científica Epistemia*, 5(1). <https://doi.org/10.26495/re.v5i1.1835>
- Sewdas, R., de Wind, A., van der Zwaan, L. G. L., van der Borg, W. E., Steenbeek, R., van der Beek, A. J., & Boot, C. R. L. (2017). Why older workers work beyond the retirement age: a qualitative study. *BMC Public Health*, 17(1). <https://doi.org/10.1186/s12889-017-4675-z>

Soler, U., & Adamczyk, M. (2023). The COVID-19 Pandemic and Elderly People's Rights to Social Security and Health Protection. *Studia Iuridica Lublinensia*, 32(3), 185-199. <http://dx.doi.org/10.17951/sil.2023.32.3.185-199>

Zhang, Y. (2021). Research on the influence of new media application on learning performance under the background of modernization of elderly education. *IEEE International Conference on Information Science and Education*. <https://doi.org/10.1109/ICISE-IE53922.2021.00010>